



# Senate Finance Committee

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## BILL SUMMARY

**Legislation:** Senate Bill 797, P.N. 817  
**Sponsor:** Senator Browne  
**Act Amended:** Title 51 (Military Affairs) and Title 24 (Education-PSERS Retirement Code)  
**Topic:** Compliance with federal acts relative to pension credit for military leave for public school employees  
**Date:** May 1, 2013

### Summary:

- Brings the Pennsylvania Public School Employees' Retirement System (PSERS) into compliance with the federal Heroes Assistance and Relief Act of 2008 (HEART Act) by the July 1, 2013 implementation date required for plan qualification, and
- Conforms Pennsylvania law regarding pension credit for military leave for Commonwealth public school employees and PSERS members to the Internal Revenue Code (IRC) and Uniformed Services Employment and Reemployment Rights Act (USERRA).
- Removes the inconsistencies in the law through amendments to the Pennsylvania Military Code, the Public School Code and the PSERS Retirement Code.

### *Compliance & Conforming Language*

- PSERS Retirement Code rules governing "intervening military service" and "activated military service" will be replaced by 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 for service credit to five years or less and require actual payment unless members retire within that time.
- The pension credit provisions of the Military Code applicable to PSERS members will be repealed and replaced with the USERRA and Internal Revenue Code rules.
- PSERS members on military leave will not be permitted to make employee contributions to the System until after they return to public school service. Currently under the Pennsylvania Military Code, and the PSERS Retirement Code, members are permitted to make contributions while on leave.
- School employers will not be required to make employer contributions to PSERS during the period of a leave of absence, as this is not required under the PSERS Retirement Code.

- USERRA provisions prohibit PSERS from charging interest on member contributions paid for USERRA leave.
- In general, employer payments to public school employees on military leave will not be included in retirement covered compensation.
- Military leave that does not qualify for PSERS credit under USERRA, but would otherwise be creditable in PSERS under the current definitions of military service, will be purchasable as “non-intervening military service” credit.

The act shall take effect July 1, 2013, or immediately, whichever is later.

### **Current Law:**

Currently, PSERS members who take leave from public school employment to perform active military service have pension benefits determined under three different statutes: the federal USERRA, Pennsylvania Military Code and the PSERS Retirement Code. The statutes are not consistent with each other, nor are they consistent with the federal HEART Act. Changes in federal law designed to regulate and protect their pension benefits have necessitated changes in the Commonwealth statutes that govern the administration of pension benefits for leaves of absence for active military service.

The provisions of the federal USERRA and the HEART Act and the IRC govern the pension rights of Commonwealth public school employees who take leave of public school service to perform military service and either return to public school service, or become disabled or die during their military service. This legislation brings Commonwealth statute into conformance with federal statute.

### **Recent Precedent:**

Near-identical legislation (Act 181 of 2012) was approved & enacted during the 2011-2012 Legislative Session to satisfy the compliance/tax qualification requirements of the Pennsylvania State Employees’ Retirement System (SERS).