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BILL ANALYSIS

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Senate Bill 795 (Substitute S-1 as reported)
Sponsor: Senator Marty Knollenberg
Committee: Education

Date Completed: 11-7-18

RATIONALE

When collective bargaining agreements are negotiated on behalf of teachers, many union representatives negotiate to have certain school employees spend some or all of their time doing various types of work for the union, such as participating in mentoring programs, dealing with employee disputes, or handling disciplinary or leave issues. The time spent on these activities is referred to as employee organization professional services leave or released time, in the law governing teacher retirement. Most public school employees in the State are members of the Michigan Public School Employees Retirement System (MPSERS) and receive credit toward a pension for each year they work for the schools. Under current law, individuals on employee organization professional services leave or released time continue to accrue service credit when performing work for the union, if authorized by the employer. While the union is required to reimburse the school district for the normal pension costs and the proportional share of unfunded actuarial accrued liability (UAAL), the State is ultimately responsible for delivering the promised pension benefit. Some believe it is unfair that taxpayers are liable for a benefit accrued by individuals while they are working for a private organization. For this reason, it has been suggested that an individual on this type of leave or released time should not accrue service credit during the leave or released time.

CONTENT

The bill would amend the Public School Employees Retirement Act to discontinue the accrual of service credit for a member of the Michigan Public School Employees Retirement System while he or she was on an employee organization professional services leave or employee organization professional services released time.

The Act provides for a variety of retirement plans, including defined benefit (DB), hybrids of DB and defined contribution (DC), and an optional DC-only. With the exception of those in the DC-only plan, members of MPSERS receive a pension after retirement that is determined by a formula that includes their final average compensation and years of service. Depending on when the member was hired and what elections he or she has made, the calculation of the pension amount will vary, as will the minimum age and years of service required before a member can begin collecting the pension.

Generally, for the purpose of the calculation, a member is credited with one year of service for each year he or she works as a public school employee. A member may receive service credit for time spent on a professional services leave or professional services released time. Under the bill, after its effective date, service credit could no longer be granted to members while on an employee organization professional services leave, professional services leave, employee organization professional services released time, or professional services released time.

(The Act defines "employee organization professional services leave" or "professional services leave" as a leave of absence that is renewed annually by the reporting unit so that a member may accept a position with a public school employee organization to which he or she belongs and which represents employees of a reporting unit in employment matters. "Employee organization professional services leave" or "professional services released time" means a portion of the school fiscal year during which a member is released by the reporting unit from his or her regularly assigned duties to engage in employment matters for a public school employee organization to which he or she belongs. "Reporting unit" means a public school district, intermediate school district, public school academy, tax-supported community or junior college, or university, or an agency having employees on its payroll who are members of the retirement system.)

The bill would take effect 90 days after its enactment.

MCL 38.1371

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill would prevent public school employees who take professional services leave or released time from accruing service credit toward their pension calculations for that time. While the union employing the individual is required to reimburse the local district for the pension costs associated with that accrual, the State pays the pension benefits to MPSERS members, which means taxpayers are responsible if there is a shortfall in the pension fund. Any time the experience of the system differs from the original actuarial assumptions, the potential exists for future UAAL.

Taxpayers should not have to pay for a benefit that accrues when the individual is working for a private entity. In public education, there should be no overlap between work done for a school district and work done during release time for a union that represents the district's teachers. Blurring the line between those two roles causes a fundamental conflict of interest because the district essentially is paying the union to negotiate against the district for better pay and better benefits for its teachers. In some cases, the leave or released time may last years, while the individual is performing no work for the school district.

Response: Members of MPSERS accrue one year of service credit after being credited for 1,020 hours, and can earn no more than one year of service credit in any given school fiscal year. The number of hours that can be credited also is limited by pay period caps. For example, an employee who is paid weekly can earn no more than 30 hours of service credit per week; for an employee who is paid biweekly, the limit is 60 hours per pay period. Many public school employees regularly work more than the capped number of hours per pay period. Under the bill, an individual could perform work for a union and still accrue full service credit, as long as he or she worked at least the capped number of hours in regular duties.

Opposing Argument

The bill could make it more difficult for a school employee to take employee organization professional services leave or released time. Work performed by a teacher during work release time is work that benefits the district and the students in the district. Many of the duties performed during this time involve questions by or disputes between employees. Without a representative available in the school, these issues would have to wait until a union representative could come, or the parties involved could have to travel to get a resolution. Quick resolution creates a more peaceful and productive work environment, which can lead to better outcomes for students.

Also, the process of using other teachers on release time as arbitrators costs less and takes less time than hiring outside mediators. School districts should be able to offer service credit toward retirement for this release time when negotiating agreements because those arrangements save money that otherwise would be spent on an outside mediator, and provide districts with other concessions, which means lower costs to the district.

Legislative Analyst: Nathan Leaman

FISCAL IMPACT

The bill would have an estimated cost of $400,000 per year for pension contributions made on behalf of affected employees. The cost would be paid from the School Aid Fund if employees continued to go on professional services leave even without the accrual of pension service, or it would be paid by school districts if employees stopped going on professional services leave and remained at their employing district. The cost would remain until any unfunded accrued liabilities in the pension system were paid off. A more detailed explanation follows.

State: In school fiscal year (FY) 2016-17, an estimated 175 employees were on professional services leave. According to the Office of Retirement Services, the wages identified for time spent on professional services leave totaled $1.9 million. Under current law, retirement costs associated with those wages (20.96%, or about $398,000) were borne by professional services organizations. Under the bill, if those employees continued to go on leave even without the accrual of pension credit during the leave, those costs would be shifted to the State's School Aid Fund because the salaries would be "removed" from the pension system, thereby "stranding" costs that are currently remitted to the system by outside organizations. The "stranding" of the payroll would lead to an increase in the cost of the rate cap implemented under Public Act 300 of 2012 (which capped the employer contribution rate for unfunded accrued liabilities). The Office of Retirement Services has estimated the annual cost at $400,000 based on the "stranded" salaries of the employees who it is estimated would be affected by the bill, and that cost would remain as long as payroll was "stranded" and until the unfunded accrued liabilities in the pension system were eliminated. However, if those employees changed their behavior (due to the elimination of service credit accrual during the leave) and decided to remain working only at the local district, there would be no stranding of costs or additional burden on the School Aid Fund because the school district would retain the payroll and remit contribution for the costs directly, without reimbursement from the professional services organization.

Local: If the employees continued to go on professional services leave but without the accrual of pension service time as provided under the bill, there would be no direct fiscal impact on the local reporting units because public school employee organizations reimburse the local reporting units for the pension costs under current law. Since the bill would cease the accrual of service credit, the local reporting unit would no longer pay in for the pension cost, but also would no longer receive reimbursement for that cost from the public school employee organization. Indirectly, because of the additional cost to the School Aid Fund, there would be less money available to be appropriated for other school purposes. However, if the employees changed their behavior and chose not to take any leave but instead remain at the district, then the local school would bear the retirement cost currently reimbursed by the outside organizations.

Fiscal Analyst: Kathryn Summers