

**PUBLIC EMPLOYEE RETIREMENT COMMISSION****ACTUARIAL NOTE TRANSMITTAL**

Bill ID: House Bill Number 84, Printer's Number 69

System: Public School Employees' Retirement System

Subject: Purchase of Service Credit for Service as a Special Education Teacher  
or Instructor in an Accredited Pennsylvania-Approved Private School

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**SYNOPSIS**

House Bill Number 84, Printer's Number 69, would amend the Public School Employees' Retirement Code to permit an active member or an active multiple service member of the Public School Employees' Retirement System (PSERS) to purchase up to five years of service credit at the rate of one year for every three years of previous nonschool service as a school teacher or instructor of special education classes in an accredited, Pennsylvania-approved, private elementary or secondary (special education) school, if the member was entitled to a provisional or professional certificate to teach in the public schools of Pennsylvania at the time the service was rendered, purchases the service credit within three years of becoming eligible to do so, and pays the full actuarial present value of the increase in the superannuation benefit resulting from the purchase.

**DISCUSSION**

The Public School Employees' Retirement System (PSERS) is a governmental, cost-sharing, multiple-employer pension plan. The designated purpose of PSERS is to provide retirement allowances and other benefits, including disability and death benefits, to public school employees. As of June 30, 1999, there were 664 participating units, generally school districts, area vocational-technical schools, and intermediate units in PSERS. Membership in PSERS is mandatory for most public school employees. Certain other employees are not required, but are given the option, to participate. As of June 30, 1999, there were 223,495 active members of PSERS, there were also 121,064 regular and early retirees, 5,384 disability retirees, and 6,421 survivor beneficiaries receiving benefits from PSERS.

Under the PSERS Code, a member may retire at age 60 with 30 years of service credit, age 62 with one year of service credit, or at any age with 35 years of service credit. The pension is the product of two percent multiplied by the number of years of service credit multiplied by the member's final average (highest three years) salary. The number of years of credited service has a direct impact on the benefit amount for both regular and early retirement. Public employee defined benefit pension plan provisions that permit a member to receive additional service credits are of value to the member because they enhance the retirement benefit and also may accelerate retirement eligibility.

## **DISCUSSION (Cont'd)**

Active members and active multiple service members of PSERS may purchase service credit for the following types of nonschool service: approved leaves of absence without pay; intervening and nonintervening military service; service in public education in another state or with the federal government; service in public education in a community college under the Community College Act; service with a county school board where administrative duties or the agency was transferred to some other governmental entity with PSERS coverage; service as a county nurse; service for time spent on a mandated maternity leave prior to 1978; and certain service performed while in the Cadet Nurse Corps during World War II.

The bill would expand the list of purchasable nonschool service to include up to five years of service credit for service as a school teacher or instructor of special education classes in an accredited, Pennsylvania-approved, private elementary or secondary special education school, if the member was entitled to a provisional or professional certificate to teach in the public schools of Pennsylvania at the time the service was rendered, begins to make the purchase within three years of becoming eligible to do so, and pays the actuarial present value of the increase in the superannuation benefit resulting from the purchase. The effect of the additional service credit would be to add an amount equal to up to ten percent of the highest three years' average salary to the basic benefit prior to modification.

Special education includes clinical, remedial, and guidance services for exceptional children, that is, both gifted children and children with severe disabilities. For example, an individual holding a certificate endorsed in one of the four special education areas is qualified to teach students with disabilities how to understand, overcome, compensate for and/or adjust to their disabilities through the use of adaptive instructional strategies, instructional accommodations, individualized learning activities, and specially designed services. Data provided by the Department of Education show that in 1999-2000 there were 14,547 public school teachers certified in special education plus 1,918 certified as speech correctionists.

Among other ways, the bill would restrict the service that could be purchased to service in a Pennsylvania-approved private elementary or secondary school. In the Department of Education, the term "approved private school" is a term of art describing a private school, the mission of which, is to provide special education to children with exceptional needs. There are about 31 of these schools that are licensed by the State Board of Private Academic Schools and also approved by the Bureau of Special Education of the Department of Education. Educators in the "approved private schools" must hold public school certification. Another way in which the bill restricts the service that could be purchased is to limit it to service in an "accredited" school. In the Department of Education, the term "accredited school" is a term of art describing a school accredited by meeting the standards set by one of the national or regional accrediting agencies approved by the State Board of Education. The Department of Education

## **DISCUSSION (Cont'd)**

does not “accredit” schools, however. If the sponsors of the bill intend to offer the purchase of service credit option to members of PSERS who were special educators in other types of schools, the bill will have to be amended to make the intention clear.

