

Legislative Analysis



STATE EMPLOYMENT CONTRACT REGULATION ACT

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4591 as introduced

Sponsor: Rep. John R. Roth

Committee: Oversight

Complete to 4-14-21

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

SUMMARY:

House Bill 4591 would create a new act, the State Employment Contract Regulation Act, which would regulate certain provisions in an employment contract with a state employee or state officer, limit the amount of severance pay that may be paid to a state employee or state officer, require disclosure of certain employment contracts, and provide sanctions for a violation.

State employees and state officers

The bill would prohibit the state from doing either of the following:

- Entering into an employment contract with a *state employee* or *state officer* that does either of the following:
 - Provides for *severance pay* in an amount greater than the amount equal to 12 weeks of the state employee's or state officer's normal wages.
 - Prohibits the state employee or state officer from disclosing factual information about an alleged violation of law, including discrimination and sexual harassment, in his or her workplace.
- Paying to a state employee or a state officer severance pay in an amount greater than the amount equal to 12 weeks of the employee's or officer's normal wages.

Severance pay would mean compensation that is payable or paid upon the termination of employment and is in addition to wages or benefits earned and generally applicable retirement benefits.

State employee would mean an individual employed in the executive or legislative branch of state government.

State officer would mean an individual who is elected or appointed to an office created by law in the executive or legislative branch of state government.

For a state officer, the bill would also prohibit the state from paying severance pay in violation of section 3 of Article XI of the state constitution and prohibit the state, except as otherwise required by law, from entering into a nondisclosure or confidentiality agreement with the state officer regarding the performance of his or her official duties.

For a state employee (not a state officer), if it is determined that severance pay in an amount greater than the amount equal to 12 weeks of the employee's normal wages is necessary to serve the best interests of the state based on the risk of litigation and the need to minimize the expenditure of public funds, the state could do either of the following:

- Enter into an employment contract that provides for severance pay in an amount greater than described above if the employment contract releases, to the extent allowed under law, all claims the employee may have against the state.

- Pay severance pay in an amount greater than described above if the state employee releases, to the extent allowed under law, all claims against the state.

The attorney general would make the determination described above for a state employee in the executive branch. For a state employee in the legislative branch, the determination would be made by the legal counsel for the public body that employs the state employee.

Disclosure of certain state employee contracts

The bill would provide that if the state enters into an employment contract with a state employee that provides for severance pay in an amount equal to or greater than six weeks of the state employee's normal wages, the public body that employs the state employee must, unless otherwise prohibited by law, make all of the following information available to the public on its website and provide it to the chairpersons of the Senate and House of Representatives standing committees on appropriations:

- A description of the severance pay, including the maximum amount that may be paid expressed in dollars or in weeks of wages.
- If both of the following conditions are met, the title of the state employee's position:
 - A determination is made as described above that severance pay for the state employee in an amount greater than the amount equal to 12 weeks of his or her normal wages is necessary to serve the best interests of this state based on the risk of litigation and the need to minimize the expenditure of public funds.
 - The employee's employment contract provides for, or the employee is paid, severance pay in an amount greater than the amount equal to 12 weeks of the state employee's normal wages.

Sanction for violations of the act

A state employee or state officer who authorizes an employment contract, nondisclosure agreement, confidentiality agreement, or payment in violation of the act would be responsible for a civil fine of up to \$2,500 if the employee or officer knew, at the time of the authorization, that the contract, agreement, or payment violated the act. The attorney general could bring an action in the circuit court of Ingham County for a violation of the act. Civil fine revenue collected under the act for a violation would have to be submitted to the state treasurer for deposit in the state's general fund.

Applicability of the act

The act would apply to an employment contract entered into, amended, extended, or renewed on or after the bill's effective date. Further, the act would apply to an employee in the state classified civil service to the extent it does not conflict with section 5 of Article XI of the state constitution.

FISCAL IMPACT:

A fiscal analysis is in progress.

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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.