

By: Representative Young

To: Appropriations

HOUSE BILL NO. 59

1 AN ACT TO AMEND SECTION 25-11-109, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT STUDENTS EMPLOYED AT PUBLIC COLLEGES AND
3 UNIVERSITIES IN MISSISSIPPI TO TEACH CLASSES WHILE PURSUING THEIR
4 STUDIES SHALL RECEIVE CREDITABLE SERVICE IN THE PUBLIC EMPLOYEES'
5 RETIREMENT SYSTEM FOR THE TIME THEY TEACH SUCH CLASSES; TO AMEND
6 SECTION 25-11-105, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE
7 PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 SECTION 1. Section 25-11-109, Mississippi Code of 1972, is
10 amended as follows:

11 25-11-109. (1) Under such rules and regulations as the
12 board of trustees shall adopt, each person who becomes a member of
13 this retirement system, as provided in Section 25-11-105, on or
14 prior to July 1, 1953, or who becomes a member and contributes to
15 the system for a minimum period of four (4) years, shall receive
16 credit for all state service rendered before February 1, 1953. To
17 receive such credit, such member shall file a detailed statement
18 of all services as an employee rendered by him in the state
19 service before February 1, 1953. For any member who joined the
20 system after July 1, 1953, any creditable service for which the
21 member is not required to make contributions shall not be credited
22 to the member until the member has contributed to the system for a
23 minimum period of at least four (4) years.

24 (2) In the computation of membership service or prior
25 service under the provisions of this article, the total months of
26 accumulative service during any fiscal year shall be calculated in
27 accordance with the schedule as follows: ten (10) or more months
28 of creditable service during any fiscal year shall constitute a
29 year of creditable service; seven (7) months to nine (9) months

30 inclusive, three-quarters (3/4) of a year of creditable service;
31 four (4) months to six (6) months inclusive, one-half (1/2) year
32 of creditable service; one (1) month to three (3) months
33 inclusive, one-quarter (1/4) of a year of creditable service. In
34 no case shall credit be allowed for any period of absence without
35 compensation except for disability while in receipt of a
36 disability retirement allowance, nor shall less than fifteen (15)
37 days of service in any month, or service less than the equivalent
38 of one-half (1/2) of the normal working load for the position and
39 less than one-half (1/2) of the normal compensation for the
40 position in any month, constitute a month of creditable service,
41 nor shall more than one (1) year of service be creditable for all
42 services rendered in any one (1) fiscal year; provided that for a
43 school employee, substantial completion of the legal school term
44 when and where the service was rendered shall constitute a year of
45 service credit for both prior service and membership service. Any
46 state or local elected official shall be deemed a full-time
47 employee for the purpose of creditable service for prior service
48 or membership service. However, an appointed or elected official
49 compensated on a per diem basis only shall not be allowed
50 creditable service for terms of office.

51 In the computation of any retirement allowance or any annuity
52 or benefits provided in this article, any fractional period of
53 service of less than one (1) year shall be taken into account and
54 a proportionate amount of such retirement allowance, annuity or
55 benefit shall be granted for any such fractional period of
56 service.

57 In the computation of unused leave for creditable service
58 authorized in Section 25-11-103, the following shall govern:
59 twenty-one (21) days of unused leave shall constitute one (1)
60 month of creditable service and in no case shall credit be allowed
61 for any period of unused leave of less than fifteen (15) days.
62 The number of months of unused leave shall determine the number of
63 quarters or years of creditable service in accordance with the
64 above schedule for membership and prior service. In order for the
65 member to receive creditable service for the number of days of
66 unused leave, the system must receive certification from the
67 governing authority.

68 For the purpose of this subsection, for members of the system
69 who are elected officers and who retire on or after July 1, 1987,
70 the following shall govern:

71 (a) For service prior to July 1, 1984, the members
72 shall receive credit for leave (combined personal and major
73 medical) for service as an elected official prior to that date at
74 the rate of thirty (30) days per year.

75 (b) For service on and after July 1, 1984, the member
76 shall receive credit for personal and major medical leave
77 beginning July 1, 1984, at the rates authorized in Sections
78 25-3-93 and 25-3-95, computed as a full-time employee.

