

# HOUSE BILL No. 5743

March 22, 2018, Introduced by Rep. Canfield and referred to the Committee on Health Policy.

A bill to amend 1943 PA 240, entitled  
"State employees' retirement act,"  
by amending section 68c (MCL 38.68c), as amended by 2016 PA 524.

## 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  
6       stop payment of the retirement allowance to a retirant described in  
7       this subsection during this period of state employment and shall  
8       reinstate payment of the retirement allowance without recalculation

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

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

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

22 (b) If a person covered under any of the plans provided by  
23 this act is also covered under another plan that contains a  
24 coordination of benefits provision, the benefits must be  
25 coordinated as provided in the coordination of benefits act, 1984  
26 PA 64, MCL 550.251 to ~~550.255~~. **550.254**.

27 (c) If the person covered under any of the plans provided by

1 this act is also covered under another plan that does not contain a  
2 coordination of benefits provision, the benefits under the other  
3 plan must be determined before the benefits provided under this  
4 act.

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

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

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

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

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

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

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

1 previous employment with this state, the retirant possesses  
2 specialized expertise and experience necessary for the appointment  
3 and that the appointment is the most cost-effective option for this  
4 state.

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

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

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

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

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

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

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

27 (b) The attorney general determines that, as result of the

1   retirant's previous employment with this state, the retirant  
2   possesses specialized expertise and experience necessary for the  
3   litigation and the contract is the most cost-effective option for  
4   the state.

5           (c) The retirant retired after a bona fide termination of  
6   employment.

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

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

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

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

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

21           (e) The department of natural resources reports the employment  
22   of a retirant under this subsection within 30 days after employment  
23   and within 30 days after termination of employment or within 30  
24   days after the end of each fiscal year, whichever occurs first, to  
25   the state budget office and the department of technology,  
26   management, and budget. The report required under this subdivision  
27   must include the name of the retirant, the capacity in which the

1   retirant is employed, the equivalent civil service position in  
2   which the retirant is employed, the hourly wage paid to the  
3   retirant, and the total hours of service provided by the retirant  
4   for the fiscal year. The department of natural resources may submit  
5   a report required under this subdivision electronically.

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

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

17       (a) The department of health and human services hires the  
18   retirant as a psychiatrist to provide mental health services to  
19   individuals in psychiatric hospitals operated by the department of  
20   health and human services.

21       (b) The department of health and human services determines  
22   that, as a result of the retirant's previous employment with this  
23   state, the retirant possesses specialized expertise and experience  
24   necessary for the hiring of the retirant and that the hiring of the  
25   retirant is the most cost-effective option for this state.

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

(d) The department of health and human services reports the employment of a retirant under this subsection 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 occurs first, to the state budget office and the department of technology, management, and budget. The report required under this subdivision must include the name of the retirant, the capacity in which the retirant is employed, the equivalent civil service position in which the retirant is employed, the hourly wage paid to the retirant, and the total hours of service provided by the retirant for the fiscal year. The department of health and human services may submit a report required under this subdivision electronically.

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

**(9) SUBSECTION (1) DOES NOT APPLY TO A RETIRANT IF ALL OF THE FOLLOWING APPLY:**

**(A) THE DEPARTMENT OF HEALTH AND HUMAN SERVICES HIRES THE RETIRANT AS EITHER OF THE FOLLOWING:**

**(i) A MENTAL HEALTH PROFESSIONAL OTHER THAN A PHYSICIAN TO PROVIDE MENTAL HEALTH SERVICES TO INDIVIDUALS IN PSYCHIATRIC**

1 HOSPITALS OPERATED BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

2 (ii) A RESIDENTIAL CARE AIDE. AS USED IN THIS SUBPARAGRAPH,  
3 "RESIDENTIAL CARE AIDE" MEANS A POSITION IN THE CLASSIFIED CIVIL  
4 SERVICE WITH A CLASSIFICATION OF RESIDENTIAL CARE AIDE.

5 (B) THE DEPARTMENT OF HEALTH AND HUMAN SERVICES DETERMINES  
6 THAT, AS A RESULT OF THE RETIRANT'S PREVIOUS EMPLOYMENT WITH THIS  
7 STATE, THE RETIRANT POSSESSES SPECIALIZED EXPERTISE AND EXPERIENCE  
8 NECESSARY FOR THE HIRING OF THE RETIRANT AND THAT THE HIRING OF THE  
9 RETIRANT IS THE MOST COST-EFFECTIVE OPTION FOR THIS STATE.

10 (C) THE DEPARTMENT OF HEALTH AND HUMAN SERVICES REPORTS THE  
11 EMPLOYMENT OF A RETIRANT UNDER THIS SUBSECTION WITHIN 30 DAYS AFTER  
12 EMPLOYMENT AND WITHIN 30 DAYS AFTER TERMINATION OF EMPLOYMENT OR  
13 WITHIN 30 DAYS AFTER THE END OF EACH FISCAL YEAR, WHICHEVER OCCURS  
14 FIRST, TO THE STATE BUDGET OFFICE AND THE DEPARTMENT OF TECHNOLOGY,  
15 MANAGEMENT, AND BUDGET. THE REPORT REQUIRED UNDER THIS SUBDIVISION  
16 MUST INCLUDE THE NAME OF THE RETIRANT, THE CAPACITY IN WHICH THE  
17 RETIRANT IS EMPLOYED, THE EQUIVALENT CIVIL SERVICE POSITION IN  
18 WHICH THE RETIRANT IS EMPLOYED, THE HOURLY WAGE PAID TO THE  
19 RETIRANT, AND THE TOTAL HOURS OF SERVICE PROVIDED BY THE RETIRANT  
20 FOR THE FISCAL YEAR. THE DEPARTMENT OF HEALTH AND HUMAN SERVICES  
21 MAY SUBMIT A REPORT REQUIRED UNDER THIS SUBDIVISION ELECTRONICALLY.

22 (D) BY MARCH 1 OF EACH YEAR, THE DEPARTMENT OF HEALTH AND  
23 HUMAN SERVICES SUBMITS A SUMMARY OF ALL THE REPORTS REQUIRED UNDER  
24 SUBDIVISION (C) FOR THE PRECEDING FISCAL YEAR TO THE HOUSE OF  
25 REPRESENTATIVES AND SENATE APPROPRIATIONS SUBCOMMITTEES THAT  
26 CONSIDER THE BUDGET OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES,  
27 THE STATE BUDGET OFFICE, THE HOUSE AND SENATE FISCAL AGENCIES, AND



1 THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT, AND BUDGET. THE  
2 DEPARTMENT OF HEALTH AND HUMAN SERVICES MAY SUBMIT A SUMMARY  
3 REQUIRED UNDER THIS SUBDIVISION ELECTRONICALLY.

4 (10) ~~(9)~~ As used in subsection ~~(8)~~: THIS SECTION:

5 (A) "MENTAL HEALTH PROFESSIONAL" MEANS THAT TERM AS DEFINED IN  
6 SECTION 100B OF THE MENTAL HEALTH CODE, 1974 PA 258, MCL 330.1100B.

7 (B) ~~(a)~~ "Mental health service" means service as that term as  
8 defined in section 100d of the mental health code, 1974 PA 258, MCL  
9 330.1100d.

10 (C) ~~(b)~~ "Psychiatric hospital" means that term as defined 100b  
11 of the mental health code, 1974 PA 258, MCL 330.1100b.

12 (D) ~~(c)~~ "Psychiatrist" means that term as defined section 100c  
13 of the mental health code, 1974 PA 258, MCL 330.1100c.