

PUBLIC SCHOOL RETIREMENT SYSTEM: Prior service credit not allowed in PSRS under House Bill 151 for time served in the armed forces by a teacher.

May 16, 1946



5/17

Honorable G. L. Donahoe  
Executive Secretary  
Public School Retirement System  
Jefferson City, Missouri

Dear Mr. Donahoe:

We hereby acknowledge receipt of your request for an opinion, which reads as follows:

"We would appreciate an opinion on the following question concerning House Bill 151:

"Does the Board of Trustees have the power to allow prior service credit for time served by teachers in the armed forces of the United States during a period of war?"

"We would appreciate an early consideration of this question, since we plan to ask for an amendment to the Retirement Act if the Board of Trustees does not have the power to grant prior service credit under the above-mentioned condition."

House Bill 151, referred to in your request, was amended by House Bill 642. In the latter bill "prior service" is defined in Section 1, subsection (13) as, "service rendered by a member of the retirement system before the system becomes operative, for which credit has been approved by the board of trustees."

The only part of House Bill 151 in which reference is made with regard to prior service credit of those in the armed forces, is found in Section 5, subsection (4), which provides:

"(4) No prior service credit shall be granted to any person who becomes a member after the first year of the system's operation, unless that person's failure to become a member before or during that year was due either to service in the armed forces of the United States or to attendance at a recognized educational institution for his professional improvement. A person serving in the armed forces of the United States shall have the same right to prior service credit as one who became a member before the end of the first year of the system's operation, if he becomes a member within one year of the date of his discharge from such service or within one year of said date plus time spent as a student in a standard college or university in further preparation for service as a public school employee. A person attending a recognized educational institution for his professional improvement shall have the same right to prior service credit as one who became a member before the end of the first year of the system's operation, if he becomes a member within three years following the date on which the system became operative, and within one year of the date on which his attendance at said institution ceased."

Under Section 5, subsection (2) of House Bill 151, those persons who are not in the armed forces may become members of the Public School Retirement System before the end of the school year next following the date on which the system becomes operative and claim prior service credit. Section 5, subsection (4), House Bill 151, supra, further allows those who are in the armed forces a greater period of time in which to become members of the system.

There is no provision in House Bill 151 by which a teacher in the armed forces may claim service credit in the Public School Retirement System during the period that they are in the armed forces. In the absence of such provision the Board of Trustees of the system would be unauthorized to allow such claim. Our advice, therefore, is, that if the Board of

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Trustees desires to grant service credit for teachers in the Public School Retirement System during the time they have served and are serving in the armed forces, an amendment to that effect would be necessary.

Conclusion

It is the opinion of this department that House Bill 151 does not authorize the Board of Trustees of the Public School Retirement System to allow prior service credit for time served by teachers in the armed forces of the United States during a period of war.

Respectfully submitted,

J. MARTIN ANDERSON  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
Attorney General

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