# Legislative Analysis

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## ALLOW RETIRED PSYCHIATRIC HEALTH CARE WORKERS TO PROVIDE SERVICES WITHOUT FORFEITING BENEFITS

**House Bill 4156 as introduced**
**Sponsor: Rep. Hank Vaupel**
**Committee: Health Policy**
**Complete to 2-27-19**

**SUMMARY:**

House Bill 4156 would amend the State Employees' Retirement Act to allow retired residential care aides and certain retired mental health professionals to provide services without forfeiting their retirement benefits.

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 either as a residential care aide or as a non-physician mental health professional 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 Public Act 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. Public Act 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 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 the Department of Health and Human Services 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 non-physician state psychiatric hospital positions include through hiring contracted workers or through increased overtime.

The bill could increase costs to the state by an indeterminate, but likely limited, amount. By allowing non-physician state psychiatric hospital 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.

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