

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill No:** HB 453

**49th Legislature, 1st Session, 2009**

**Short Title:** Educational Retirement Service Credits

**Sponsor(s):** Representative Miguel P. García and Others

**Analyst:** Kathleen Forrer

**Date:** February 24, 2009

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**Bill Summary:**

HB 453 amends the *Educational Retirement Act* (ERA) to change the manner in which Educational Retirement Board (ERB) members with military service or service in the United States Public Health Service Commissioned Corps (PHSCC) can purchase service credit:

- the member must have five years or more of ERB employment to be eligible to purchase military service credit;
- the member must pay both the employee's and the employer's share of the contribution (for each year of service purchased, the cost is determined by multiplying the combined rates by the member's average annual salary for the preceding five years);
- payment is due in full in a single lump sum payment within 60 days of the date when the member is informed of the required amount; and
- should the member later request a refund, the amount of the purchase cost that is equivalent to the employer's contribution will remain credited to the Educational Retirement Fund.

**Fiscal Impact:**

HB 453 makes no appropriation.

**Fiscal Issues:**

Current statute allows members with military or PHSCC service to purchase up to five years of service credit for the time spent on active duty, as long as they do so within three years following the initial date of employment. The cost for each year of service credit purchased is 10.5 percent of the member's annual New Mexico salary for all years of covered employment. According to ERB, the cost to purchase other types of allowed service is based on actuarial cost and ranges from approximately 18 percent of current full time earnings to as much as 68 percent of current full time earnings for each year of service purchased.

If HB 453 is enacted, the contribution rate to purchase military service credit will increase through FY 12:<sup>1</sup>

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<sup>1</sup> In 2005, the Legislature addressed the insolvency of the Educational Retirement Fund through legislation that increased both the employer's and the employee's contribution rates. The employer's contribution rate, which was 8.65 percent in FY 05, was increased by 0.75 percent each year for seven years, and will reach 13.9 percent in FY 12. The employee's contribution rate, which was 7.6 percent in FY 05, was increased by 0.075 percent per year for a period of four years, and reached 7.9 percent in FY 09.

<b>Fiscal Year</b>	<b>Employee's Rate</b>	<b>Employer's Rate</b>	<b>Total Rate</b>
FY 10	7.90%	12.40%	20.30%
FY 11	7.90%	13.15%	21.05%
FY 12	7.90%	13.90%	21.80%

In its analysis of HB 453, ERB notes that this change in contribution rate “would require a member to pay an amount closer to the actuarial cost of providing the service credit.”

ERB also notes that removing the requirement that military service credit be purchased within three years of initial employment will provide veterans with greater flexibility both in making the decision to purchase credit and in saving the money necessary to make the purchase. However, the cost of purchasing the military service credit will increase as the member’s average annual salary for the preceding five years increases.

**Issues:**

Under the current provisions of the ERA, a member may purchase a maximum of five years of service credit in each category or combination of categories allowed; however, when any single category or combination of categories is combined with military service, the maximum is 10 years. The allowable categories are:

- out-of-state employment in a public or accredited private school or institution of higher learning in a state or territory of the United States;
- employment in a US Military Dependents School;
- federal educational service in New Mexico;
- experience in a New Mexico private school that is accredited by the Public Education Department (PED) or by an accreditation agency approved by PED; and
- military service.

Members who leave covered employment immediately prior to entering into active military service and reenter covered employment within 18 months of discharge may receive up to five years of service credit at no cost. This provision will not change if HB 453 is enacted.

**Related Bills:**

- HB 525 *Alternative Educational Retirement Plans*
- HB 573 *Adjustment of Retirement Plans*
- HB 631 *Educational Retirement Eligibility*
- HB 721 *Educational Retirees Returning to Work*
- HJM 45 *Public Employee & Education Solvency Plans*
- SB 145 *Eliminate End Date for Return to Work*
- SB 476a *Educational Retirees Returning to Work*
- SB 572 *Alternative Educational Retirement Plans*
- SB 623 *Educational Retirement Service Credits* (As introduced, HB 453 and SB 623 are duplicates.)