

## STATE RETIREES: COLLECT RETIREMENT BENEFITS WHILE UNDER CONTRACT WITH ATTY. GENERAL

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**Senate Bill 12 (reported from House committee as H-1)**

**Sponsor: Sen. Rick Jones**

**House Committee: Judiciary**

**Senate Committee: Judiciary**

**Complete to 3-16-15**

Analysis available at  
<http://www.legislature.mi.gov>

*(Enacted as Public Act 20 of 2015)*

### SUMMARY:

The bill would allow retired state workers to contract with the Department of Attorney General as a witness, expert, or consultant for litigation involving the state without forfeiting their retirement allowances during the period of the contract.

The State Employees' Retirement Act prohibits "double dipping" – a practice whereby a retired state worker continues to collect pension and other retirement benefits while being actively employed with the state in the same or a different position. Generally speaking, if a retired state worker wishes to return to state employment, the retirement system freezes the retirement allowance during the period of employment and reinstates payment of the retirement allowance when the period of employment ends, without the payment allowance being recalculated. There are several exemptions to this prohibition.

Senate Bill 12 would amend the State Employees' Retirement Act to create an exemption from the prohibition described above for retired state employees who contract, under certain conditions, with the Department of Attorney General. Under the bill, the provision requiring a retirant to forfeit the retirement allowance during a period of state employment would not apply if all of the following circumstances were met:

- ❖ The Department of Attorney General contracts with the retirant as a witness, expert, or consultant for litigation involving the state;
- ❖ The contract provides that the retirant's service as a witness, expert, or consultant ends at the conclusion of the litigation;
- ❖ The Attorney General determines that, as a result of the retirant's previous employment with the state, the retirant possesses specialized expertise and experience necessary for the litigation, and the contract is the most cost-effective option for the state; and,
- ❖ The retirant retired after a bona fide termination of employment.

MCL 38.68c

### FISCAL IMPACT:

The bill would have an indeterminate fiscal impact on the state and no fiscal impact on local government. By allowing retirees to return to work through a contract with the

Department of the Attorney General as a witness, expert, or consultant for litigation involving the state, the bill could create an incentive to retire earlier than an employee might have otherwise, knowing they may continue to work and earn both current compensation and a pension. When retirees retire earlier than anticipated under the retirement system's actuarial assumptions, it increases the unfunded liabilities in a pension system. Increased unfunded liabilities would be borne by the state through increased departmental costs for the State Employees' Retirement System (SERS). The added costs could be mitigated if they are taken into consideration under the bill's requirement that the Department of Attorney General determine that the contract is the most cost-effective option for the state.

**POSITIONS:**

A representative of the Office of Attorney General testified in support of the bill. (3-3-15)

The Department of Management and Budget indicated the agency is neutral on the bill as written. (3-3-15)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.