The bill would insert the proposal into the same subsection that now permits the purchase of service credit for nonschool service as a county nurse. The language of the proposal is substantially similar to the language regarding county nurses with the significant exception that the language does not contain the restriction that prevents a member from withdrawing the purchase contribution as a lump sum under Option 4 at retirement. Unless the bill is changed to include such a prohibition, it will enable an eligible member to purchase the service credit either (1) very close to the time of retirement, become eligible to an increased retirement benefit, and receive an almost immediate return of the purchase contribution as part of a lump sum withdrawal under Option 4 or (2) some time before retirement, become eligible to an increased retirement benefit, and receive a return of the purchase contribution as part of a lump sum withdrawal under Option 4. In either event, the withdrawal makes the payment of full actuarial cost a nullity because the member receives the increased benefit resulting from the service credit purchase either at virtually no cost or at only the cost of the forgone interest income on the purchase contribution between the time of the purchase and the retirement date. The absence of this restriction will impose all or almost all of the cost associated with the authorization to purchase credit for this nonschool service upon the Commonwealth and the public school employers.

It is not apparent why it is appropriate to require members with previous service as a county employee as a nurse to pay the full actuarial cost without the opportunity to withdraw that amount under Option 4 but to allow school teachers or instructors of special education classes to make such a withdrawal at retirement after having paid the same full actuarial cost. In previous actuarial notes, the consulting actuary of the Commission has discussed the desirability of restricting Option 4 withdrawals under circumstances such as these.

A strict, literal interpretation of the last sentence of proposed section 8324(e)(2) would prohibit any active member or active multiple service member who is eligible to receive an annuity of any type from any other pension system, except for Social Security or a military pension system, from purchasing the service credit. The public pension policy rationale for this prohibition is not evident. If the intent of the prime sponsor is to prohibit such purchases if the member is entitled to receive, eligible to receive now or in the future, or is receiving retirement benefits for such service under a retirement system administered and wholly or partially paid for by any other governmental agency, or by any private employer, or a retirement program approved by the employer as an alternative to PSERS in accordance with section 8301(a)(1), such a prohibition already is contained in section 8304(a) of the Code. To

## **DISCUSSION (Cont'd)**

prevent administrative problems associated with conflicting provisions of the same statute and to prevent inequitable results, the proposed sentence should be deleted as should be the last sentence of section 8324(e), which the bill proposes to make section 8324(e)(1).

The bill would permit not only members of PSERS who held provisional or permanent teaching certificates but also members who only were eligible for such certificates to purchase service credit. This eligibility criterion will require an after-the-fact determination of whether a member would have been eligible for certification at some previous time. The responsibility for evaluating candidates for professional educator certification is part of the mission of the Bureau of Teacher Certification and Preparation of the Department of Education. The Bureau has indicated to the staff of the Commission that evaluating an individual's eligibility for certification under standards that existed some years ago is an arduous task, requiring several hours of research through the appropriate standards. The current fee established for an application is \$15 but that fee probably would not cover the administrative cost of an evaluation which required that degree of attention.

## **SUMMARY OF ACTUARIAL COST IMPACT**

The consulting actuary of the Commission prepared an actuarial note dated October 16, 1998, on Amendment 3185 to Senate Bill Number 803, Printer' Number 1819, 1997-98 Sessions, that contained a proposal identical to the proposal in House Bill Number 84, Printer's Number 69.

If the bill is changed to prohibit a lump sum withdrawal of the purchase contribution under Option 4, the bill will have no actuarial cost impact upon the Public School Employees' Retirement System. If the bill is not changed to prohibit such an Option 4 withdrawal, the Commonwealth and public school employers will pay all or almost all of the actuarial cost of the increased benefit.

