

By: Representative Rushing

To: Appropriations

HOUSE BILL NO. 1062

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



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

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

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

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

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

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

159 (c) The member shall furnish proof satisfactory to the
160 board of trustees of certification of military service showing
161 dates of entrance into qualified service and the date of discharge



162 as well as proof that the member has returned to active employment
163 within the time specified.

164 (8) Anything in this article to the contrary
165 notwithstanding, any member who served in the Mississippi National
166 Guard shall be entitled to creditable service at the rate of one
167 (1) month of creditable service for every three (3) months of
168 service in the Mississippi National Guard, not to exceed a maximum
169 of thirty-six (36) months of creditable service for all service in
170 the Mississippi National Guard. The member shall furnish proof
171 satisfactory to the board of trustees of certification of
172 Mississippi National Guard service showing dates of entrance into
173 service and the date of discharge. Creditable service shall not
174 be granted for any service in the Mississippi National Guard to a
175 member who qualifies for a retirement allowance in another public
176 retirement system administered by the Board of Trustees of the
177 Public Employees' Retirement System based in whole or in part on
178 that National Guard service. If a member receives any creditable
179 service under subsection (6) or (7) for active duty military
180 service with the Mississippi National Guard, the member will not
181 receive additional creditable service for that active duty
182 military service under this subsection. A member shall not
183 receive any creditable service under this subsection if the member
184 received a dishonorable discharge from the Mississippi National
185 Guard.

186 (9) Any member of the Public Employees' Retirement System
187 who has at least four (4) years of membership service credit shall
188 be entitled to receive a maximum of five (5) years creditable
189 service for service rendered in another state as a public employee
190 of such other state, or a political subdivision, public education
191 system or other governmental instrumentality thereof, or service
192 rendered as a teacher in American overseas dependent schools
193 conducted by the Armed Forces of the United States for children of



194 citizens of the United States residing in areas outside the
195 continental United States, provided that:

196 (a) The member shall furnish proof satisfactory to the
197 board of trustees of certification of such services from the
198 state, public education system, political subdivision or
199 retirement system of the state where the services were performed
200 or the governing entity of the American overseas dependent school
201 where the services were performed; and

202 (b) The member is not receiving or will not be entitled
203 to receive from the public retirement system of the other state or
204 from any other retirement plan, including optional retirement
205 plans, sponsored by the employer, a retirement allowance including
206 such services; and

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

214 (10) Any member of the Public Employees' Retirement System
215 who has at least four (4) years of membership service credit and
216 who receives, or has received, professional leave without
217 compensation for professional purposes directly related to the
218 employment in state service shall receive creditable service for
219 the period of professional leave without compensation provided:

220 (a) The professional leave is performed with a public
221 institution or public agency of this state, or another state or
222 federal agency;

223 (b) The employer approves the professional leave
224 showing the reason for granting the leave and makes a
225 determination that the professional leave will benefit the
226 employee and employer;



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

229 (d) The employee shall serve the employer on a
230 full-time basis for a period of time equivalent to the
231 professional leave period granted immediately following the
232 termination of the leave period;

233 (e) The contributing member shall pay to the retirement
234 system the actuarial cost as determined by the actuary for each
235 year of professional leave. The provisions of this subsection are
236 subject to the regulations of the Internal Revenue Code
237 limitations;

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

241 Any actively contributing member participating in the School
242 Administrator Sabbatical Program established in Section 37-9-77
243 shall qualify for continued participation under this subsection
244 (10).

245 (11) Any member of the Public Employees' Retirement System
246 who has at least four (4) years of credited membership service
247 shall be entitled to receive a maximum of ten (10) years
248 creditable service for:

249 (a) Any service rendered as an employee of any
250 political subdivision of this state, or any instrumentality
251 thereof, which does not participate in the Public Employees'
252 Retirement System; or

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

257 (c) Any service rendered as an employee of any
258 political subdivision of this state, or any instrumentality
259 thereof, for which coverage of the employee's position was or is



260 excluded; provided that the member pays into the retirement system
261 the actuarial cost as determined by the actuary for each year, or
262 portion thereof, of such service. Payment for such service may be
263 made in increments of one-quarter-year of creditable service.
264 After a member has made full payment to the retirement system for
265 all or any part of such service, the member shall receive
266 creditable service for the period of such service for which full
267 payment has been made to the retirement system.

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

