



**House  
Legislative  
Analysis  
Section**

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PSERS; PURCHASE OF SERVICE  
**RECEIVED**

House Bill 4443 as enrolled  
Second Analysis (12-18-87)

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Sponsor: Rep. Maxine Berman  
House Committee: Senior Citizens & Retirement  
Senate Committee: Judiciary

## **THE APPARENT PROBLEM:**

The Public School Employees Retirement Act allows members to purchase service credit for various types of public service employment or for other periods of time which cause interruptions or delays in public school employment, such as maternity or paternity leave. Members of the system may purchase service credit for time spent in the military, employment with the federal or state government, out of system public education employment, and sabbatical leave, among others. Some members of the retirement system have requested legislation which would allow them to purchase service credit for various additional reasons.

Currently, the law includes in its definition of "public school employee" (for purposes of membership in the retirement system) certain employees of the Michigan High School Athletic Association (MHSAA), a private organization. Prior to 1972, the association was part of the Department of Education, and so its employees were part of the retirement system. In 1972, when the MHSAA became a private, nonprofit organization, the PSERS act was changed to allow continued membership in the system for the association's employees who hold teaching certificates. Public Act 123 of 1986 prohibited new employees of MHSAA from becoming members of the retirement system, but the association is still considered a "reporting unit" for the four employees who are still members of the system. Federal law requires private employers to treat all of their employees equally in regards to pension coverage, and the MHSAA has requested a change in the law to allow it to end its relationship with the PSERS while protecting the pension rights of the affected employees.

## **THE CONTENT OF THE BILL:**

The bill would amend the Public School Employees Retirement Act to allow members of the retirement system to purchase service credit under certain circumstances. A person could purchase service credit, at actuarial cost, for the following:

- Up to five years of service as a teacher in a state-approved nonpublic school or a state approved nonpublic two- or four-year institution of higher education in the United States, or in a foreign country at a school for U.S. military personnel or dependents of the military or the U.S. State Department; as a teacher with the Job Corps, as a teacher in a trust territory or former trust territory of the United States, or as a teacher on an Indian reservation in this country. Further, a member could purchase service credit, at actuarial cost, for up to five years of employment with a municipal recreation department under certain circumstances.
- Up to three years of service with the federal government as a teacher in a foreign country teaching students who were not U.S. citizens or as a teacher with the Merchant Marines.

- Up to two years service in the Peace Corps, VISTA, with the Red Cross on a military base during an armed conflict, or in alternative service to active duty military service under the auspices of a local draft board. Further, a member could purchase up to two years of service credit for service as a teacher or counselor employed by the U.S. Congress at the school for Congressional pages.
- Up to six months of service in the Michigan National Guard or the U.S. Armed Forces Reserve.
- Service as a teacher at a U.S. military base in the United States or a foreign country, or service as an employee of a county mental health program or as an employee in a day care or day training program for the handicapped.

The bill would allow, until October 1, 1990, a member who was on an authorized leave or released time for purposes of employee organization professional services before October 1, 1981 to purchase service credit for the time at actuarial cost. (The act currently allows purchase of service credit for this type of service performed after October 1, 1981.)

Purchased service credit could not be used to satisfy the minimum ten years service required to be "vested" in the system.

The bill would amend the definition of "out of system public education service" to include service as a teacher at a military base, thereby including people with that type of service under existing provisions for purchase of out of system service.

Further, as of January 1, 1988, the definition of "public school employee" (for purposes of determining membership in the retirement system) would be amended to exclude employees of the Michigan High School Athletic Association, and to exclude the MHSAA as a reporting unit of the system. Employees of MHSAA who were members of the system on December 31, 1987 would retain a limited membership in the system and be entitled to receive a retirement allowance upon retirement, including eligibility for the early retirement option, if they met the other requirements of the act. Continued employment with MHSAA would be considered service in the retirement system for purposes of determining eligibility for retirement benefits that are dependent upon a specified period of total service or upon the attainment of a specified age while in service, or both. Computation of the retirement allowance would be based on the employee's credited service as of December 31, 1987, and the employee's final average compensation before January 1, 1988, or the average of the annual compensation immediately before January 1, 1988 if the employee had less than five years of credited service.

MCL 38.1306 et al.

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OVER

### ***FISCAL IMPLICATIONS:***

According to the Bureau of Retirement Systems in the Department of Management and Budget, the bill would result in administrative costs of approximately \$158,000 for the first year of implementation, and approximately \$75,000 per year for subsequent years. (12-18-87)

### ***ARGUMENTS:***

#### ***For:***

The concept of purchasing service credit for purposes of increasing a member's retirement allowance has many precedents in Michigan's public retirement systems; indeed, the Public School Employees' Retirement System (PSERS) act already includes numerous situations for which the purchase of service is allowed. The bill would provide the same opportunity for those who were previously employed in nonpublic schools (as many teachers were, not necessarily by choice, during the 1970's when teaching jobs in the public schools were scarce). Other situations for which the bill would allow purchase of service, including teaching on military bases, Indian reservations, or in foreign schools as federal employees, are arguably within the scope of existing purchase of service provisions, though not specifically delineated in the act. Likewise, service with the National Guard, the reserve, the Red Cross, the Peace Corps, or VISTA has been compared to military service and should be treated in the same manner for purposes of purchasing service credit. It has been estimated that most of the provisions would apply to only a very small number of persons. Further, each of the purchase of service provisions proposed in the bill specify that the member would have to pay to the retirement system the actuarial cost of the service; thus, the bill would not result in costs to the retirement system, other than administrative costs.

#### ***Against:***

Although the bill's provisions for purchase of service credit may be logical extensions of the existing provisions for purchase of service, the additional types of buy-ins would add even more complexity to an already difficult administrative process. If the goal is to provide equity to a mobile population whose working lives are not spent solely within the public school system, an alternative to adopting a myriad of specific purchase of service provisions might be to allow a general purchase of up to five years of service credit, at actuarial cost, without specifying a particular type of service. This alternative would ease considerably the administrative burdens of verifying the various types of service credit for which purchase of service is allowed.

#### ***Against:***

By allowing retirement system members to purchase service credit for employment in nonpublic schools, the bill could be construed as an unconstitutional advancement of religion by the state.

***Response:*** The bill appears to meet the constitutional standard because it has a secular purpose, neither advances nor inhibits religion, and does not promote excessive entanglement between the state and the church.

#### ***For:***

The bill would phase out employees of the Michigan High School Athletic Association from membership in the retirement system. Since 1972, the association has been a private organization; since 1986, new employees of the association have not become members of the retirement

system but are covered under a private pension plan. The bill's provisions would protect those who have been members of the system and earned service credit toward receiving retirement benefits, while allowing the MHSAA to comply with federal pension law by treating all its employees in the same manner.