

HOUSE BILL NO. 6132

May 24, 2022, Introduced by Rep. Griffin and referred to the Committee on Workforce, Trades, and Talent.

A bill to amend 1943 PA 240, entitled
"State employees' retirement act,"
by amending section 68c (MCL 38.68c), as amended by 2020 PA 314.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 68c. (1) Except as otherwise provided in ~~this section,~~
2 **subsection (3)**, a retirant who is receiving a retirement allowance
3 under this act and is employed by this state beginning after
4 ~~October 1, 2007~~ **the effective date of the 2022 amendatory act that**
5 **amended this sentence** agrees to forfeit his or her right to receive
6 that retirement allowance during this period of state employment.

~~The retirement system shall stop payment of the retirement allowance to a retirant described in this subsection during this period of state employment and shall reinstate payment of the retirement allowance without recalculation when the period of state employment ceases. This subsection does not apply to a retirant who is directly or indirectly employed by this state on October 1, 2007 while he or she remains in the position held by the retirant on October 1, 2007. As used in this subsection, "employed by this state" means employed directly by this state as an employee, indirectly by this state through a contractual arrangement with other parties, or by engagement of the retirant by this state as an independent contractor. This subsection does not apply to a retirant who is engaged as an independent contractor on October 1, 2010 while the retirant remains engaged in the same contract that was held by the retirant on October 1, 2010 without amendment or extension.~~

(2) A hospital, medical-surgical, and sick care benefits plan, dental plan, vision plan, and hearing plan that covers retirants, retirant allowance beneficiaries, former qualified participants, and health benefit dependents under this act must contain a coordination of benefits provision that provides all of the following:

(a) If the person covered under any of the plans is also eligible for Medicare, the benefits under Medicare must be determined before the health insurance benefits under this act.

(b) If a person covered under any of the plans provided by this act is also covered under another plan that contains a coordination of benefits provision, the benefits must be coordinated as provided in the coordination of benefits act, 1984

1 PA 64, MCL 550.251 to 550.254.

2 (c) If the person covered under any of the plans provided by
3 this act is also covered under another plan that does not contain a
4 coordination of benefits provision, the benefits under the other
5 plan must be determined before the benefits provided under this
6 act.

7 ~~(3) Subsection (1) does not apply to a retirant if all of the~~
8 ~~following apply:~~

9 ~~(a) The retirant is hired to provide health care services to~~
10 ~~individuals under the jurisdiction of the department of~~
11 ~~corrections.~~

12 ~~(b) The retirant is hired in a position that is limited in~~
13 ~~term, no benefits are paid, and pay is on a per diem basis.~~

14 ~~(c) The department of corrections provides written notice to~~
15 ~~the state budget office and the department of technology,~~
16 ~~management, and budget that attempts have been made to fill the~~
17 ~~position through postings and recruitment and that the position~~
18 ~~vacancy still exists.~~

19 ~~(d) The department of corrections reports the employment of a~~
20 ~~retirant under this subsection within 30 days of employment of the~~
21 ~~retirant to the state budget office and the department of~~
22 ~~technology, management, and budget. The report must include the~~
23 ~~name of the retirant, the capacity in which the retirant is~~
24 ~~employed, and the total compensation paid to the retirant.~~

25 ~~(e) The retirant retired after a bona fide termination.~~

26 ~~(4) Subsection (1) does not apply to the appointment of a~~
27 ~~retirant who retired after a bona fide termination and who was an~~
28 ~~assistant attorney general as a special assistant attorney general~~
29 ~~if the attorney general determines that, as a result of his or her~~

1 ~~previous employment with this state, the retirant possesses~~
2 ~~specialized expertise and experience necessary for the appointment~~
3 ~~and that the appointment is the most cost-effective option for this~~
4 ~~state.~~

5 ~~(5) Until September 30, 2015, subsection (1) does not apply to~~
6 ~~a retirant if all of the following apply:~~

7 ~~(a) The retirant is hired to provide for the custody of~~
8 ~~individuals under the jurisdiction of the department of~~
9 ~~corrections.~~

10 ~~(b) The retirant is hired in a position that is limited in~~
11 ~~term, no benefits are paid, and the pay is not more than 80% of the~~
12 ~~maximum hourly wage granted to classified civil service employees~~
13 ~~employed by the department of corrections to perform the same~~
14 ~~duties as the retirant for the fiscal year during which the~~
15 ~~retirant is employed.~~

16 ~~(c) The retirant works no more than 1,040 hours in a 12-month~~
17 ~~period of state employment.~~

