

STATE EMPLOYEES' RETIREMENT ACT (EXCERPT)
Act 240 of 1943

38.68c Employment of retiree receiving retirement allowance; stopping retirement payment; applicability; "employed by this state" defined; coordination of benefits provision; exceptions to subsection (1); definitions.

Sec. 68c. (1) Except as otherwise provided in this section, a retirant who is receiving a retirement allowance under this act and is employed by this state beginning after October 1, 2007 agrees to forfeit his or her right to receive 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 PA 64, MCL 550.251 to 550.254.

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

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

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

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

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

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

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

(4) Subsection (1) does not apply to the appointment of a retirant who retired after a bona fide termination and who was an assistant attorney general as a special assistant attorney general if the attorney general determines that, as a result of his or her previous employment with this state, the retirant possesses specialized expertise and experience necessary for the appointment and that the appointment is the most cost-effective option for this state.

(5) Until 2 years after the effective date of the 2022 amendatory act that amended this subsection, subsection (1) does not apply to a retirant if all of the following apply:

(a) The department of corrections hires the retirant to provide for the custody of individuals under the jurisdiction of the department of corrections.

(b) The retirant is hired in a position that is limited in term and no benefits are paid.

(c) The retirant retired before January 1, 2022 and after a bona fide termination of employment.

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

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

(b) The attorney general determines that, as a result of the retirant's previous employment with this state,

the retirant possesses specialized expertise and experience necessary for the litigation and the contract is the most cost-effective option for the state.

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

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

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

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

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

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

(e) The department of natural resources 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 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 natural resources may submit a report required under this subdivision electronically.

(f) By March 1 of each year, the department of natural resources submits a summary of all the reports required under subdivision (e) for the preceding fiscal year to the house of representatives and senate appropriations subcommittees that consider the budget of the department of natural resources, the state budget office, the house and senate fiscal agencies, and the department of technology, management, and budget. The department of natural resources may submit a summary required under this subdivision electronically.

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

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

(b) The legislative council administrator 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 legislative service bureau reports the employment of a retirant under this subsection within 30 days after employment and within 30 days after termination of employment to the department of technology, management, and budget, office of retirement services. The legislative service bureau may submit a report required under this subdivision electronically.

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

(a) The department of health and human services hires the retirant as a psychiatrist to provide mental health services to individuals in psychiatric hospitals operated by the department of health and human services.

(b) The department of health and human services 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 retirant retired before October 1, 2015 and after a bona fide termination of employment.

(d) The department of health and human services 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 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 health and human services may submit a report required under this subdivision electronically.

(e) By March 1 of each year, the department of health and human services submits a summary of all the reports required under 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.

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

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

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

(c) The department of health and human services 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.

(d) The department of health and human services 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 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 health and human services may submit a report required under this subdivision electronically.

(e) By March 1 of each year, the department of health and human services submits a summary of all the reports required under 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 electronically.

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

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

(b) The Michigan occupational safety and health administration 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 Michigan occupational safety and health administration 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 Michigan occupational safety and health administration may submit a report required under this subdivision electronically.

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

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

(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.

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

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

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

History: Add. 2007, Act 95, Imd. Eff. Oct. 1, 2007;—Am. 2010, Act 54, Imd. Eff. Apr. 22, 2010;—Am. 2010, Act 185, Imd. Eff. Sept. 30, 2010;—Am. 2011, Act 264, Imd. Eff. Dec. 15, 2011;—Am. 2012, Act 432, Imd. Eff. Dec. 21, 2012;—Am. 2013, Act 112, Imd. Eff. Sept. 24, 2013;—Am. 2015, Act 20, Imd. Eff. May 5, 2015;—Am. 2016, Act 351, Imd. Eff. Dec. 21, 2016;—Am. 2016, Act 524, Imd. Eff. Jan. 9, 2017;—Am. 2018, Act 357, Imd. Eff. Nov. 20, 2018;—Am. 2020, Act 18, Imd. Eff. Jan. 27, 2020;—Am. 2020, Act 230, Imd. Eff. Oct. 20, 2020;—Am. 2020, Act 314, Imd. Eff. Dec. 29, 2020;—Am. 2022, Act 217, Imd. Eff. Oct. 14, 2022.

Compiler's note: Enacting section 1 of Act 185 of 2010 provides:

"Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Enacting section 1 of Act 264 of 2011 provides:

"Enacting section 1. If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act will cause the retirement system to be disqualified for tax purposes under the internal revenue code, then the portion that will cause the disqualification does not apply."