

SENATE BILL NO. 368

April 20, 2021, Introduced by Senators WOJNO, HOLLIER, BRINKS, POLEHANKI, CHANG, IRWIN, MCCANN, ALEXANDER, BULLOCK, MOSS, HERTEL, BAYER and GEISS and referred to the Committee on Economic and Small Business Development.

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, a
2 retirant who is receiving a retirement allowance under this act and
3 is employed by this state beginning after October 1, 2007 agrees to
4 forfeit his or her right to receive that retirement allowance
5 during this period of state employment. The retirement system shall

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

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

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

25 (b) If a person covered under any of the plans provided by
26 this act is also covered under another plan that contains a
27 coordination of benefits provision, the benefits must be
28 coordinated as provided in the coordination of benefits act, 1984
29 PA 64, MCL 550.251 to 550.254.

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

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

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

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

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

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

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

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

1 specialized expertise and experience necessary for the appointment
2 and that the appointment is the most cost-effective option for this
3 state.

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

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

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

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

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

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

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

26 (b) The attorney general determines that, as a result of the
27 retirant's previous employment with this state, the retirant
28 possesses specialized expertise and experience necessary for the
29 litigation and the contract is the most cost-effective option for

1 the state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 health and human services.

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

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

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

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

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

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

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

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

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

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

1 consider the budget of the department of health and human services,
2 the state budget office, the house and senate fiscal agencies, and
3 the department of technology, management, and budget. The
4 department of health and human services may submit a summary
5 required under this subdivision electronically.

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

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

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

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

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

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

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

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

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

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

28 (b) The retirant is hired indirectly by this state through a
29 contractual arrangement with another party providing

1 telecommunications services to the department of corrections for
2 the primary purpose of collecting or analyzing intelligence
3 generated within the department of corrections.

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

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

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

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

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

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

26 (14) As used in this section:

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

29 (b) "Mental health service" means service as that term as

1 defined in section 100d of the mental health code, 1974 PA 258, MCL
2 330.1100d.

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

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