

Legislative Analysis



DOC: EMPLOYING RETIRED HEALTH CARE WORKERS

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House Bill 4248 as introduced
Sponsor: Rep. Alma Wheeler Smith
Committee: Judiciary

First Analysis (3-5-09)

BRIEF SUMMARY: The bill would allow the DOC to hire retired nurses on a part-time, per diem basis to provide healthcare services to inmates.

FISCAL IMPACT: The bill would have an indeterminate fiscal impact on state government. The proposed provision would allow certain state retirees, hired by the Department of Corrections to provide health care services under limited conditions and with no benefits, to continue to receive their pension allowances. For employees who had already retired, this provision would not create additional costs to the State Employees Retirement System. However, the bill could increase costs to the retirement system to the extent that it would encourage current state employees, who otherwise would have continued employment, to retire knowing they could return to employment and receive both current compensation as well as their pension allowances.

The Department of Corrections could experience modest cost savings under the bill, because regular full-time nurses could be hired at an hourly rate lower than that currently paid to noncareer or contractual nurses, and because the department could experience a reduction in position vacancies, which could reduce overtime costs.

THE APPARENT PROBLEM:

The state of Michigan, indeed the entire nation, is experiencing a critical shortage of nurses. This problem is even more pronounced in the state corrections system. Nurses have little incentive to work in an environment that can be dangerous for wages that are lower than can be commanded in hospitals. Even if a nurse applies for a posted position, the hiring process can take weeks to months to complete. Many individuals simply cannot wait up to four months to hear if they are hired and so take positions elsewhere. The result is that many nursing positions in the state's prisons have gone unfilled for extended periods. To provide the mandated level of care to prisoners, staff has been forced to work overtime. Not only does this burn out workers, but it costs the state (and therefore taxpayers) extra in overtime pay.

Several years ago, a workgroup devised a plan in which retired nurses, who are already familiar with DOC protocols, could be hired to work a maximum of 1040 hours in a 12-month period (about 20 hours a week) as part of a Per Diem Nurse Pool. According to testimony offered before the committee, it was estimated over \$1 million could be saved annually to the DOC in overtime wages if this plan was implemented.

Unfortunately, before the plan could be implemented, Public Act 95 of 2007 was enacted to prevent the practice of “double dipping.” Essentially, the act meant a retired state worker couldn’t retire and then accept a new state position and draw both active service pay and pension pay. Legislation has been offered to create a narrow exception to PA 95 that would allow DOC to rehire retired nurses on a contract, per diem basis, if certain conditions were adhered to.

THE CONTENT OF THE BILL:

In general, a retired state worker who receives a pension under the State Employees’ Retirement Act cannot continue to receive the retirement allowance if, after October 1, 2007, he or she resumes working for the state government. The retirement allowance is suspended for the period of new state employment and then is reinstated when state employment ends, without recalculation of the recent term of employment.

House Bill 4248 would amend the State Employees’ Retirement Act *to exempt a retired state worker hired to provide health care services to prisoners* from the prohibition cited above. Specifically, under the following circumstances, a person could receive pay for current state employment and a pension for previous state employment:

- The retirant is hired to provide health care services to individuals under the jurisdiction of the Department of Corrections.
- The new term of employment is limited in term, no benefits are paid, and pay is on a per diem basis.
- The DOC provides written notice to the State Budget Office and the Department of Management and Budget that the position is vacant despite attempts to fill the post through postings and recruitment.
- The DOC reports the employment of a retirant under the bill within 30 days of employment. The report would have to include the retirant’s name, the capacity in which he or she was employed, and the total compensation.

MCL 38.68c

BACKGROUND INFORMATION:

The bill is a reintroduction of House Bill 6643 from last session. The bill was discharged from the House Judiciary Committee, passed by the House, but failed to see Senate action.

ARGUMENTS:

For:

The bill would create a narrow exception from the 2007 ban on retired state workers “double dipping” when collecting both pension benefits and active service pay from a new state position. The bill would only apply to the Department of Corrections, and then

only to healthcare providers (in this case, only nurses, as other healthcare providers are employed by a vendor contracted with the DOC to provide such services). If a retired nurse was rehired under the bill, it would be only for a limited time and no benefits would be paid. However, without allowing a retired nurse to continue to collect a pension allowance, there is little incentive to entice these individuals to return to a job that though rewarding, does have some inherent dangers. The bill would enable the DOC to staff shifts while attempting to fill vacant positions that otherwise would have to be filled in with overtime hours. Therefore, the bill would allow the DOC to provide its mandated level of care to prisoners, ease the burden on current full-time nurses, and save the department a significant amount of money during a time when every dollar counts.

POSITIONS:

A representative of the Department of Corrections testified in support of the bill. (3-4-09)

A representative of the UAW, Local 6000, testified in support of the bill. (3-4-09)

The International Union, UAW indicated support for the bill. (3-4-09)

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