

ALLOW CERTAIN CORRECTIONS RETIREES TO PROVIDE CONTRACTUAL SERVICES WITHOUT FORFEITING BENEFITS

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Senate Bill 592 (H-1) as reported from House committee
Sponsor: Sen. Ed McBroom
House Committee: Judiciary
Senate Committee: Appropriations
Complete to 12-17-20

BRIEF SUMMARY: Senate Bill 592 would amend the State Employees' Retirement Act to allow retired employees of the Department of Corrections (DOC) who have been retired for at least 30 days to provide certain services through a third-party contractual arrangement without forfeiting their retirement benefits.

FISCAL IMPACT: The bill would increase costs for the State Employee Retirement System (SERS) by an unknown, but likely small, amount. Providing certain active employees the ability to draw pension benefits and be reemployed indirectly by the state through a contractor providing telecommunications services to DOC for certain purposes specified in the bill could create an incentive for an employee to retire earlier than they otherwise would have. When individuals retire earlier than anticipated under the retirement system's actuarial assumptions, it increases the unfunded liabilities in a pension system. That said, the narrow scope of the exemption in the bill would result in relatively minimal costs to the system.

THE APPARENT PROBLEM:

Currently, DOC retirees cannot receive a pension while working as a contractor for DOC. Although this prohibition was originally intended to prevent "double dipping," it effectively prevents DOC from using a retiree's unique and specialized knowledge and experience. The bill would allow DOC to enter into contractual agreements with DOC retirees who have relevant expertise.

THE CONTENT OF THE BILL:

Under the bill, a DOC retiree could be hired indirectly by the state through a contractual arrangement with another party providing telecommunications services to DOC for the primary purpose of collecting or analyzing intelligence generated in DOC if DOC determined that, as a result of the retiree's previous state employment, he or she had specialized expertise and experience necessary to complete those tasks.

DOC would have to report the employment of a retiree under the bill to the State Budget Office and the Office of Retirement Services 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 occurred first. The report could be submitted electronically and would have to include the retiree's name and the capacity in which he or she is employed.

MCL 38.68c

HOUSE COMMITTEE ACTION:

The House Judiciary committee adopted and reported a “conflict substitute” for the bill that made no substantive changes but updated the section of the act being amended to include changes made to that section by a recent amendatory act (2020 PA 230). Generally speaking, conflict substitutes resolve potential conflicts between different bills that amend the same section of law. Without a substitute that takes both bills into account, the last bill signed into law would overwrite and undo the changes made by the earlier bill.

BACKGROUND INFORMATION:

Section 68c of the State Employees' Retirement Act was added by 2007 PA 95 to eliminate the practice, often referred to as “double-dipping,” in which a state employee retires and returns to work for the state, drawing both retirement benefits and a salary. It initially required the forfeiture of retirement benefits during any period in which a retiree returned to state work if he or she were either directly employed or indirectly hired through a third-party contract. 2010 PA 185 expanded the benefit forfeiture to include employment with the state indirectly as an independent contractor.

Section 68c has been subsequently amended several times to create specific exceptions to this rule, typically for hard-to-fill positions or professions. Currently, it includes the following exceptions, each of which has specifically applicable provisions:

- An individual hired by DOC to provide health care services.
- An individual appointed by the Attorney General as a special assistant attorney general who was an assistant attorney general and has specialized expertise and experience.
- An individual with whom the Attorney General contracts as a witness, expert, or consultant because he or she has specialized expertise and experience.
- An individual hired by the Department of Natural Resources for active wildland fire suppression.
- An individual hired by the Department of Health and Human Services as a psychiatrist to provide mental health services in state operated psychiatric hospitals.
- An individual hired by the Department of Health and Human Services as a mental health professional other than a psychiatrist to provide mental health services in state operated psychiatric hospitals.
- An individual employed by the Legislative Service Bureau as legal counsel through a contractual arrangement.

ARGUMENTS:

For:

Supporters of the bill argue that DOC retirees who wish to continue serving in a limited capacity should be able to do so without having to stop collecting a pension. Retirees often possess critical and specialized knowledge, and DOC should be able to continue using that knowledge as needed.

Against:

No arguments against the bill were presented in House committee testimony.

POSITIONS:

The Department of Technology, Management, and Budget indicated a neutral position on the bill. (9-24-20)

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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.