79 (3) Subject to the above restrictions and to such other
80 rules and regulations as the board may adopt, the board shall
81 verify, as soon as practicable after the filing of such statements
82 of service, the services therein claimed.

83 (4) Upon verification of the statement of prior service, the
84 board shall issue a prior service certificate certifying to each
85 member the length of prior service for which credit shall have
86 been allowed on the basis of his statement of service. So long as
87 membership continues, a prior service certificate shall be final
88 and conclusive for retirement purposes as to such service,
89 provided that any member may within five (5) years from the date
90 of issuance or modification of such certificate request the board
91 of trustees to modify or correct his prior service certificate.
92 Any modification or correction authorized shall only apply
93 prospectively.

94 When membership ceases, such prior service certificates shall
95 become void. Should the employee again become a member, he shall
96 enter the system as an employee not entitled to prior service
97 credit except as provided in Sections 25-11-105(I), 25-11-113 and
98 25-11-117.

99 (5) Creditable service at retirement, on which the
100 retirement allowance of a member shall be based, shall consist of
101 the membership service rendered by him since he last became a

102 member, and also, if he has a prior service certificate which is
103 in full force and effect, the amount of the service certified on
104 his prior service certificate.

105 (6) Anything in this article to the contrary
106 notwithstanding, any member who served on active duty in the Armed
107 Forces of the United States, or who served in maritime service
108 during periods of hostility in World War II, shall be entitled to
109 creditable service for his service on active duty in the armed
110 forces or in such maritime service, provided he entered state
111 service after his discharge from the armed forces or entered state
112 service after he completed such maritime service. The maximum
113 period for such creditable service for all military service shall
114 not exceed four (4) years unless positive proof can be furnished
115 by such person that he was retained in the armed forces during
116 World War II or in maritime service during World War II by causes
117 beyond his control and without opportunity of discharge. The
118 member shall furnish proof satisfactory to the board of trustees
119 of certification of military service or maritime service records
120 showing dates of entrance into active duty service and the date of
121 discharge. From and after July 1, 1993, no creditable service
122 shall be granted for any military service or maritime service to a
123 member who qualifies for a retirement allowance in another public
124 retirement system administered by the Board of Trustees of the
125 Public Employees' Retirement System based in whole or in part on
126 such military or maritime service. In no case shall the member
127 receive creditable service if the member received a dishonorable
128 discharge from the Armed Forces of the United States.

129 (7) Any actively contributing member of the Public
130 Employees' Retirement System who has at least four (4) years of
131 membership service credit shall be entitled to receive a maximum
132 of five (5) years creditable service for service rendered in
133 another state as a public employee of such other state, or a
134 political subdivision, public education system or other
135 governmental instrumentality thereof, or service rendered as a

136 teacher in American overseas dependent schools conducted by the
137 Armed Forces of the United States for children of citizens of the
138 United States residing in areas outside the continental United
139 States, provided that:

140 (a) The member shall furnish proof satisfactory to the
141 board of trustees of certification of such services from the
142 state, public education system, political subdivision or
143 retirement system of the state where the services were performed
144 or the governing entity of the American overseas dependent school
145 where the services were performed; and

146 (b) The member is not receiving or will not be entitled
147 to receive from the public retirement system of the other state or
148 from any other retirement plan, including optional retirement
149 plans, sponsored by the employer, a retirement allowance including
150 such services; and

151 (c) The member shall pay to the retirement system on
152 the date he or she is eligible for credit for such out-of-state
153 service or at any time thereafter prior to date of retirement the
154 actuarial cost as determined by the actuary for each year of
155 out-of-state creditable service. The member may begin to purchase
156 such service credit at such time as the total eligible additional
157 credit, when added to the member's creditable service, will
158 entitle the member to receive a retirement allowance within five
159 (5) years. The provisions of this subsection are subject to the
160 limitations of Section 415 of the Internal Revenue Code and
161 regulations promulgated thereunder.

