

By: Representative Rushing

To: Appropriations

HOUSE BILL NO. 1177

1 AN ACT TO AMEND SECTION 25-11-109, MISSISSIPPI CODE OF 1972,  
 2 TO PROVIDE THAT ANY MEMBER OF THE PUBLIC EMPLOYEES' RETIREMENT  
 3 SYSTEM WHO SERVED IN THE MISSISSIPPI NATIONAL GUARD SHALL BE  
 4 ENTITLED TO CREDITABLE SERVICE IN THE RETIREMENT SYSTEM AT THE  
 5 RATE OF ONE MONTH OF CREDITABLE SERVICE FOR EVERY THREE MONTHS OF  
 6 SERVICE IN THE MISSISSIPPI NATIONAL GUARD, NOT TO EXCEED A MAXIMUM  
 7 OF THIRTY-SIX MONTHS OF CREDITABLE SERVICE FOR ALL SERVICE IN THE  
 8 MISSISSIPPI NATIONAL GUARD; AND FOR RELATED PURPOSES.

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

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

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

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

30 year of creditable service; seven (7) months to nine (9) months  
31 inclusive, three-quarters (3/4) of a year of creditable service;  
32 four (4) months to six (6) months inclusive, one-half-year of  
33 creditable service; one (1) month to three (3) months inclusive,  
34 one-quarter (1/4) of a year of creditable service. In no case  
35 shall credit be allowed for any period of absence without  
36 compensation except for disability while in receipt of a  
37 disability retirement allowance, nor shall less than fifteen (15)  
38 days of service in any month, or service less than the equivalent  
39 of one-half (1/2) of the normal working load for the position and  
40 less than one-half (1/2) of the normal compensation for the  
41 position in any month, constitute a month of creditable service,  
42 nor shall more than one (1) year of service be creditable for all  
43 services rendered in any one (1) fiscal year; provided that for a  
44 school employee, substantial completion of the legal school term  
45 when and where the service was rendered shall constitute a year of  
46 service credit for both prior service and membership service. Any  
47 state or local elected official shall be deemed a full-time  
48 employee for the purpose of creditable service for prior service  
49 or membership service. However, an appointed or elected official  
50 compensated on a per diem basis only shall not be allowed  
51 creditable service for terms of office.

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

58 In the computation of unused leave for creditable service  
59 authorized in Section 25-11-103, the following shall govern:  
60 twenty-one (21) days of unused leave shall constitute one (1)  
61 month of creditable service and in no case shall credit be allowed  
62 for any period of unused leave of less than fifteen (15) days.

63 The number of months of unused leave shall determine the number of  
64 quarters or years of creditable service in accordance with the  
65 above schedule for membership and prior service. In order for the  
66 member to receive creditable service for the number of days of  
67 unused leave, the system must receive certification from the  
68 governing authority.

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

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

76 (b) For service on and after July 1, 1984, the member  
77 shall receive credit for personal and major medical leave  
78 beginning July 1, 1984, at the rates authorized in Sections  
79 25-3-93 and 25-3-95, computed as a full-time employee.

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

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

95           When membership ceases, such prior service certificates shall  
96 become void. Should the employee again become a member, he shall  
97 enter the system as an employee not entitled to prior service  
98 credit except as provided in Sections 25-11-105(I), 25-11-113 and  
99 25-11-117.

100           (5) Creditable service at retirement, on which the  
101 retirement allowance of a member shall be based, shall consist of  
102 the membership service rendered by him since he last became a  
103 member, and also, if he has a prior service certificate which is  
104 in full force and effect, the amount of the service certified on  
105 his prior service certificate.

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

128 receive creditable service if the member received a dishonorable  
129 discharge from the Armed Forces of the United States.

