

RETIRED CORRECTIONS OFFICERS

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House Bill 5765 as introduced
Sponsor: Rep. Julie Alexander
Committee: Appropriations
Complete to 2-22-22

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

SUMMARY:

House Bill 5765 would amend the State Employees' Retirement Act to allow a state employee retiree who is receiving a retirement allowance to be re-employed by the state, at the Michigan Department of Corrections (MDOC), on a limited-term basis, with no benefits paid, to provide for the custody of prisoners while still maintaining his or her retirement allowance. To be eligible, the retiree would have to have retired before January 1, 2022, and after a bona fide termination of employment. These provisions would apply until two years after the effective date of the bill.

MCL 38.68c

BACKGROUND:

Prior to December 2012, there were two exemptions from the general requirement that state employee retirees receiving retirement allowances must forfeit their allowances during any time period they are re-employed by the state. The first exemption was for a retiree hired to provide health care services to individuals under the jurisdiction of MDOC, provided that the retiree was hired on a limited-term basis and was paid on a per diem basis with no benefits, and that certain noticing and reporting requirements were met by the department. The second exemption was for the appointment of a retiree who was an assistant attorney general as a special assistant attorney general if it was determined that the retiree possessed specialized expertise and experience necessary for the appointment.

In December 2012, Public Act 432 was enacted, which amended the State Employees' Retirement Act to allow a third exemption to the retirement allowance forfeiture requirement. This exemption was for a retiree hired to provide for the custody of individuals under the jurisdiction of MDOC, provided that the retiree was hired on a limited-term basis, was paid not more than 80% of the maximum hourly wage granted to classified civil service employees employed by MDOC, was paid no benefits, and worked no more than 1,040 hours in a 12-month period of employment. The act clarified that both new and existing exemptions applied only to retirees who retired after a "bona fide termination of employment." The act also included a September 30, 2013, sunset (expiration) date. In September 2013, Public Act 112 was enacted, which postponed the sunset date by two years to September 30, 2015.

The amendments to the State Employees' Retirement Act were enacted into law to enable MDOC to generate savings from the use of retired corrections custody staff to fill existing

custody staff vacancies. MDOC utilizes a significant amount of paid overtime in ensuring that it has sufficient staff to maintain security in the state's prisons. When a custody staff position remains vacant or an existing officer takes sick or annual leave time, the department often pays overtime to existing staff to cover the unfilled assignment. Custody officers working overtime are generally paid one-and-a-half times their regular wage rates for these duties. By allowing retired MDOC officers to be rehired, the state would realize a cost savings as a result of not having to pay such a significant amount in overtime costs.

The amendments to the State Employees' Retirement Act also had potential cost implications on the state retirement system that would offset some of the savings expected to occur. There is an incentive for an active state employee in the State Employees' Retirement System to retire and apply for the position of corrections officer in order to draw a pension and a paycheck as an active employee. When this occurs, there are costs to the retirement system of paying out pensions earlier than originally assumed, which results in additional unfunded accrued liabilities in the retirement system.

FISCAL IMPACT:

Under provisions of House Bill 5765, more retirees will be encouraged to participate and apply for re-employment in an effort to reduce workload burnout experienced by current custody staff due to working excessive overtime. MDOC is currently operating with at least 800 vacant custody staff positions, and as of the fourth pay period this fiscal year, 373,900 overtime hours had been worked by custody staff. According to the October 1, 2021 Compensation Plan, the minimum hourly pay rate for a corrections officer is \$19.66 and the maximum hourly pay rate is \$29.00. When paying overtime for existing custody staff, this means pay rates of between \$29.49 and \$43.50 hourly.

There would be a limited amount of up-front costs for recertifying returning employees and for providing them with uniforms. The length of training would vary and would depend on how long the applicant has been retired. According to the department, a rough estimate of costs would be between \$1,000 and \$3,000 per person when considering that they would receive their hourly rate while in training. But, to the extent that returning employees work regular hours at straight time, in lieu of the department paying overtime to currently employed officers, a savings for the department would result. The amount of actual savings that would be achieved would depend on the number of retired officers who were re-hired and the amount of reduced overtime costs that would result.

The number of retirees that would be re-employed is unknown. The legislation in 2012 and 2013 resulted in re-employment of 36 officers statewide. Although MDOC sent letters to over 1,000 eligible retirees, there was limited success in recruiting qualified retired officers. It is believed that limitations under the previous legislation served to deter otherwise interested retirees from applying for re-employment. The 36 that were re-employed were paid not more than 80% of the maximum hourly wage granted to existing officers and were capped at working 1,040 hours, as described above. The terms of employment under HB 5765 are better than in the previous legislation. Maximum pay would be raised to 100%

of the maximum hourly wage, and the cap on the number of hours that could be worked would be removed.

Re-employed retirees would be classified as non-career corrections officers. This classification has a lower pay rate than career corrections officers according to the Compensation Plan. The Civil Service Commission could adjust the classification pay range, but is not required to make adjustments. If Civil Service does not make adjustments to the pay range, there would potentially be more savings for the department. If Civil Service makes adjustments, and adjusts the pay closer to that of the career position pay, the result would be less savings for the department. According to the Department of Corrections, assuming that there are 36 re-employed retirees, and assuming further that Civil Service adjusts the pay range to be closer to 100% of the career position pay scale, then the estimated savings to the department would be anywhere from \$700,000 to \$1.1 million in wage savings if all 36 re-employed people worked full time.

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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.