162 (8) Any actively contributing member of the Public
163 Employees' Retirement System who has at least four (4) years of
164 membership service credit and who receives, or has received,
165 professional leave without compensation for professional purposes
166 directly related to the employment in state service shall receive
167 creditable service for the period of professional leave without
168 compensation provided:

169 (a) The professional leave is performed with a public

170 institution or public agency of this state, or another state or
171 federal agency;

172 (b) The employer approves the professional leave
173 showing the reason for granting the leave and makes a
174 determination that the professional leave will benefit the
175 employee and employer;

176 (c) Such professional leave shall not exceed two (2)
177 years during any ten-year period of state service;

178 (d) The employee shall serve the employer on a
179 full-time basis for a period of time equivalent to the
180 professional leave period granted immediately following the
181 termination of said leave period;

182 (e) The actively contributing member shall pay to the
183 retirement system the actuarial cost as determined by the actuary
184 for each year of professional leave. The member may begin to
185 purchase such service credit at such time as the total eligible
186 additional credit, when added to the member's creditable service,
187 will entitle the member to receive a retirement allowance within
188 five (5) years. The provisions of this subsection are subject to
189 the regulations of the Internal Revenue Code limitations;

190 (f) Such other rules and regulations consistent
191 herewith as the board may adopt and in case of question, the board
192 shall have final power to decide the questions.

193 Any actively contributing member participating in the School
194 Administrator Sabbatical Program established in Section 37-9-77
195 shall qualify for continued participation under this subsection
196 (8).

197 (9) Any member of the Public Employees' Retirement System
198 who has at least four (4) years of credited membership service
199 shall be entitled to receive a maximum of ten (10) years
200 creditable service for:

201 (a) Any service rendered as an employee of any
202 political subdivision of this state, or any instrumentality
203 thereof, which does not participate in the Public Employees'

204 Retirement System; or

205 (b) Any service rendered as an employee of any
206 political subdivision of this state, or any instrumentality
207 thereof, which participates in the Public Employees' Retirement
208 System but did not elect retroactive coverage; or

209 (c) Any service rendered as an employee of any
210 political subdivision of this state, or any instrumentality
211 thereof, for which coverage of the employee's position was or is
212 excluded; provided that the member pays into the retirement system
213 the actuarial cost as determined by the actuary for each year, or
214 portion thereof, of such service. Payment for such service may be
215 made in increments of one-quarter (1/4) year of creditable
216 service. After a member has made full payment to the retirement
217 system for all or any part of such service, the member shall
218 receive creditable service for the period of such service for
219 which full payment has been made to the retirement system.

220 (10) Any student who is employed by a state institution of
221 higher learning in Mississippi to teach classes at the institution
222 while the student is enrolled and pursuing studies at the
223 institution shall receive creditable service for any periods of
224 time that the student teaches such classes at the institution.

225 SECTION 2. Section 25-11-105, Mississippi Code of 1972, is
226 amended as follows:

227 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

228 The membership of this retirement system shall be composed as
229 follows:

230 (a) All persons who shall become employees in the state
231 service after January 31, 1953, and whose wages are subject to
232 payroll taxes and are lawfully reported on IRS Form W-2, except
233 those specifically excluded, or as to whom election is provided in
234 Articles 1 and 3, shall become members of the retirement system as
235 a condition of their employment.

236 (b) All persons who shall become employees in the state
237 service after January 31, 1953, except those specifically excluded

238 or as to whom election is provided in Articles 1 and 3, unless
239 they shall file with the board prior to the lapse of sixty (60)
240 days of employment or sixty (60) days after the effective date of
241 the cited articles, whichever is later, on a form prescribed by
242 the board, a notice of election not to be covered by the
243 membership of the retirement system and a duly executed waiver of
244 all present and prospective benefits which would otherwise inure
245 to them on account of their participation in the system, shall
246 become members of the retirement system; provided, however, that
247 no credit for prior service will be granted to members until they
248 have contributed to Article 3 of the retirement system for a
249 minimum period of at least four (4) years. Such members shall
250 receive credit for services performed prior to January 1, 1953, in
251 employment now covered by Article 3, but no credit shall be
252 granted for retroactive services between January 1, 1953, and the
253 date of their entry into the retirement system unless the employee
254 pays into the retirement system both the employer's and the
255 employee's contributions on wages paid him during the period from
256 January 31, 1953, to the date of his becoming a contributing
257 member, together with interest at the rate determined by the board
258 of trustees. Members reentering after withdrawal from service
259 shall qualify for prior service under the provisions of Section
260 25-11-117. From and after July 1, 1998, upon eligibility as noted
261 above, the member may receive credit for such retroactive service
262 provided:

