

Legislative Analysis



ALLOW RETIREES TO WORK IN THE LEGISLATIVE BRANCH WITHOUT FORFEITING BENEFITS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 6379 (S-2) as Enacted

Public Act 357 of 2018

Sponsor: Rep. Edward J. Canfield, D.O.

Committee: Government Operations

Complete to 11-26-18

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 6379 would amend the State Employees' Retirement Act to allow state retirees to work for the Legislative Service Bureau (LSB) as legal counsel through a contractual agreement without forfeiting their retirement benefits if the Legislative Council Administrator determined that, as a result of the retiree's previous employment with the legislative branch, he or she possesses specialized expertise and experience necessary for the employment and the employment is the most cost-effective option for this state. LSB would have to report the start and end of the employment to the Office of Retirement Services within 30 days of each.

MCL 38.68c

BACKGROUND:

Section 68c was enacted as PA 95 of 2007 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. PA 185 of 2010 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 have varying 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 the Department of Health and Human Services as a psychiatrist to provide mental health services in state operated psychiatric hospitals.

FISCAL IMPACT:

House Bill 6379 could increase costs to the state by an indeterminate, but likely limited, amount. By allowing LSB legal counsel employees to return to work without forfeiting retirement benefits, the bill could create an incentive for employees to retire earlier than they might have otherwise, knowing they can earn both current compensation as well as a pension and retiree health benefits. When retirees retire earlier than anticipated under the retirement system's actuarial assumptions, it increases the unfunded liabilities in a pension system. Increased unfunded liabilities would be borne by the state through increased departmental costs for the State Employees' Retirement System (SERS), which are assessed across all state departments as an equal percent of payroll. However, the candidate pool is likely to be small, and costs increase only if the bill changes the behavior of currently active employees.

Fiscal Analyst: Bethany Wicksall

■ 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.