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State Employee Retirement Allowance Exceptions

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The State Employees' Retirement Act (SERA) states that a retired State employee who is receiving a pension and is reemployed by the State beginning after October 1, 2007, agrees to forfeit the right to receive those payments during the period of reemployment.¹ Starting in 2010, the Legislature added exceptions to this requirement so that certain retired State workers could return to State employment while continuing to receive their pension.

The stated rationales for these exceptions have varied, but they generally have been proposed to address labor force shortages of certain skills or to generate savings by employing a limited-term retiree who would not be entitled to benefits. Currently, the State does not have a central report or log that tracks the number of retirees that have been reemployed by the State. This makes it difficult to monitor the degree to which the various departments are using these exceptions. [Table 2](#) was compiled by the Senate Fiscal Agency through ad-hoc requests over a number of weeks.

Under the statute, "employed by this state" means employed directly by the State as an employee, indirectly by the State through a contractual arrangement with other parties, or by engagement of the retiree by the State as an independent contractor.² If a retired State worker is rehired by the State and is not covered by an exception, after the term of reemployment ends, the suspended pension payments resume. For retirees who work under an exception and those who do not, pension payments do not include any recalculation for the time that the retiree returned to State employment.

To date, the Legislature has created nine exceptions for several departments including the Attorney General of Michigan (AG), the Michigan Department of Corrections (DOC), the Michigan Department of Health and Human Services (DHHS), the Legislative Service Bureau (LSB), and the Michigan Department of Natural Resources (DNR). [Table 1](#) shows the list of the SERA exceptions, including a proposed 10th exception under Senate Bill 592.

Table 1: SERA Pension Prohibition Exceptions

Exception No.	Public Act	Department	Type of Positions
1	PA 54 of 2010	DOC	Health Care Services
2	PA 185 of 2010	AG	Special Assistant Attorney General
3	PA 432 of 2012	DOC	Custody Staff (until 9/30/2013)
4	PA 112 of 2013	DOC	Custody Staff (extend sunset to 9/30/2015)
5	PA 20 of 2015	AG	Litigation Witness, Expert, or Consultant
6	PA 351 of 2016	DNR	Active Wildland Fire Suppression
7	PA 524 of 2016	DHHS	Psychiatrists
8	PA 357 of 2018	LSB	Legal Counsel
9	PA 18 of 2020	DHHS	Mental Health Professionals (until 9/30/2023)
10	SB 592*	DOC	DOC - Telecommunications/Intelligence Expert

¹ MCL 38.68c.

² *Id.*

Each of the exceptions created include criteria that must be met to qualify the individual to receive the exception. The exception requirements vary, but generally include the following:

- The retiree is hired to fill a specified position, or the retiree hired possesses specialized expertise and experience necessary to fulfill a certain need, within a department.
- The term of employment is limited, no benefits are paid, and pay is on a per diem basis.
- The maximum hourly wage rate is set at a percentage lower than maximum hourly wage rate for current employees and the retiree works less than a certain number of hours in a year.
- The department has notified the State Budget Office and the Department of Technology, Management, and Budget that attempts have been made to fill the position through postings and recruitment and the vacancy still exists, and the department reports the hiring of the retiree.
- The retiree retired after a bona fide termination of employment.

In 2010, the first exception was established for the DOC, which allowed retired workers to provide health care services to prisoners. After this exception was granted, other exceptions have been added that seek to alleviate staffing concerns inside of departments. The exceptions generally have concentrated on retirees with highly specialized skills, (e.g. psychiatrists or expert witnesses) that a department has had difficulty filling from outside of a labor pool that does not include State retirees. These restrictions have been put in place to limit the universe of potential workers who would be able to qualify for their pension while being reemployed by the State.

As of September 30, 2019, there were 60,501 retired State workers participating in the defined benefit pension plan.³ As shown in Table 2, to date, the State has reemployed 52 retired workers, with the majority of these having been reemployed by the DOC. There currently does not seem to be a large interest in retired State workers' returning to work even with the benefit of receiving their pension and reemployment wages.

Table 2: Retirees Reemployed under SERA Exceptions

Exception No.	Public Act	Department	Number of Retiree Hired
1	PA 54 of 2010	DOC	2
2	PA 185 of 2010	AG	12
3	PA 432 of 2012	DOC	36*
4	PA 112 of 2013	DOC	36*
5	PA 20 of 2015	AG	1
6	PA 351 of 2016	DNR	0
7	PA 524 of 2016	DHHS	0
8	PA 357 of 2018	LSB	1
9	PA 18 of 2020	DHHS	0
10	SB 592*	DOC	N/A

**Total hired for the entire time period the exception was in effect (12-21-2012 through 9-30-2015)*

Source: Senate Fiscal Agency compilation of data requested of affected departments.

Under Public Act 432 of 2012 and PA 112 of 2013, an exception was created for the DOC that allowed reemployment of retired custody staff. This exception was short-term in nature with a sunset date of September 30, 2015 (after a two-year extension). As shown in Table 2, this exception also had the largest number of retirees hired, 36, compared to any of the other exceptions created. One reason for the higher response for this exception compared to the others is the pool of retired DOC custody staff is a larger base to draw from than more specialized areas, e.g., DHHS psychiatrists.

Public Act 18 of 2020, which allows for retired mental health professionals to return to work for the State is similar to the DOC custody staff exception in that it contained a sunset date to limit the duration that an individual could be reemployed by the State while receiving a pension.

³ Michigan State Employees' Retirement System, Comprehensive Annual Financial Report.