263 (1) The member shall furnish proof satisfactory to
264 the board of trustees of certification of such service from the
265 covered employer where the services were performed; and

266 (2) The member shall pay to the retirement system
267 on the date he or she is eligible for such credit or at any time
268 thereafter prior to the date of retirement the actuarial cost for
269 each year of such creditable service. The provisions of this
270 subparagraph (2) shall be subject to the limitations of Section
271 415 of the Internal Revenue Code and regulations promulgated

272 thereunder.

273 Nothing contained in this paragraph (b) shall be construed to
274 limit the authority of the board to allow the correction of
275 reporting errors or omissions based on the payment of the employee
276 and employer contributions plus applicable interest.

277 (c) All persons who shall become employees in the state
278 service after January 31, 1953, and who are eligible for
279 membership in any other retirement system shall become members of
280 this retirement system as a condition of their employment unless
281 they elect at the time of their employment to become a member of
282 such other system.

283 (d) All persons who are employees in the state service
284 on January 31, 1953, and who are members of any nonfunded
285 retirement system operated by the State of Mississippi, or any of
286 its departments or agencies, shall become members of this system
287 with prior service credit unless, before February 1, 1953, they
288 shall file a written notice with the board of trustees that they
289 do not elect to become members.

290 (e) All persons who are employees in the state service
291 on January 31, 1953, and who under existing laws are members of
292 any fund operated for the retirement of employees by the State of
293 Mississippi, or any of its departments or agencies, shall not be
294 entitled to membership in this retirement system unless, before
295 February 1, 1953, any such person shall indicate by a notice filed
296 with the board, on a form prescribed by the board, his individual
297 election and choice to participate in this system, but no such
298 person shall receive prior service credit unless he becomes a
299 member on or before February 1, 1953.

300 (f) Each political subdivision of the state and each
301 instrumentality of the state or a political subdivision, or both,
302 is hereby authorized to submit, for approval by the board of
303 trustees, a plan for extending the benefits of this article to
304 employees of any such political subdivision or instrumentality.
305 Each such plan or any amendment to the plan for extending benefits

306 thereof shall be approved by the board of trustees if it finds
307 that such plan, or such plan as amended, is in conformity with
308 such requirements as are provided in Articles 1 and 3; however,
309 upon approval of such plan or any such plan heretofore approved by
310 the board of trustees, the approved plan shall not be subject to
311 cancellation or termination by the political subdivision or
312 instrumentality. No such plan shall be approved unless:

313 (1) It provides that all services which constitute
314 employment as defined in Section 25-11-5 and are performed in the
315 employ of the political subdivision or instrumentality, by any
316 employees thereof, shall be covered by the plan; with the
317 exception of municipal employees who are already covered by
318 existing retirement plans; provided, however, those employees in
319 this class may elect to come under the provisions of this article;

320 (2) It specifies the source or sources from which
321 the funds necessary to make the payments required by subsection
322 (d) of Section 25-11-123 and of subsections (f)(5)b and c of this
323 section are expected to be derived and contains reasonable
324 assurance that such sources will be adequate for such purpose;

325 (3) It provides for such methods of administration
326 of the plan by the political subdivision or instrumentality as are
327 found by the board of trustees to be necessary for the proper and
328 efficient administration thereof;

329 (4) It provides that the political subdivision or
330 instrumentality will make such reports, in such form and
331 containing such information, as the board of trustees may from
332 time to time require;

333 (5) It authorizes the board of trustees to
334 terminate the plan in its entirety in the discretion of the board
335 if it finds that there has been a failure to comply substantially
336 with any provision contained in such plan, such termination to
337 take effect at the expiration of such notice and on such
338 conditions as may be provided by regulations of the board and as
339 may be consistent with applicable federal law.