Although there will be no direct actuarial cost to the employers for the increased PSERS benefits under the bill, if it is changed to prohibit lump sum withdrawals under Option 4, there may be other retirement benefit costs incurred by the employers. By purchasing service credit in PSERS for nonschool service, a member either may become eligible for other postretirement benefits sooner than otherwise or may achieve eligibility when the member could not otherwise do so. Such benefits might include special early retirement or employer-subsidized postretirement medical insurance.

## POLICY CONSIDERATIONS

In reviewing the bill, the Commission identified the following policy considerations.

Departure from and Conformance with Policy Guidelines. In March 1997, the Public Employee Retirement Commission published *Service Purchase Authorizations for Pennsylvania Public Employee Retirement Systems*, a report recommending policy guidelines for authorizing, funding, and structuring purchases of credit for service. The bill does not conform to some and conforms to some of the recommendations in the report.

*Inequity of Certain Service Purchase Authorizations.* (-) The Commission recommended that service credit purchase authorizations not be employed as a means of recognizing the past education, training, or work experience of public employees. Recognition of these preemployment and inter-employment activities represents a departure from the conventional role of a public employee retirement system as an employment-related benefit maintained principally in the interest of those devoting a substantial career to service for the public employer. The use of service credit purchase authorizations on an ad hoc basis to recognize past education, training, or experience requires policy makers to make arbitrary determinations concerning what types of past service should be purchasable and results in inequitable treatment of public employees.

*Appropriateness of Credit for Service as a Special Education Teacher in a Private School.* (-) The specific situations for which the Commission considered the use of service purchase authorizations to be appropriate were limited to those involving military service, transfers of governmental function, the reinstatement of service credits following a break in service, and remedying inequalities caused by employer actions. The bill would permit purchase of service for a situation that is not among the situations which the Commission views as warranting service credit purchase authorizations.

*Adequacy of Purchase Payments.* (-) On its face, the bill appears to require payment by a member of the full actuarial cost of the increased benefit obtained by virtue of the service credit purchase thus preventing an actuarial cost to the employers although the purchase may result in an actuarial gain for the private schools that were the former employers. In reality, however, the member will pay almost nothing for the increased benefit unless the bill is changed to prohibit a lump sum withdrawal of the purchase contribution under Option 4.

## POLICY CONSIDERATIONS (Cont'd)

*Time Limit on Exercise of Purchase Option.* (+) For service credit purchase authorizations of this type, the Commission has recommended that employees be required to exercise the purchase option within three years of becoming eligible to do so. The language in the bill appears to impose this restriction.

*No Prohibition on Option 4 Withdrawal of Purchase Contribution.* (-) For the service credit purchase authorizations to be at the full actuarial cost, the bill must prohibit a lump sum withdrawal of the purchase contribution under Option 4 by the member upon retirement or upon leaving employment with entitlement to a vested deferred benefit. The bill does not contain such a prohibition. A service credit purchase transaction that favors a member at the expense of the retirement system is viewed by the Commission as appropriate only where necessary for the purpose of equity. Suggested wording of an amendment to prohibit a lump sum withdrawal of the service credit purchase contribution is attached.

Potential for Other Retirement Benefit Costs. ( ) Although there may be no direct actuarial cost to the employers for the increased benefits under the bill, there may be other retirement benefit costs incurred by the employers.

Cost of Eligibility Determinations. (-) Considerable administrative problems and expense will be caused for both members and the Department of Education in determining whether a member who was not certified was eligible for certification.

Restriction on Eligibility. ( ) Unless amended, the purchase of service provisions of the bill probably will be interpreted by the Department of Education to apply only to those individuals who served in a special education school that had been accredited by a national or regional accrediting agency.

Limitations on Eligibility. (-) The limitations on eligibility provided by the bill in the second sentence of proposed section 8324(e)(2) and existing section 8324(e) of the Code should be removed to avoid the administrative problems associated with the quasi-duplication of the existing limitations on eligibility contained in section 8304(a) of the Code. Draft wording for an amendment to remove the limitations is attached.

## **COMMISSION RECOMMENDATION**

The Commission voted to attach the actuarial note to the bill, recommending that the General Assembly and the Governor consider the policy issues identified above.

## **ATTACHMENTS**

Actuarial note on Amendment 3185 to Senate Bill 803, Printer's Number 1819, 1997-98 Sessions, prepared by William A. Reimert of Milliman & Robertson, Inc.

House Bill Number 84, Printer's Number 69.

Suggested Amendment.