18 ~~(d) The retirant retired after a bona fide termination of~~
19 ~~employment.~~

20 ~~(6) Subsection (1) does not apply to a retirant if all of the~~
21 ~~following apply:~~

22 ~~(a) The department of attorney general contracts with the~~
23 ~~retirant as a witness, expert, or consultant for litigation~~
24 ~~involving this state. The contract must provide that the retirant's~~
25 ~~service as a witness, expert, or consultant ends at the conclusion~~
26 ~~of the litigation.~~

27 ~~(b) The attorney general determines that, as a result of the~~
28 ~~retirant's previous employment with this state, the retirant~~
29 ~~possesses specialized expertise and experience necessary for the~~

1 ~~litigation and the contract is the most cost-effective option for~~
2 ~~the state.~~

3 ~~(c) The retirant retired after a bona fide termination of~~
4 ~~employment.~~

5 ~~(7) Subsection (1) does not apply to a retirant if all of the~~
6 ~~following apply:~~

7 ~~(a) The retirant is hired by the department of natural~~
8 ~~resources for active wildland fire suppression.~~

9 ~~(b) There is an immediate continual need for prequalified,~~
10 ~~skilled, and trained personnel to address wildfire suppression.~~

11 ~~(c) The retirant works no more than 600 hours in a fiscal~~
12 ~~year.~~

13 ~~(d) The retirant is hired in a position that is limited in~~
14 ~~term, no benefits are paid, and the pay is not more than 70% of the~~
15 ~~maximum hourly wage granted to classified civil service employees~~
16 ~~employed by the department of natural resources to perform the same~~
17 ~~duties as the retirant for the fiscal year during which the~~
18 ~~retirant is employed.~~

19 ~~(e) The department of natural resources reports the employment~~
20 ~~of a retirant under this subsection within 30 days after employment~~
21 ~~and within 30 days after termination of employment or within 30~~
22 ~~days after the end of each fiscal year, whichever occurs first, to~~
23 ~~the state budget office and the department of technology,~~
24 ~~management, and budget. The report required under this subdivision~~
25 ~~must include the name of the retirant, the capacity in which the~~
26 ~~retirant is employed, the equivalent civil service position in~~
27 ~~which the retirant is employed, the hourly wage paid to the~~
28 ~~retirant, and the total hours of service provided by the retirant~~
29 ~~for the fiscal year. The department of natural resources may submit~~

~~1 a report required under this subdivision electronically.~~

~~2 (f) By March 1 of each year, the department of natural
3 resources submits a summary of all the reports required under
4 subdivision (c) for the preceding fiscal year to the house of
5 representatives and senate appropriations subcommittees that
6 consider the budget of the department of natural resources, the
7 state budget office, the house and senate fiscal agencies, and the
8 department of technology, management, and budget. The department of
9 natural resources may submit a summary required under this
10 subdivision electronically.~~

~~11 (8) Subsection (1) does not apply to a retirant if all of the
12 following apply:~~

~~13 (a) The retirant is employed by the legislative service bureau
14 as legal counsel through a contractual arrangement.~~

~~15 (b) The legislative council administrator determines that, as
16 a result of the retirant's previous employment with this state, the
17 retirant possesses specialized expertise and experience necessary
18 for the hiring of the retirant and that the hiring of the retirant
19 is the most cost-effective option for this state.~~

~~20 (c) The legislative service bureau reports the employment of a
21 retirant under this subsection within 30 days after employment and
22 within 30 days after termination of employment to the department of
23 technology, management, and budget, office of retirement services.
24 The legislative service bureau may submit a report required under
25 this subdivision electronically.~~

~~26 (9) Subsection (1) does not apply to a retirant if all of the
27 following apply:~~

~~28 (a) The department of health and human services hires the
29 retirant as a psychiatrist to provide mental health services to~~

~~1 individuals in psychiatric hospitals operated by the department of
2 health and human services.~~

~~3 (b) The department of health and human services determines
4 that, as a result of the retirant's previous employment with this
5 state, the retirant possesses specialized expertise and experience
6 necessary for the hiring of the retirant and that the hiring of the
7 retirant is the most cost-effective option for this state.~~

~~8 (c) The retirant retired before October 1, 2015 and after a
9 bona fide termination of employment.~~

~~10 (d) The department of health and human services reports the
11 employment of a retirant under this subsection within 30 days after
12 employment and within 30 days after termination of employment or
13 within 30 days after the end of each fiscal year, whichever occurs
14 first, to the state budget office and the department of technology,
15 management, and budget. The report required under this subdivision
16 must include the name of the retirant, the capacity in which the
17 retirant is employed, the equivalent civil service position in
18 which the retirant is employed, the hourly wage paid to the
19 retirant, and the total hours of service provided by the retirant
20 for the fiscal year. The department of health and human services
21 may submit a report required under this subdivision electronically.~~