340 A. The board of trustees shall not finally
341 refuse to approve a plan submitted under subsection (f), and shall
342 not terminate an approved plan without reasonable notice and
343 opportunity for hearing to each political subdivision or
344 instrumentality affected thereby. The board's decision in any
345 such case shall be final, conclusive and binding unless an appeal
346 be taken by the political subdivision or instrumentality aggrieved
347 thereby to the Circuit Court of Hinds County, Mississippi, in
348 accordance with the provisions of law with respect to civil causes
349 by certiorari.

350 B. Each political subdivision or
351 instrumentality as to which a plan has been approved under this
352 section shall pay into the contribution fund, with respect to
353 wages (as defined in Section 25-11-5), at such time or times as
354 the board of trustees may by regulation prescribe, contributions
355 in the amounts and at the rates specified in the applicable
356 agreement entered into by the board.

357 C. Every political subdivision or
358 instrumentality required to make payments under subsection (f)(5)b
359 hereof is authorized, in consideration of the employees' retention
360 in or entry upon employment after enactment of Articles 1 and 3,
361 to impose upon its employees, as to services which are covered by
362 an approved plan, a contribution with respect to wages (as defined
363 in Section 25-11-5) not exceeding the amount provided in Section
364 25-11-123(d) if such services constituted employment within the
365 meaning of Articles 1 and 3, and to deduct the amount of such
366 contribution from the wages as and when paid. Contributions so
367 collected shall be paid into the contribution fund as partial
368 discharge of the liability of such political subdivisions or
369 instrumentality under subsection (f)(5)b hereof. Failure to
370 deduct such contribution shall not relieve the employee or
371 employer of liability thereof.

372 D. Any state agency, school, political
373 subdivision, instrumentality or any employer that is required to

374 submit contribution payments or wage reports under any section of
375 this chapter shall be assessed interest on delinquent payments or
376 wage reports as determined by the board of trustees in accordance
377 with rules and regulations adopted by the board and such assessed
378 interest may be recovered by action in a court of competent
379 jurisdiction against such reporting agency liable therefor or may,
380 upon due certification of delinquency and at the request of the
381 board of trustees, be deducted from any other monies payable to
382 such reporting agency by any department or agency of the state.

383 E. Each political subdivision of the state
384 and each instrumentality of the state or a political subdivision
385 or subdivisions which submits a plan for approval of the board, as
386 provided in this section, shall reimburse the board for coverage
387 into the expense account, its pro rate share of the total expense
388 of administering Articles 1 and 3 as provided by regulations of
389 said board.

390 (g) The board may, in its discretion, deny the right of
391 membership in this system to any class of employees whose
392 compensation is only partly paid by the state or who are occupying
393 positions on a part-time or intermittent basis. The board may, in
394 its discretion, make optional with employees in any such classes
395 their individual entrance into this system.

396 (h) An employee whose membership in this system is
397 contingent on his own election, and who elects not to become a
398 member, may thereafter apply for and be admitted to membership;
399 but no such employee shall receive prior service credit unless he
400 becomes a member prior to July 1, 1953, except as provided in
401 subsection (b).

402 (i) In the event any member of this system should
403 change his employment to any agency of the state having an
404 actuarially funded retirement system, the board of trustees may
405 authorize the transfer of the member's creditable service and of
406 the present value of the member's employer's accumulation account
407 and of the present value of the member's accumulated membership

408 contributions to such other system, provided the employee agrees
409 to the transfer of his accumulated membership contributions and
410 provided such other system is authorized to receive and agrees to
411 make such transfer.

412 In the event any member of any other actuarially funded
413 system maintained by an agency of the state changes his employment
414 to an agency covered by this system, the board of trustees may
415 authorize the receipt of the transfer of the member's creditable
416 service and of the present value of the member's employer's
417 accumulation account and of the present value of the member's
418 accumulated membership contributions from such other system,
419 provided the employee agrees to the transfer of his accumulated
420 membership contributions to this system and provided the other
421 system is authorized and agrees to make such transfer.

