Legislative Analysis

STATE RETIREE BENEFITS FOR REHIRED WORKERS

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House Bill 6132 (proposed substitute H-1)
Sponsor: Rep. Beth Griffin
Committee: Workforce, Trades, and Talent
Complete to 6-8-22

SUMMARY:

House Bill 6132 would amend the State Employees' Retirement Act to allow retired state employees to work for the state without forfeiting their retirement benefits as long as six months have passed since their retirement.

Currently, the act requires that a ***retirement allowance*** paid to ***retirant*** be forfeited for the duration of a retirant's post-retirement employment with the state if they became re-employed after October 1, 2007. The act exempts certain roles and professions for which retirants returning to state employment do not forfeit their retirement allowance if specific conditions relating to their employment after retirement are met.

> A ***retirant*** is defined in the act as a person who has ceased to be a member of the retirement system by reason of retirement with a pension or retirement allowance payable from the funds of the retirement system.
>
> A ***retirement allowance*** is defined as the sum of the annuity and the pension.

At present, retirants from the following state departments and agencies who are rehired to fulfill certain roles, or those retirants who meet certain criteria to work in specific roles within these departments and agencies, may receive their retirement allowance during their employment with the state:

- Department of Attorney General.
- Department of Corrections.
- Department of Health and Human Services.
- Department of Labor and Economic Opportunity (Michigan Unemployment Agency).
- Department of Natural Resources.
- Legislative Service Bureau.
- Michigan Occupational Health and Safety Administration.

House Bill 6132 would remove the existing exemptions and instead provide that, beginning on the bill's effective date, retired state employees who have regained employment with the state for any department or agency do not need to forfeit their retirement allowance if they meet the following conditions:

- The retirant retired after a ***bona fide termination of employment***.
- The retirant has been retired for at least six consecutive months before becoming ***employed by this state***, unless one of the following applies:
  - The retirant's retirement allowance effective date is before the bill's effective date.
  - The Department of Attorney General contracts with the retirant as a witness, expert, or consultant for litigation involving the state. The contract would have

to provide that the retirant's service as a witness, expert, or consultant ends at the conclusion of the litigation.
    - The retirant is employed by this state to respond to a declared state of emergency or disaster as described in the Emergency Management Act. The duration of the employment would have to terminate not more than 90 days after the end of the declared state of emergency or disaster.
- The retirant is not eligible to use any service or compensation attributable to this employment for a recalculation of their retirement allowance.

Bona fide termination of employment would mean that a retirant has completely severed the employer-employee relationship with the state, as determined by the retirement system. Completely severing the employer-employee relationship would include, but not be limited to, a retirant not working for this state during the month of their retirement allowance effective date and, before the severing of the employer-employee relationship, the retirant does not intend or expect or have an offer or contingency to become employed by this state.

Employed by this state would mean employed directly by the state as an employee.

For purposes of determining eligibility to continue receiving a retirement allowance, the retirement system would be required to determine, in accordance with federal law that governs qualified retirement plans, whether a retirant retired after a bona fide termination of employment. If the retirement system determines that a retirant did not retire after a bona fide termination of employment, the retirement system could adjust the retirant's retirement allowance effective date following a bona fide termination of employment.

The state, or the Department of Attorney General, as applicable, would be required to report to the Office of Retirement Services the employment of a retirant within 30 days after employment is started, and again report within 30 days after the employment ends.

MCL 38.68c

FISCAL IMPACT:

House Bill 6132, generally speaking, would create an incentive to retire earlier than an employee might have otherwise, knowing that they may return to work six months after retirement and earn both current compensation and a pension. 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. An estimate of the costs is not available at this time. The increased unfunded liabilities would be directly related to the number of employees choosing to retire earlier than the system otherwise assumed. How this policy would affect employment and staffing within departments and agencies is unknown.

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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.