~~22 (e) By March 1 of each year, the department of health and
23 human services submits a summary of all the reports required under
24 subdivision (d) for the preceding fiscal year to the house of
25 representatives and senate appropriations subcommittees that
26 consider the budget of the department of health and human services,
27 the state budget office, the house and senate fiscal agencies, and
28 the department of technology, management, and budget. The
29 department of health and human services may submit a summary~~

1 ~~required under this subdivision electronically.~~

2 ~~(10) Until September 30, 2023, subsection (1) does not apply~~
3 ~~to a retirant if all of the following apply:~~

4 ~~(a) The department of health and human services hires the~~
5 ~~retirant as a mental health professional other than a psychiatrist~~
6 ~~to provide mental health services to individuals in psychiatric~~
7 ~~hospitals operated by the department of health and human services.~~

8 ~~(b) The retirant retired before October 1, 2015 and after a~~
9 ~~bona fide termination of employment.~~

10 ~~(c) The department of health and human services determines~~
11 ~~that, as a result of the retirant's previous employment with this~~
12 ~~state, the retirant possesses specialized expertise and experience~~
13 ~~necessary for the hiring of the retirant and that the hiring of the~~
14 ~~retirant is the most cost-effective option for this state.~~

15 ~~(d) The department of health and human services reports the~~
16 ~~employment of a retirant under this subsection within 30 days after~~
17 ~~employment and within 30 days after termination of employment or~~
18 ~~within 30 days after the end of each fiscal year, whichever occurs~~
19 ~~first, to the state budget office and the department of technology,~~
20 ~~management, and budget. The report required under this subdivision~~
21 ~~must include the name of the retirant, the capacity in which the~~
22 ~~retirant is employed, the equivalent civil service position in~~
23 ~~which the retirant is employed, the hourly wage paid to the~~
24 ~~retirant, and the total hours of service provided by the retirant~~
25 ~~for the fiscal year. The department of health and human services~~
26 ~~may submit a report required under this subdivision electronically.~~

27 ~~(e) By March 1 of each year, the department of health and~~
28 ~~human services submits a summary of all the reports required under~~
29 ~~subdivision (d) for the preceding fiscal year to the house of~~

~~representatives and senate appropriations subcommittees that consider the budget of the department of health and human services, the state budget office, the house and senate fiscal agencies, and the department of technology, management, and budget. The department of health and human services may submit a summary required under this subdivision electronically.~~

~~(11) Until March 31, 2021, subsection (1) does not apply to a retirant if all of the following apply:~~

~~(a) The Michigan unemployment insurance agency hires the retirant after March 15, 2020.~~

~~(b) The department of labor and economic opportunity determines that, as a result of the retirant's previous employment with this state, the retirant possesses specialized expertise and experience necessary for the hiring of the retirant and that the hiring of the retirant is the most cost effective option for this state.~~

~~(c) The department of labor and economic opportunity reports the employment of the retirant under this subsection within 30 days after employment or by November 19, 2020, whichever occurs first, and within 30 days after termination of employment or within 30 days after the end of each fiscal year, whichever occurs first, to the state budget office and the department of technology, management, and budget. The report required under this subdivision must include the name of the retirant, the capacity in which the retirant is employed, the equivalent civil service position in which the retirant is employed, the hourly wage paid to the retirant, and the total hours of service provided by the retirant for the fiscal year. The department of labor and economic opportunity may submit a report required under this subdivision~~

1 electronically.

2 ~~(12) Until October 21, 2020, subsection (1) does not apply to~~
3 ~~a retirant if all of the following apply:~~

4 ~~(a) The Michigan occupational safety and health administration~~
5 ~~hires the retirant after March 15, 2020.~~

6 ~~(b) The Michigan occupational safety and health administration~~
7 ~~determines that, as a result of the retirant's previous employment~~
8 ~~with this state, the retirant possesses specialized expertise and~~
9 ~~experience necessary for the hiring of the retirant and that the~~
10 ~~hiring of the retirant is the most cost-effective option for this~~
11 ~~state.~~

