



**House
Legislative
Analysis
Section**

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MERS: PRIOR SERVICE CREDIT

**Senate Bill 54 (Substitute H-2)
First Analysis (4-21-93)**

**Sponsor: Sen. Paul Wartner
Senate Committee: Mental Health,
Human Resources & Senior Citizens
House Committee: Public Retirement**

THE APPARENT PROBLEM:

Under the Municipal Employees Retirement Act, a municipality (county, county road commission, city, village, or township) may elect to become a participating member of the Michigan Municipal Employees Retirement System (MERS) by an affirmative vote of a majority of the municipality's governing body, or an affirmative vote of a municipality's electors. When a municipality joins MERS, it usually will roll the employees' old pensions into the MERS pension plan to help pay for the years of prior service. Thus, each employee is given pension credit for the time that he or she worked for the local government. This practice was not followed, however, in Pittsfield Township (near Ann Arbor), whose board of trustees voted nearly two years ago to enroll nonunion employees in MERS. While Pittsfield Township officials made the employees' pensions retroactive, they did not roll the old plan into the new plan. Instead, township officials left intact the old pensions, to which the township taxpayers already had contributed. The township then started the new MERS pensions for these employees, retroactive to the day they began working for the township. As a result, the township must pay a second time for the past years each employee worked for the township as well as make contributions to MERS for future years of service. Consequently, three elected township officials (the supervisor, clerk, and treasurer) as well as eight other employees will be able to collect at the same time pension benefits from the township's plan and from MERS for their years of service prior to 1991. Some people believe that employees of a municipality that joined MERS should not be able to "double dip," or collect retirement benefits twice for the same period of work.

In another matter, Public Act 63 of 1992 amended the MERS act to make several changes needed to conform with Internal Revenue Service regulations.

Among them was to specify that certain municipalities must adopt contribution program "P" as part of their retirement programs by July 1, 1992. Some participating units were unable to meet that deadline, and it has been proposed to extend the deadline in statute to ensure that those local units' retirement programs are operating legally.

THE CONTENT OF THE BILL:

The bill would amend the Municipal Employees Retirement Act (MCL 38.1533 and 38.1558) to prohibit a participating municipality from recognizing prior service credit of a municipal employee who became a member of the Municipal Employees Retirement System for the purpose of calculating a retirement allowance under the act unless both of the following requirements were met:

- * The municipality transferred to MERS all contributions made by the municipality on behalf of that employee to an employer-financed retirement system plus all accumulated earnings on those contributions. This would not apply, however, if a provision in the employer-financed retirement system prohibits, in whole or in part, the transfer of municipality contributions to the retirement system; and
- * The member relinquished for himself or herself and his or her beneficiaries and heirs all rights to receive a retirement allowance or any other benefit based on the contributions made by the municipality to the employer-financed retirement system.

The act currently specifies that a participating municipality or court that requires member contributions on account of compensation earned, by resolution of the local governmental unit's governing body or by order of the chief judge of the court, must adopt contribution program P before July 1, 1992. The bill would require, instead, that program P be adopted before January 1, 1993.

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HOUSE COMMITTEE ACTION:

The House Public Retirement Committee adopted a Substitute H-2 for the bill that revises the bill as it passed the Senate. The Senate-passed version would prohibit a participating municipality from recognizing prior service credit of an employee who became a member of MERS unless two specific conditions were met, one of which being that the municipality would have had to transfer to MERS all contributions made by it on behalf of that employee to an employer-financed retirement system plus all accumulated earnings on those contributions. The House substitute specifies that this proposed requirement would not apply if a provision in an employer-financed retirement system prohibits, in whole or in part, the transfer of municipality contributions to the retirement system. The substitute also includes an amendment that would require contribution program P to be adopted by a participating municipality before January 1, 1993, rather than before July 1, 1992, and would add various technical amendments.

FISCAL IMPLICATIONS:

According to a spokeswoman with MERS, the bill would not affect state budget expenditures. For a municipality choosing to join MERS with recognition of employees' prior creditable service, however, the bill would prevent the payment of retirement benefits from any prior municipal pension plan and ensure that funds previously allocated for employee retirement benefits would be transferred to MERS. (4-20-93)

ARGUMENTS:**For:**

Pittsfield Township and an Upper Peninsula road commission, which joined MERS more than a decade ago, reportedly are the only local governmental units, of the 450 that participate in MERS, that signed up with MERS and did not roll in all or part of the assets of the prior pension plans. While the bill would not change this situation, it could prevent further occurrences of double dipping by requiring municipalities that joined MERS to transfer all of a local government's pension contributions to MERS and to require employees to forfeit any rights to a municipality's employer-financed retirement system. Thus, local taxpayer dollars that had been allocated to a retirement benefit for a certain period of time

would continue to fund a retirement benefit within MERS for the same period of time. Additional liability would be incurred only if the benefit levels exceeded those previously being funded. The bill would close a loophole in the act and prevent double dipping since only one benefit would be payable for the complete period of time in which a member worked for a municipality, regardless when the MERS membership occurred.

Response:

The action taken by these local officials was legal under the act. Some Pittsfield Township officials believe that their decision resulted in an equitable program for the township's employees. In addition, these officials did not think that it would have been legal or ethical for the township to apply toward the new pension the assets of the old pension plan, which some officials reportedly contend "belong to the employees."

POSITIONS:

The Department of Management and Budget supports the bill. (4-20-93)

MERS supports the bill. (4-20-93)

Burnham and Flower Insurance Agency, of Kalamazoo, supports the bill. (4-20-93)

Pittsfield Township opposes the bill. (4-20-93)