

AUG 09 2012

MEMORANDUM



Senate of Pennsylvania

August 9, 2012

TO: ALL SENATORS

FROM: SENATOR CHARLES T. McILHINNEY, JR. *Chuck McIlhinney*
SENATOR VINCENT J. HUGHES *Vincent Hughes*

SUBJECT: **Co-Sponsorship Memo #34 – Military Veteran Amendments to State Employees Retirement Code**

In the near future, we plan to introduce legislation making veteran-related amendments to the State Employees' Retirement Code. As members of the State Employees' Retirement System (SERS) Board of Directors, we have become aware that the State Employees Retirement Code is not in compliance with the Heroes Earnings Assistance and Relief Act of 2008 (HEART Act) or the Uniformed Services Employment and Reemployment Rights Act (USERRA). Compliance with the HEART Act is required by December 31, 2012 regardless of what level or system of retirement benefits the Commonwealth chooses to provide going forward. Implementation of the proposed amendments would bring SERS into compliance with the HEART Act and at the same time conform Pennsylvania law regarding pension credit for military leave to the federal requirements under the Internal Revenue Code and USERRA.

The amendments include:

- SERS Code rules for "intervening military service" will be replaced with USERRA's rules.
- Members who die on military leave will be granted vesting credit for the period of military service prior to their death for the purpose of qualifying for benefits.
- Federal limits will be imposed that reduce payment periods to five years or less and require actual payment unless members retire within that time.
- The pension credit provisions of the Pennsylvania Military Code applicable to SERS members will be repealed and replaced with the USERRA and Internal Revenue Code rules.
- SERS members on military leave will not be permitted to make contributions until they return from leave.

August 9, 2012
Page Two

- In general, employer payments to state employees on military leave will not be included
- in retirement covered compensation.
- Military leave that does not qualify for SERS credit under USERRA, but would otherwise be credible in SERS under the current definitions of military service, will be purchasable as non-intervening military service credit.

The bill also includes an amendment to the purchase-of-service provisions of the SERS Code to correct an unintentional negative impact of Act 2010-120 that disproportionately and negatively impacts veterans who become members of SERS. The amendment corrects an inconsistency between the SERS and the Public Employees' Retirement System (PSERS) for the purchase of non-intervening military service. As a comparison, veterans who serve side-by-side could pay upwards of \$110,000 difference to purchase the same non-intervening military service if they become a SERS member rather than a PSERS member. The proposed amendment reverts the cost for purchase non-intervening military service credit to the pre-Act 2010-120 formula, which is based on member contribution rates, employer normal cost contribution rate and compensation for the first three years after starting state service. An actuarial analysis completed of the purchase-of-service amendment shows that the proposal is essentially revenue neutral.

If you would like to co-sponsor this important piece of legislation, please call my office at 7-7305 or email Gail Reinard at greinard@pasen.gov.