130       (7) Anything in this article to the contrary  
131 notwithstanding, any member who served in the Mississippi National  
132 Guard shall be entitled to creditable service at the rate of one  
133 (1) month of creditable service for every three (3) months of  
134 service in the Mississippi National Guard, not to exceed a maximum  
135 of thirty-six (36) months of creditable service for all service in  
136 the Mississippi National Guard. The member shall furnish proof  
137 satisfactory to the board of trustees of certification of  
138 Mississippi National Guard service showing dates of entrance into  
139 service and the date of discharge. Creditable service shall not  
140 be granted for any service in the Mississippi National Guard to a  
141 member who qualifies for a retirement allowance in another public  
142 retirement system administered by the Board of Trustees of the  
143 Public Employees' Retirement System based in whole or in part on  
144 that National Guard service. If a member receives any creditable  
145 service under subsection (6) for active duty military service with  
146 the Mississippi National Guard, the member will not receive  
147 additional creditable service for that active duty military  
148 service under this subsection. A member shall not receive any  
149 creditable service under this subsection if the member received a  
150 dishonorable discharge from the Mississippi National Guard.

151       (8) Any member of the Public Employees' Retirement System  
152 who has at least four (4) years of membership service credit shall  
153 be entitled to receive a maximum of five (5) years creditable  
154 service for service rendered in another state as a public employee  
155 of such other state, or a political subdivision, public education  
156 system or other governmental instrumentality thereof, or service  
157 rendered as a teacher in American overseas dependent schools  
158 conducted by the Armed Forces of the United States for children of  
159 citizens of the United States residing in areas outside the  
160 continental United States, provided that:

161           (a) The member shall furnish proof satisfactory to the  
162 board of trustees of certification of such services from the  
163 state, public education system, political subdivision or  
164 retirement system of the state where the services were performed  
165 or the governing entity of the American overseas dependent school  
166 where the services were performed; and

167           (b) The member is not receiving or will not be entitled  
168 to receive from the public retirement system of the other state or  
169 from any other retirement plan, including optional retirement  
170 plans, sponsored by the employer, a retirement allowance including  
171 such services; and

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

179       (9) Any member of the Public Employees' Retirement System  
180 who has at least four (4) years of membership service credit and  
181 who receives, or has received, professional leave without  
182 compensation for professional purposes directly related to the  
183 employment in state service shall receive creditable service for  
184 the period of professional leave without compensation provided:

185           (a) The professional leave is performed with a public  
186 institution or public agency of this state, or another state or  
187 federal agency;

188           (b) The employer approves the professional leave  
189 showing the reason for granting the leave and makes a  
190 determination that the professional leave will benefit the  
191 employee and employer;

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

194           (d) The employee shall serve the employer on a  
195 full-time basis for a period of time equivalent to the  
196 professional leave period granted immediately following the  
197 termination of the leave period;

198           (e) The contributing member shall pay to the retirement  
199 system the actuarial cost as determined by the actuary for each  
200 year of professional leave. The provisions of this subsection are  
201 subject to the regulations of the Internal Revenue Code  
202 limitations;

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

206           Any actively contributing member participating in the School  
207 Administrator Sabbatical Program established in Section 37-9-77  
208 shall qualify for continued participation under this subsection  
209 (9).

210           (10) Any member of the Public Employees' Retirement System  
211 who has at least four (4) years of credited membership service  
212 shall be entitled to receive a maximum of ten (10) years  
213 creditable service for:

214           (a) Any service rendered as an employee of any  
215 political subdivision of this state, or any instrumentality  
216 thereof, which does not participate in the Public Employees'  
217 Retirement System; or

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

222           (c) Any service rendered as an employee of any  
223 political subdivision of this state, or any instrumentality  
224 thereof, for which coverage of the employee's position was or is  
225 excluded; provided that the member pays into the retirement system  
226 the actuarial cost as determined by the actuary for each year, or

227 portion thereof, of such service. Payment for such service may be  
228 made in increments of one-quarter-year of creditable service.  
229 After a member has made full payment to the retirement system for  
230 all or any part of such service, the member shall receive  
231 creditable service for the period of such service for which full  
232 payment has been made to the retirement system.

233 SECTION 2. This act shall take effect and be in force from  
234 and after July 1, 2001.