422 (j) Wherever herein state employment is referred to, it
423 shall include joint employment by state and federal agencies of
424 all kinds.

425 (k) Employees of a political subdivision or
426 instrumentality who were employed by such political subdivision or
427 instrumentality prior to an agreement between such entity and the
428 Public Employees' Retirement System to extend the benefits of this
429 article to its employees, and which agreement provides for the
430 establishment of retroactive service credit, and who have been
431 members of the retirement system and have remained contributors to
432 the retirement system for four (4) years, may receive credit for
433 such retroactive service with such political subdivision or
434 instrumentality, provided the employee and/or employer, as
435 provided under the terms of the modification of the joinder
436 agreement in allowing such coverage, pay into the retirement
437 system the employer's and employee's contributions on wages paid
438 the member during such previous employment, together with interest
439 or actuarial cost as determined by the board covering the period
440 from the date the service was rendered until the payment for the
441 credit for such service was made. Such wages shall be verified by

442 the Social Security Administration or employer payroll records.
443 Effective July 1, 1998, upon eligibility as noted above, a member
444 may receive credit for such retroactive service with such
445 political subdivision or instrumentality provided;

446 (1) The member shall furnish proof satisfactory to
447 the board of trustees of certification of such services from the
448 political subdivision or instrumentality where the services were
449 rendered or verification by the Social Security Administration;
450 and

451 (2) The member shall pay to the retirement system
452 on the date he or she is eligible for such credit or at any time
453 thereafter prior to the date of retirement the actuarial cost for
454 each year of such creditable service. The provisions of this
455 subparagraph (2) shall be subject to the limitations of Section
456 415 of the Internal Revenue Code and regulations promulgated
457 thereunder.

458 Nothing contained in this paragraph (k) shall be construed to
459 limit the authority of the board to allow the correction of
460 reporting errors or omissions based on the payment of employee and
461 employer contributions plus applicable interest. Payment for such
462 time shall be made in increments of not less than one-quarter
463 (1/4) year of creditable service beginning with the most recent
464 service. Upon the payment of all or part of such required
465 contributions, plus interest or the actuarial cost as provided
466 above, the member shall receive credit for the period of
467 creditable service for which full payment has been made to the
468 retirement system.

469 (1) Through June 30, 1998, any state service eligible
470 for retroactive service credit, no part of which has ever been
471 reported, and requiring the payment of employee and employer
472 contributions plus interest, or, from and after July 1, 1998, any
473 state service eligible for retroactive service credit, no part of
474 which has ever been reported to the retirement system, and
475 requiring the payment of the actuarial cost for such creditable

476 service, may, at the member's option, be purchased in quarterly
477 increments as provided above at such time as its purchase is
478 otherwise allowed.

479 (m) All rights to purchase retroactive service credit
480 or repay a refund as provided in Section 25-11-101 et seq. shall
481 terminate upon retirement.

482 **II. THOSE WHO ARE NOT ELIGIBLE FOR MEMBERSHIP**

483 The following classes of employees and officers shall not
484 become members of this retirement system, any other provisions of
485 Articles 1 and 3 to the contrary notwithstanding:

486 (a) Patient or inmate help in state charitable, penal
487 or correctional institutions;

488 (b) Students of any state educational institution
489 employed by any agency of the state for temporary, part-time or
490 intermittent work, except for those students described in Section
491 25-11-109(10), who shall be members of the system and receive
492 creditable service for their work;

493 (c) Participants of Comprehensive Employment and
494 Training Act of 1973 (CETA) being Public Law 93-203, who enroll on
495 or after July 1, 1979.

496 **III. TERMINATION OF MEMBERSHIP**

497 Membership in this system shall cease by a member withdrawing
498 his accumulated contributions, or by a member withdrawing from
499 active service with a retirement allowance, or by a member's
500 death.

501 SECTION 3. This act shall take effect and be in force from
502 and after July 1, 1999.