

# HOUSE BILL NO. 4591

March 25, 2021, Introduced by Reps. Roth, Damoose, Martin, O'Malley, Borton, Markkanen, LaFave, Hall, Yaroch and Howell and referred to the Committee on Oversight.

A bill to regulate certain provisions in certain public employment contracts; to limit severance payments to certain public employees and public officers; and to provide for civil fines.

## **THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. This act shall be known and may be cited as the "state  
2 employment contract regulation act".

3       Sec. 3. As used in this act:

4       (a) "Severance pay" means compensation that is both of the  
5 following:

1 (i) Payable or paid upon the termination of employment.

2 (ii) In addition to any of the following:

3 (A) Wages or benefits earned.

4 (B) Generally applicable retirement benefits.

5 (b) "State employee" means an individual employed in the  
6 executive or legislative branch of government of this state.

7 (c) "State officer" means an individual who is elected or  
8 appointed to an office created by law in the executive or  
9 legislative branch of government of this state.

10 Sec. 5. (1) Except as otherwise provided in subsection (2) or  
11 (3), and subject to subsection (4), this state shall not do either  
12 of the following:

13 (a) Enter into an employment contract with a state employee if  
14 the employment contract does either of the following:

15 (i) Provides for severance pay to the state employee in an  
16 amount that is greater than an amount equal to 12 weeks of the  
17 state employee's normal wages.

18 (ii) Prohibits the state employee from disclosing factual  
19 information about an alleged violation of law, including, but not  
20 limited to, discrimination and sexual harassment, in the state  
21 employee's workplace.

22 (b) Pay to a state employee severance pay in an amount greater  
23 than is authorized under subdivision (a) (i).

24 (2) For a state employee in the executive branch, if the  
25 attorney general determines that severance pay for the state  
26 employee in an amount greater than is authorized under subsection  
27 (1) (a) (i) is necessary to serve the best interests of this state  
28 based on the risk of litigation and the need to minimize the  
29 expenditure of public funds, this state may do either of the

1 following:

2 (a) Enter into an employment contract with the state employee  
3 that provides for severance pay to the state employee in an amount  
4 greater than is authorized under subsection (1) (a) (i) if the  
5 employment contract releases, to the extent allowed under law, all  
6 claims the state employee may have against this state.

7 (b) Pay to the state employee severance pay in an amount  
8 greater than is authorized under subsection (1) (a) (i) if the state  
9 employee releases, to the extent allowed under law, all claims  
10 against this state.

11 (3) For a state employee in the legislative branch, if the  
12 legal counsel for the public body that employs the state employee  
13 determines that severance pay for the state employee in an amount  
14 greater than is authorized under subsection (1) (a) (i) is necessary  
15 to serve the best interests of this state based on the risk of  
16 litigation and the need to minimize the expenditure of public  
17 funds, this state may do either of the following:

18 (a) Enter into an employment contract with the state employee  
19 that provides for severance pay to the state employee in an amount  
20 greater than is authorized under subsection (1) (a) (i) if the  
21 employment contract releases, to the extent allowed under law, all  
22 claims the state employee may have against this state.

23 (b) Pay to the state employee severance pay in an amount  
24 greater than is authorized under subsection (1) (a) (i) if the state  
25 employee releases, to the extent allowed under law, all claims  
26 against this state.

27 (4) If this state enters into an employment contract with a  
28 state employee that provides for severance pay to the state  
29 employee in an amount equal to or greater than an amount equal to 6

1 weeks of the state employee's normal wages, the public body that  
2 employs the state employee must, unless otherwise prohibited by  
3 law, make all of the following information available to the public  
4 on its website and provide all of the following information to the  
5 chairpersons of the senate and house of representatives standing  
6 committees on appropriations:

7 (a) A description of the severance pay, including the maximum  
8 amount that may be paid expressed in dollars or in weeks of wages.

9 (b) If both of the following conditions are met, the title of  
10 the state employee's position:

11 (i) A determination is made under subsection (2) or (3) that  
12 severance pay for the state employee in an amount greater than is  
13 authorized under subsection (1) (a) (i) is necessary to serve the best  
14 interests of this state based on the risk of litigation and the  
15 need to minimize the expenditure of public funds.

16 (ii) Either of the following conditions is met:

17 (A) The state employee's employment contract provides for  
18 severance pay to the state employee in an amount greater than is  
19 authorized under subsection (1) (a) (i) .

20 (B) The state employee is paid severance pay in an amount  
21 greater than is authorized under subsection (1) (a) (i) .

22 Sec. 7. This state shall not do any of the following:

23 (a) Enter into an employment contract with a state officer if  
24 the employment contract does either of the following:

25 (i) Provides for severance pay to the state officer in an  
26 amount greater than is authorized under section 5(1) (a) (i) .

27 (ii) Prohibits the state officer from disclosing factual  
28 information about an alleged violation of law, including, but not  
29 limited to, discrimination and sexual harassment, in the state

1 officer's workplace.

2 (b) Pay severance pay to a state officer in an amount greater  
3 than is authorized under section 5(1)(a)(i).

4 (c) Pay severance pay to a state officer in violation of  
5 section 3 of article XI of the state constitution of 1963.

6 (d) Except as otherwise required by law, enter into a  
7 nondisclosure or confidentiality agreement with a state officer  
8 regarding the performance of the state officer's official duties.

9 Sec. 9. A state employee or state officer who authorizes an  
10 employment contract, nondisclosure agreement, confidentiality  
11 agreement, or payment in violation of this act is responsible for a  
12 civil fine of not more than \$2,500.00 if the state employee or  
13 state officer knew, at the time of the authorization, that the  
14 contract, agreement, or payment violated this act. The attorney  
15 general may bring an action in the circuit court of Ingham County  
16 for a violation of this act. A civil fine collected under this  
17 section shall be submitted to the state treasurer for deposit in  
18 the general fund of this state.

19 Sec. 11. (1) This act applies to an employee in the state  
20 classified civil service to the extent that it does not conflict  
21 with section 5 of article XI of the state constitution of 1963.

22 (2) This act applies to an employment contract that is entered  
23 into, amended, extended, or renewed on or after the effective date  
24 of this act.