12 ~~(c) The Michigan occupational safety and health administration~~
13 ~~reports the employment of the retirant under this subsection within~~
14 ~~30 days after employment or by November 19, 2020, whichever occurs~~
15 ~~first, and within 30 days after termination of employment or within~~
16 ~~30 days after the end of each fiscal year, whichever occurs first,~~
17 ~~to the state budget office and the department of technology,~~
18 ~~management, and budget. The report required under this subdivision~~
19 ~~must include the name of the retirant, the capacity in which the~~
20 ~~retirant is employed, the equivalent civil service position in~~
21 ~~which the retirant is employed, the hourly wage paid to the~~
22 ~~retirant, and the total hours of service provided by the retirant~~
23 ~~for the fiscal year. The Michigan occupational safety and health~~
24 ~~administration may submit a report required under this subdivision~~
25 ~~electronically.~~

26 ~~(13) Subsection (1) does not apply to a retirant if all of the~~
27 ~~following apply:~~

28 ~~(a) The retirant retired from the department of corrections.~~

29 ~~(b) The retirant is hired indirectly by this state through a~~

~~contractual arrangement with another party providing telecommunications services to the department of corrections for the primary purpose of collecting or analyzing intelligence generated within the department of corrections.~~

~~(c) The retirant has been retired for at least 30 days.~~

~~(d) The department of corrections determines that, as a result of the retirant's previous employment with this state, the retirant possesses specialized expertise and experience necessary for the hiring of the retirant to complete the tasks under subdivision (b).~~

~~(e) The department of corrections reports the employment of a retirant under this subsection within 30 days after employment and within 30 days after termination of employment or within 30 days after the end of each fiscal year, whichever occurs first, to the state budget office and the office of retirement services. The report required under this subdivision must include the name of the retirant and the capacity in which the retirant is employed. The department of corrections may submit a report required under this subdivision electronically.~~

~~(f) The department of corrections determines that either of the following applies:~~

~~(i) The retirant does not perform work that is the duty, service, or work included in the job classification of a civil service employee.~~

~~(ii) The retirant performs work that is solely the duty, service, or work included in the job classification of nonexclusively represented employees.~~

~~(14) As used in this section:~~

~~(a) "Mental health professional" means that term as defined in section 100b of the mental health code, 1974 PA 258, MCL 330.1100b.~~

1 ~~(b) "Mental health service" means service as that term as~~
2 ~~defined in section 100d of the mental health code, 1974 PA 258, MCL~~
3 ~~330.1100d.~~

4 ~~(c) "Psychiatric hospital" means that term as defined in~~
5 ~~section 100b of the mental health code, 1974 PA 258, MCL 330.1100b.~~

6 ~~(d) "Psychiatrist" means that term as defined in section 100e~~
7 ~~of the mental health code, 1974 PA 258, MCL 330.1100e.~~

8 (3) Subsection (1) does not apply to a retirant if all of the
9 following apply:

10 (a) The retirant retired after a bona fide termination.

11 (b) The retirant has been retired for at least 6 consecutive
12 months before becoming employed by this state under this
13 subsection, unless 1 of the following applies:

14 (i) The retirant's retirement allowance effective date is
15 before the effective date of the amendatory act that added this
16 subparagraph.

17 (ii) The department of attorney general contracts with the
18 retirant as a witness, expert, or consultant for litigation
19 involving this state. The contract must provide that the retirant's
20 service as a witness, expert, or consultant ends at the conclusion
21 of the litigation.

22 (iii) The retirant is employed by this state to respond to a
23 declared state of emergency or state of disaster as described in
24 section 3 of the emergency management act, 1976 PA 390, MCL 30.403.
25 The duration of the employment must terminate not more than 90 days
26 after the end of the declared state of emergency or state of
27 disaster.

28 (c) The retirant is not eligible to use any service or
29 compensation attributable to the employment described in this

1 subsection for a recalculation of his or her retirement allowance.

2 (4) For purposes of subsection (3), the retirement system
3 shall determine, in accordance with federal law that governs
4 qualified retirement plans, whether a retirant retired after a bona
5 fide termination of employment. If the retirement system determines
6 that a retirant did not retire after a bona fide termination of
7 employment, the retirement system may adjust the retirant's
8 retirement allowance effective date following a bona fide
9 termination of employment.

10 (5) As used in this section:

11 (a) "Bona fide termination of employment" means, as determined
12 by the retirement system under subsection (4), a retirant has
13 completely severed the employer-employee relationship with this
14 state. Completely severing the employer-employee relationship
15 includes, but is not limited to, a retirant not working for this
16 state during the month of the retirant's retirement allowance
17 effective date and, before the severing of the employer-employee
18 relationship, the retirant does not intend or expect or have an
19 offer or contingency to become employed by this state.

20 (b) "Employed by this state" means employed directly by this
21 state as an employee.