# Retirement and Retiree Benefits Security During the COVID-19 Pandemic

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**Bankruptcy suggested** - U.S. Senator McConnell (R-Kentucky), Senate Majority Leader, suggested recently that the states should just go bankrupt rather than expect federal financial assistance. Michigan has had increased expenditures related to the global COVID-19 pandemic while concurrently experiencing reduced revenues. High unemployment (less income tax revenue) and reduced consumer spending (less sales and excise tax revenue) have contributed the bulk of the shortfall. At this writing, a 10 to 30 percent decline in state revenues is feared for the current fiscal year with continuing revenue shortfalls in the future.

**Federal bankruptcy law** - Federal bankruptcy law allows municipalities but not states to use bankruptcy to restructure financial obligations to bondholders, contractors, employees, retirees, and creditors. The federal bankruptcy law would have to be amended by both houses of Congress and approved by the President to enable the state to use the federal bankruptcy law.

**Balanced budget** - The State of Michigan Constitution, Article V, Section 18 requires the state to have a balanced budget. In a time of reduced state revenues there have historically been reductions in state spending to meet whatever revenue the state has or can acquire.

**Statutory provision** – The State Employees' Retirement Act, Public Act 240 of 1943 is the statutory and legal foundation for the state employee retirement programs.

**Constitutional protections** - The state retiree defined benefit pension plan that was closed to new state employees after March 31, 1997 is protected by the Michigan Constitution, Article IX, Section 24:

> *The accrued financial benefits of each pension plan and retirement system of the state and its political subdivisions shall be a contractual obligation thereof which shall not be diminished or impaired thereby.*

It would be unconstitutional for the state to rob the state employee pension fund to finance state government operations.

This same section of the Michigan Constitution contains a second sentence that is equally important:

> *Financial benefits arising on account of service rendered in each fiscal year shall be funded during that year and such funding shall not be used for financing unfunded accrued liabilities.*

Declining to fully fund the state's Annual Required Contribution to the defined benefit pension fund for current active state employees in the defined benefit pension program would violate the constitution. Approximately 8,000 of the 47,000 state classified employees are in the defined benefit pension program. Should the legislature and the Governor decide to implement such a plan, a lawsuit could be commenced to enforce this aspect of the Constitution.

**Retiree health care** - Retiree health care benefits are included in the State Employees' Retirement Act but not protected by the Michigan Constitution. Should the legislature and the Governor agree to do so, the retiree health care benefits could be amended. A recent example is the increase in health care insurance premiums from 10 to 20 percent of cost for employees and pre-Medicare retirees and dependents. The retiree health care insurance design can be changed unilaterally by the Michigan Civil Service Commission but is typically negotiated between the state and the labor unions and then applied to all employees and retirees with a few carve-outs and exceptions. Since 2012, new state employees do not have retiree health care benefits and instead the state contributes an additional two percent of wages to the employee's 401(k) account.

**Pre-funding health care** - During Governor Rick Snyder's administration, the state budget began pre-funding state retiree health care costs instead of using pay-as-you-go funding. Governor Gretchen Whitmer has retained this approach in her budgets. It is a best practice in government accounting practices but could be vulnerable to budget stresses.

**Deferred compensation** - 401(k) plans are tax-qualified, defined-contribution pension accounts enacted in subsection 401(k) of the Internal Revenue Code in 1978. These plans are owned by the individual employee so wouldn't be vulnerable to the state's financial difficulties. Similarly, 457 investments by employees are held in trust by the state for the individual so are legally safe from state intrusion. Of course the value of 401(k) and 457 accounts are affected by the national economy and the stock and bond markets.

The state's 401(k) contribution of an additional 4 percent of wages and up to a 3 percent match for active employees is set in the State Employees Retirement Act and could be changed with legislative and the governor's approval.

**SERA** – The State Employee Retirees Association is a non-profit organization devoted exclusively to issues and concerns of all current and future retirees of the State of Michigan. State retirees and current or former state employees age 50 or better are eligible to join.

**SERA** works to:

- keep Michigan state employee pension and insurance benefits secure.
- assure pension and insurance benefits are improved and keep up with inflation.
- monitor and take action on important developments affecting state pension and retiree health care benefits.
- inform its members about proposed federal and state legislation that will affect State of Michigan retirement systems and retiree health care.
- help members stay in touch with old friends and make new friends with a common background.
- monitor the Michigan Retirement Systems Board, the Michigan Investment Board (which makes recommendations to the State Treasurer on investments in the State Employees Retirement System pension fund), and the 401K and 457 programs provided through Voya.
- work with the Office of Retirement Services and Civil Service Benefits Division to help retirees and near retirees with their pension and benefits issues.
- provide **SERA PLUS**, great discounts and services in many areas of retirement living such as first-year free tax preparation, estate planning, tax planning, home and auto insurance, financial services, mortgage services, estate transfer strategies, final settlement planning, and much more through SERA's association with Hantz Group, Inc..

**SERA** works through its members, leaders, and committees to promote the best interests of state employee retirees and future retirees. At least eight times since 1974, SERA was a moving force in pension increases or benefit improvements. In 2011, we opposed the first pension tax proposal and helped eliminate it for 70% of retirees; we opposed the remaining tax on public pensions for those born after 1945 in the Michigan Supreme Court.

**SERA** has 21 local chapters statewide that are linked through the Coordinating Council of the State Employee Retirees Associations of Michigan. **SERA** chapters have periodic meetings with guest speakers, opportunities for networking, newsletters, and other activities. More information can be found at www.mi-sera.org .

**SERA welcomes the new ideas and energy of new members!** Call for your **FREE** one year membership! Contact Cheryl Streberger at 517-515-9815 or cstreberger@yahoo.com. Pay nothing now. Simply contact us now and we will explain how to obtain your first-year free membership. At the end of your complimentary year, we will mail you a renewal notice. Membership dues after the first year range from $6 to $20, depending on which chapter you join.