

By: Representative Smith (39th)

To: Appropriations

HOUSE BILL NO. 379

1 AN ACT TO AMEND SECTION 25-11-109, MISSISSIPPI CODE OF 1972,  
2 TO ALLOW CERTAIN MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT  
3 SYSTEM TO PURCHASE CREDITABLE SERVICE FOR SERVICE RENDERED AS A  
4 MEMBER OF THE BOARD OF TRUSTEES OF ANY PUBLIC JUNIOR OR COMMUNITY  
5 COLLEGE DISTRICT IN MISSISSIPPI; AND FOR RELATED PURPOSES.

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

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

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

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



29 inclusive, three-quarters (3/4) of a year of creditable service;  
30 four (4) months to six (6) months inclusive, one-half-year of  
31 creditable service; one (1) month to three (3) months inclusive,  
32 one-quarter (1/4) of a year of creditable service. In no case  
33 shall credit be allowed for any period of absence without  
34 compensation except for disability while in receipt of a  
35 disability retirement allowance, nor shall less than fifteen (15)  
36 days of service in any month, or service less than the equivalent  
37 of one-half (1/2) of the normal working load for the position and  
38 less than one-half (1/2) of the normal compensation for the  
39 position in any month, constitute a month of creditable service,  
40 nor shall more than one (1) year of service be creditable for all  
41 services rendered in any one (1) fiscal year; provided that for a  
42 school employee, substantial completion of the legal school term  
43 when and where the service was rendered shall constitute a year of  
44 service credit for both prior service and membership service. Any  
45 state or local elected official shall be deemed a full-time  
46 employee for the purpose of creditable service for prior service  
47 or membership service. However, an appointed or elected official  
48 compensated on a per diem basis only shall not be allowed  
49 creditable service for terms of office, except as otherwise  
50 provided in subsection (11) of this section.

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



127 maritime service. In no case shall the member receive creditable  
128 service if the member received a dishonorable discharge from the  
129 Armed Forces of the United States.

130 (7) (a) Any member of the Public Employees' Retirement  
131 System whose membership service is interrupted as a result of  
132 qualified military service within the meaning of Section 414(u)(5)  
133 of the Internal Revenue Code, and who has received the maximum  
134 service credit available under subsection (6) of this section,  
135 shall receive creditable service for the period of qualified  
136 military service that does not qualify as creditable service under  
137 subsection (6) of this section upon reentering membership service  
138 in an amount not to exceed five (5) years if:

139 (i) The member pays the contributions he would  
140 have made to the retirement system if he had remained in  
141 membership service for the period of qualified military service  
142 based upon his salary at the time his membership service was  
143 interrupted;

144 (ii) The member returns to membership service  
145 within ninety (90) days of the end of his qualified military  
146 service; and

147 (iii) The employer at the time the member's  
148 service was interrupted and to which employment the member returns  
149 pays the contributions it would have made into the retirement  
150 system for such period based on the member's salary at the time  
151 the service was interrupted.

152 (b) The payments required to be made in paragraph  
153 (a)(i) of this subsection may be made over a period beginning with  
154 the date of return to membership service and not exceeding three  
155 (3) times the member's qualified military service; provided,  
156 however, that in no event shall such period exceed fifteen (15)  
157 years.

158 (c) The member shall furnish proof satisfactory to the  
159 board of trustees of certification of military service showing



160 dates of entrance into qualified service and the date of discharge  
161 as well as proof that the member has returned to active employment  
162 within the time specified.

163 (8) Any member of the Public Employees' Retirement System  
164 who has at least four (4) years of membership service credit shall  
165 be entitled to receive a maximum of five (5) years creditable  
166 service for service rendered in another state as a public employee  
167 of such other state, or a political subdivision, public education  
168 system or other governmental instrumentality thereof, or service  
169 rendered as a teacher in American overseas dependent schools  
170 conducted by the Armed Forces of the United States for children of  
171 citizens of the United States residing in areas outside the  
172 continental United States, provided that:

173 (a) The member shall furnish proof satisfactory to the  
174 board of trustees of certification of such services from the  
175 state, public education system, political subdivision or  
176 retirement system of the state where the services were performed  
177 or the governing entity of the American overseas dependent school  
178 where the services were performed; and

179 (b) The member is not receiving or will not be entitled  
180 to receive from the public retirement system of the other state or  
181 from any other retirement plan, including optional retirement  
182 plans, sponsored by the employer, a retirement allowance including  
183 such services; and

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

191 (9) Any member of the Public Employees' Retirement System  
192 who has at least four (4) years of membership service credit and



193 who receives, or has received, professional leave without  
194 compensation for professional purposes directly related to the  
195 employment in state service shall receive creditable service for  
196 the period of professional leave without compensation provided:

197 (a) The professional leave is performed with a public  
198 institution or public agency of this state, or another state or  
199 federal agency;

200 (b) The employer approves the professional leave  
201 showing the reason for granting the leave and makes a  
202 determination that the professional leave will benefit the  
203 employee and employer;

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

206 (d) The employee shall serve the employer on a  
207 full-time basis for a period of time equivalent to the  
208 professional leave period granted immediately following the  
209 termination of the leave period;

210 (e) The contributing member shall pay to the retirement  
211 system the actuarial cost as determined by the actuary for each  
212 year of professional leave. The provisions of this subsection are  
213 subject to the regulations of the Internal Revenue Code  
214 limitations;

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

218 Any actively contributing member participating in the School  
219 Administrator Sabbatical Program established in Section 37-9-77  
220 shall qualify for continued participation under this subsection  
221 (9).

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



226 (a) Any service rendered as an employee of any  
227 political subdivision of this state, or any instrumentality  
228 thereof, which does not participate in the Public Employees'  
229 Retirement System; or

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

234 (c) Any service rendered as an employee of any  
235 political subdivision of this state, or any instrumentality  
236 thereof, for which coverage of the employee's position was or is  
237 excluded; provided that the member pays into the retirement system  
238 the actuarial cost as determined by the actuary for each year, or  
239 portion thereof, of such service. Payment for such service may be  
240 made in increments of one-quarter-year of creditable service.  
241 After a member has made full payment to the retirement system for  
242 all or any part of such service, the member shall receive  
243 creditable service for the period of such service for which full  
244 payment has been made to the retirement system.

245 (11) From and after July 1, 2002, through October 1, 2002,  
246 any member of the Public Employees' Retirement System who has at  
247 least two (2) years of continuous state service shall be entitled  
248 to receive creditable service for all service rendered as a member  
249 of the board of trustees of any public junior or community college  
250 district located in Mississippi, provided that:

251 (a) The member furnishes proof satisfactory to the  
252 board of trustees of certification of that service from the junior  
253 or community college district; and

254 (b) The member is not receiving or will not be entitled  
255 to receive from any other retirement system or plan a retirement  
256 allowance including that service; and

257 (c) The member pays to the retirement system the  
258 actuarial cost for each year of that service calculated on the



259 basis of the compensation being paid to him at the time he elects  
260 to receive credit for that service.

261         **SECTION 2.** This act shall take effect and be in force from  
262 and after July 1, 2002.

