



**House
Legislative
Analysis
Section**

Olds Plaza Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

**MPSERS MEMBERS: EXCLUDE CERT.
PAY IN CALCULATING PENSION**

**House Bill 5108 (Substitute H-2)
First Analysis (2-20-96)**

**Sponsor: Rep. Kim Rhead
Committee: Appropriations**

THE APPARENT PROBLEM:

An employee of the state's public school system who becomes a member of the Michigan Public School Employees Retirement System (MPSERS) receives a pension based on the number of years working in the system and the amount of the member's final average compensation. Members contribute a portion of their current earnings to the retirement system, which is used to cover part of the system's liability for retirees. However, under current law a member may take a leave of absence from working within the school system to work for a professional union representing school employees, and the pay they receive while on the leave must be counted in the calculation of his or her MPSERS retirement benefits. Some people believe this poses problems for the system in two ways. First, it enables such members to significantly boost their pensions because what they earn representing the union can easily amount to twice what they earned as school employees. Second, during the period they are working for the union, contributions to the retirement system are made on their behalf by the union—but at a rate reflecting what they earned as school employees. Thus, the system has a small number of members whose level of contributions into it does not reflect their current earnings while it simultaneously assumes a larger liability than it otherwise would have had the members remained working as school employees. To help reduce the unfunded liability this particular problem imposes on MPSERS, legislation has been proposed that would, beginning October 1, 1996, exclude from figures used to calculate a member's pension any amounts he or she earned while on leave from the public school district working for a professional employee union.

THE CONTENT OF THE BILL:

The Public School Employees Retirement Act currently specifies that a member's time spent working during an "employee organization professional services leave" or "released time" (i.e., time spent working for a union that represents public school employees) must be used to calculate service in the system and compensation for purposes of determining his or her pension. The state

retirement board generally is required to grant service credit for this work as long as the member and his or her employing unit meet certain conditions. Under the bill, these provisions would apply only to members who began a leave/released time before October 1, 1996. For any such work that did not meet this condition, compensation would not include earnings from that work but, rather, would be calculated using the person's pay rate from the reporting unit immediately prior to the leave or released time, along with the "normal and customary" pay increases that would have been paid to the member had he or she remained in the same position held at the reporting unit immediately prior to when he or she began the released time.

However, if a member was a nonteacher, had not worked a full 12-month period for the reporting unit immediately prior to when he or she began the leave/release, and was working a full 12-month period for the public school employee organization, the member's rate of pay just prior to when he or she began the leave/release could be increased proportionately to reflect the additional time worked for the employee organization. That adjusted compensation, along with normal and customary pay increases, would then be reported for purposes of calculating his or her pension.

MCL 38.1304 and 38.1371

FISCAL IMPLICATIONS:

The House Fiscal Agency says the bill would result in minimal savings to the retirement system and would have no fiscal impact on local school districts. According to the agency, because the unfunded liability of MPSERS currently stands at about \$6 billion, anticipated savings of perhaps a few million dollars under the bill would have little impact on reducing the size of this unfunded liability. Also, because the system itself would realize such a small percentage in overall savings, the resulting "reduction" in the contribution rate (i.e., calculated to the sixth or seventh decimal

House Bill 5108 (2-20-96)

point) that school districts would pay into the system would be negligible since their contribution rate is currently calculated to four decimal points (0.1456). (2-20-96)

ARGUMENTS:

For:

Current law makes it possible for members of the Michigan Public School Employees Retirement System to take a leave of absence in order to work for a labor union--usually, for the purpose of representing school employees for bargaining purposes--and to have what they earn from the labor group included in their final average compensation (FAC). Based on information provided to the House Appropriations Committee, this has led to situations where employees whose FAC was approximately \$50,000 after working 25 years for a school district took a professional leave of absence to work for a labor union another five years, boosting their FAC to \$100,000. Under such a scenario, the member would receive a monthly pension check twice what it otherwise would have been if he or she had retired with 30 years working as a school employee. Not only that, the five years spent working for the labor union means a contribution on his or her behalf was not being made that reflected what the member was being paid by the union (the union contributes, but at the rate required for the member when he or she was working in the school system); in this case, it results in an unfunded liability to the system of over \$200,000. The MPSERS Board estimates there could be up to 20 such individuals currently in the system, amounting to an unfunded liability for the system of perhaps a few million dollars. While this may seem a miniscule amount in light of an estimated \$6 billion unfunded liability the system currently faces, this particular problem will only get worse if current law is not changed. The bill would eliminate this problem by specifying that, beginning October 1, 1996, any pay earned by members from labor unions while they were on leave from the public school system could not be counted in determining their FAC; instead, the FAC would be determined by using the member's salary immediately prior to taking the leave. Members who were on leave working for a union prior to this date but who had not yet retired would, under the House substitute adopted in committee, be treated the same as someone who has already retired and is receiving a higher pension due to work performed for a labor union. Also, the substitute includes provisions to ensure the FAC of a member who took a union leave after the specified date would have to include any normal and customary pay increases (i.e., raises or COLAs) that a member would have received if he or she had remained working in the public school system.

Against:

The bill unfairly targets school employees who have worked decades in the public school system only to decide late in their careers to represent teachers and other school personnel in contract bargaining and other labor issues. Many examples exist of school administrators who contribute to the unfunded liability problem by having non-salary compensation (i.e., insurance benefits, a district-provided vehicle) included in their FAC in order to boost their pension--a practice known as "spiking"--yet the bill fails to address this problem. Considering that most teachers and other labor employees easily earn less than half what those in management make upon retiring, it seems only fair to permit some of them to increase their FAC by working to improve the lot of other nonmanagement school personnel.

Response:

The spiking problem that exists among school superintendents and others in management positions is different because these people are contributing to the system while working within it. The practice certainly should be prohibited, but it would be better to address this problem in separate legislation. Meanwhile, teachers and similar school employees who wish to leave a long career in the public school system to work as a school employee representative could, under the bill, continue to do so and be amply paid by a school labor union for their efforts. However, it is absurd to argue that such MPSERS members should be allowed to collect retirement benefits on work performed outside of the system while adequate contributions to it are not being made on their behalf.

POSITIONS:

The Department of Management and Budget supports the bill. (2-16-96)

The Michigan Public School Employees Retirement Board supports the bill. (2-15-96)

The Retirement Coordinating Council opposes the bill. (2-16-96)

The American Federation of State, County, and Municipal Employees (AFSCME) opposes the bill. (2-16-96)

The International Union of Operating Engineers, Local 547, opposes the bill. (2-16-96)

The Michigan-American Federation of School Administrators, which represents primarily public school principals and assistant principals, opposes the bill. (2-16-96)

The Organization of School Administrators and Supervisors opposes the bill. (2-16-96)

The Michigan Education Association testified in opposition to the bill before the House Appropriations Committee on 2-14-96.

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.