

ALLOW RETIRED MENTAL HEALTH PROFESSIONALS TO PROVIDE SERVICES WITHOUT FORFEITING BENEFITS

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House Bill 4156 (H-5) as reported from committee

Sponsor: Rep. Hank Vaupel

1st Committee: Health Policy

2nd Committee: Ways and Means

Complete to 4-10-19

(Enacted as Public Act 18 of 2020)

SUMMARY:

House Bill 4156 would amend the State Employees' Retirement Act to allow retired mental health professionals who retired prior to October 1, 2015 in a bona fide termination of employment to provide services without forfeiting their retirement benefits. This provision would sunset (expire) on September 30, 2023.

If the Department of Health and Human Services (DHHS) determined that hiring of the retiree was necessary because of the retiree's specialized expertise and experience and because it would be the most cost-effective option for the state, it could hire the retiree as a mental health professional other than a psychiatrist to provide mental health services in DHHS-operated psychiatric hospitals, and the retiree would not forfeit any retirement benefits.

In those cases, DHHS would have to report on the retiree's capacity and level of employment, hourly wage, and hours of service periodically to the State Budget Office (SBO) and the Department of Technology, Management, and Budget (DTMB). Additionally, by March 1 of each year, DHHS would have to submit a summary of any such reports for the preceding fiscal year to the House and Senate Appropriations subcommittees for DHHS, the SBO, the House and Senate Fiscal Agencies, and DTMB.

MCL 38.68c

BACKGROUND:

Section 68c was enacted as 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 various applicable provisions:

- An individual hired by the Department of Corrections 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 DHHS as 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.

FISCAL IMPACT:

House Bill 4156 would have a negligible to minimal fiscal savings on overall state psychiatric hospital expenditures as the bill requires the hiring of the retiree to be the most cost-effective option. The other options of filling vacant state psychiatric hospital positions include through hiring contracted workers or through increased overtime.

The bill would have no fiscal impact on the State Employees' Retirement System. Limiting the mental health professionals eligible to return to work without foregoing retirement benefits to those who retired prior to October 1, 2015 does not create an incentive to retire earlier than they might have otherwise, since that date has already passed, and thus creates no additional cost to the system.

POSITIONS:

The following organizations indicated support for the bill:

- Blue Cross Blue Shield of Michigan (2-28-19)
- McLaren Health Care (4-9-19)
- Michigan Psychiatric Society (3-14-19)

A representative of the Michigan Department of Health and Human Services' Behavioral Health and Developmental Disabilities Administration testified with a neutral position on the bill. (2-28-19)

The following organizations indicated a neutral position on the bill:

- Michigan AFL-CIO (4-9-19)
- AFSCME Council 25 (4-9-19)

UAW Local 6000 indicated opposition to the bill as introduced. (2-28-19)

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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.