

By: Stevens

To: Appropriations

HOUSE BILL NO. 1397

1 AN ACT TO AMEND SECTION 25-11-109, MISSISSIPPI CODE OF 1972,
2 TO CLARIFY THAT MILITARY SERVICE INCLUDES SERVICE IN THE UNITED
3 STATES PUBLIC HEALTH SERVICE; AND FOR RELATED PURPOSES.

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

5 SECTION 1. Section 25-11-109, Mississippi Code of 1972, is
6 amended as follows:[HS1]

7 25-11-109. (1) Under such rules and regulations as the
8 board of trustees shall adopt, each person who becomes a member of
9 this retirement system, as provided in Section 25-11-105, on or
10 prior to July 1, 1953, or who becomes a member and contributes to
11 the system for a minimum period of four (4) years, shall receive
12 credit for all state service rendered before February 1, 1953. To
13 receive such credit, such member shall file a detailed statement
14 of all services as an employee rendered by him in the state
15 service before February 1, 1953. For any member who joined the
16 system after July 1, 1953, any creditable service for which the
17 member is not required to make contributions shall not be credited
18 to the member until the member has contributed to the system for a
19 minimum period of at least four (4) years.

20 (2) In the computation of membership service or prior
21 service under the provisions of this article, the total months of
22 accumulative service during any fiscal year shall be calculated in
23 accordance with the schedule as follows: ten (10) or more months
24 of creditable service during any fiscal year shall constitute a
25 year of creditable service; seven (7) months to nine (9) months
26 inclusive, three-quarters (3/4) of a year of creditable service;

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

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

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

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

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

71 (b) For service on and after July 1, 1984, the member
72 shall receive credit for personal and major medical leave
73 beginning July 1, 1984, at the rates authorized in Sections
74 25-3-93 and 25-3-95, computed as a full-time employee.

75 (3) Subject to the above restrictions and to such other
76 rules and regulations as the board may adopt, the board shall
77 verify, as soon as practicable after the filing of such statements
78 of service, the services therein claimed.

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

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

95 (5) Creditable service at retirement, on which the
96 retirement allowance of a member shall be based, shall consist of

97 the membership service rendered by him since he last became a
98 member, and also, if he has a prior service certificate which is
99 in full force and effect, the amount of the service certified on
100 his prior service certificate.

101 (6) Anything in this article to the contrary
102 notwithstanding, any member who served on active duty in the Armed
103 Forces of the United States, or served in the United States Public
104 Health Service (Coast Guard, a branch of the United States Navy)
105 prior to 1972, or who served in maritime service during periods of
106 hostility in World War II, shall be entitled to creditable service
107 for his service on active duty in the Armed Forces or in such
108 maritime service, provided he entered state service after his
109 discharge from the Armed Forces or United States Public Health
110 Service (Coast Guard, a branch of the United States Navy) or
111 entered state service after he completed such maritime service.
112 The maximum period for such creditable service for all military
113 service shall not exceed four (4) years unless positive proof can
114 be furnished by such person that he was retained in the Armed
115 Forces during World War II or in maritime service during World War
116 II by causes beyond his control and without opportunity of
117 discharge. The member shall furnish proof satisfactory to the
118 board of trustees of certification of military service or maritime
119 service records showing dates of entrance into active duty service
120 and the date of discharge. From and after July 1, 1993, no
121 creditable service shall be granted for any military service or
122 maritime service to a member who qualifies for a retirement
123 allowance in another public retirement system administered by the
124 Board of Trustees of the Public Employees' Retirement System based
125 in whole or in part on such military or maritime service. In no
126 case shall the member receive creditable service if the member
127 received a dishonorable discharge from the Armed Forces of the
128 United States.

129 (7) Any member of the Public Employees' Retirement System

130 who has at least four (4) years of membership service credit shall
131 be entitled to receive a maximum of five (5) years creditable
132 service for service rendered in another state as a public employee
133 of such other state, or a political subdivision, public education
134 system or other governmental instrumentality thereof, or service
135 rendered as a teacher in American overseas dependent schools
136 conducted by the Armed Forces of the United States for children of
137 citizens of the United States residing in areas outside the
138 continental United States, provided that:

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

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

150 (c) The member shall pay to the retirement system on
151 the date he or she is eligible for credit for such out-of-state
152 service or at any time thereafter prior to date of retirement the
153 actuarial cost as determined by the actuary for each year of
154 out-of-state creditable service. The provisions of this
155 subsection are subject to the limitations of Section 415 of the
156 Internal Revenue Code and regulations promulgated thereunder.

157 (8) Any member of the Public Employees' Retirement System
158 who has at least four (4) years of membership service credit and
159 who receives, or has received, professional leave without
160 compensation for professional purposes directly related to the
161 employment in state service shall receive creditable service for
162 the period of professional leave without compensation provided:

163 (a) The professional leave is performed with a public
164 institution or public agency of this state, or another state or
165 federal agency;

166 (b) The employer approves the professional leave
167 showing the reason for granting the leave and makes a
168 determination that the professional leave will benefit the
169 employee and employer;

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

172 (d) The employee shall serve the employer on a
173 full-time basis for a period of time equivalent to the
174 professional leave period granted immediately following the
175 termination of the leave period;

176 (e) The contributing member shall pay to the retirement
177 system the actuarial cost as determined by the actuary for each
178 year of professional leave. The provisions of this subsection are
179 subject to the regulations of the Internal Revenue Code
180 limitations;

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

184 Any actively contributing member participating in the School
185 Administrator Sabbatical Program established in Section 37-9-77
186 shall qualify for continued participation under this subsection
187 (8).

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

192 (a) Any service rendered as an employee of any
193 political subdivision of this state, or any instrumentality
194 thereof, which does not participate in the Public Employees'
195 Retirement System; or

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

200 (c) Any service rendered as an employee of any
201 political subdivision of this state, or any instrumentality
202 thereof, for which coverage of the employee's position was or is
203 excluded; provided that the member pays into the retirement system
204 the actuarial cost as determined by the actuary for each year, or
205 portion thereof, of such service. Payment for such service may be
206 made in increments of one-quarter-year of creditable service.
207 After a member has made full payment to the retirement system for
208 all or any part of such service, the member shall receive
209 creditable service for the period of such service for which full
210 payment has been made to the retirement system.

211 SECTION 2. This act shall take effect and be in force from
212 and after July 1, 2000.