

By: Senator(s) Furniss

To: Finance

SENATE BILL NO. 2023

1 AN ACT TO AMEND SECTION 25-11-109, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM
3 WHO SERVED IN COMBAT OR WERE PRISONERS OF WAR WHILE ON ACTIVE DUTY
4 IN THE ARMED FORCES OF THE UNITED STATES, TO RECEIVE A CERTAIN
5 ADDITIONAL AMOUNT OF CREDITABLE SERVICE; 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.

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



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

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

55 In the computation of unused leave for creditable service
56 authorized in Section 25-11-103, the following shall govern:
57 twenty-one (21) days of unused leave shall constitute one (1)
58 month of creditable service and in no case shall credit be allowed
59 for any period of unused leave of less than fifteen (15) days.
60 The number of months of unused leave shall determine the number of
61 quarters or years of creditable service in accordance with the



62 above schedule for membership and prior service. In order for the
63 member to receive creditable service for the number of days of
64 unused leave, the system must receive certification from the
65 governing authority.

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

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

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

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

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

92 When membership ceases, such prior service certificates shall
93 become void. Should the employee again become a member, he shall
94 enter the system as an employee not entitled to prior service



95 credit except as provided in Sections 25-11-105(I), 25-11-113 and
96 25-11-117.

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

103 (6) (a) Anything in this article to the contrary
104 notwithstanding, any member who served on active duty in the Armed
105 Forces of the United States, or who served in maritime service
106 during periods of hostility in World War II, shall be entitled to
107 creditable service at no cost for his service on active duty in
108 the Armed Forces or in such maritime service, provided he entered
109 state service after his discharge from the Armed Forces or entered
110 state service after he completed such maritime service.

111 (b) Except as otherwise provided in paragraph (c) and
112 (d) of this subsection, the maximum period for such creditable
113 service for all military service as defined in this subsection (6)
114 shall not exceed four (4) years unless positive proof can be
115 furnished by such person that he was retained in the Armed Forces
116 during World War II or in maritime service during World War II by
117 causes beyond his control and without opportunity of discharge.

118 (c) A member who served in combat while on active duty
119 in the Armed Forces of the United States shall be entitled to
120 receive creditable service for such combat service that, when
121 added to his other military service, is in excess of the four-year
122 limitation provided for in paragraph (b) of this subsection;
123 provided, however, that a member shall not receive creditable
124 service under paragraph (b) of this subsection and this paragraph
125 (c) in excess of seven (7) years.

126 (d) A member who was a prisoner of war while on active
127 duty in the Armed Forces of the United States shall receive credit



128 for the period of time he was a prisoner of war that, when added
129 to his other military service, is in excess of the four-year
130 limitation in paragraph (b) of this subsection.

131 (e) The member shall furnish proof satisfactory to the
132 board of trustees of certification of military service or maritime
133 service records showing dates of entrance into active duty service
134 and the date of discharge. From and after July 1, 1993, no
135 creditable service shall be granted for any military service or
136 maritime service to a member who qualifies for a retirement
137 allowance in another public retirement system administered by the
138 Board of Trustees of the Public Employees' Retirement System based
139 in whole or in part on such military or maritime service. In no
140 case shall the member receive creditable service if the member
141 received a dishonorable discharge from the Armed Forces of the
142 United States.

143 (7) (a) Any member of the Public Employees' Retirement
144 System whose membership service is interrupted as a result of
145 qualified military service within the meaning of Section 414(u)(5)
146 of the Internal Revenue Code, and who has received the maximum
147 service credit available under subsection (6) of this section,
148 shall receive creditable service for the period of qualified
149 military service that does not qualify as creditable service under
150 subsection (6) of this section upon reentering membership service
151 in an amount not to exceed five (5) years if:

152 (i) The member pays the contributions he would
153 have made to the retirement system if he had remained in
154 membership service for the period of qualified military service
155 based upon his salary at the time his membership service was
156 interrupted;

157 (ii) The member returns to membership service
158 within ninety (90) days of the end of his qualified military
159 service; and



160 (iii) The employer at the time the member's
161 service was interrupted and to which employment the member returns
162 pays the contributions it would have made into the retirement
163 system for such period based on the member's salary at the time
164 the service was interrupted.

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

171 (c) The member shall furnish proof satisfactory to the
172 board of trustees of certification of military service showing
173 dates of entrance into qualified service and the date of discharge
174 as well as proof that the member has returned to active employment
175 within the time specified.

176 (8) Any member of the Public Employees' Retirement System
177 who has at least four (4) years of membership service credit shall
178 be entitled to receive a maximum of five (5) years creditable
179 service for service rendered in another state as a public employee
180 of such other state, or a political subdivision, public education
181 system or other governmental instrumentality thereof, or service
182 rendered as a teacher in American overseas dependent schools
183 conducted by the Armed Forces of the United States for children of
184 citizens of the United States residing in areas outside the
185 continental United States, provided that:

186 (a) The member shall furnish proof satisfactory to the
187 board of trustees of certification of such services from the
188 state, public education system, political subdivision or
189 retirement system of the state where the services were performed
190 or the governing entity of the American overseas dependent school
191 where the services were performed; and



192 (b) The member is not receiving or will not be entitled
193 to receive from the public retirement system of the other state or
194 from any other retirement plan, including optional retirement
195 plans, sponsored by the employer, a retirement allowance including
196 such services; and

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

204 (9) Any member of the Public Employees' Retirement System
205 who has at least four (4) years of membership service credit and
206 who receives, or has received, professional leave without
207 compensation for professional purposes directly related to the
208 employment in state service shall receive creditable service for
209 the period of professional leave without compensation provided:

210 (a) The professional leave is performed with a public
211 institution or public agency of this state, or another state or
212 federal agency;

213 (b) The employer approves the professional leave
214 showing the reason for granting the leave and makes a
215 determination that the professional leave will benefit the
216 employee and employer;

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

219 (d) The employee shall serve the employer on a
220 full-time basis for a period of time equivalent to the
221 professional leave period granted immediately following the
222 termination of the leave period;

223 (e) The contributing member shall pay to the retirement
224 system the actuarial cost as determined by the actuary for each



225 year of professional leave. The provisions of this subsection are
226 subject to the regulations of the Internal Revenue Code
227 limitations;

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

231 Any actively contributing member participating in the School
232 Administrator Sabbatical Program established in Section 37-9-77
233 shall qualify for continued participation under this subsection
234 (9).

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

239 (a) Any service rendered as an employee of any
240 political subdivision of this state, or any instrumentality
241 thereof, which does not participate in the Public Employees'
242 Retirement System; or

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

247 (c) Any service rendered as an employee of any
248 political subdivision of this state, or any instrumentality
249 thereof, for which coverage of the employee's position was or is
250 excluded; provided that the member pays into the retirement system
251 the actuarial cost as determined by the actuary for each year, or
252 portion thereof, of such service. Payment for such service may be
253 made in increments of one-quarter-year of creditable service.
254 After a member has made full payment to the retirement system for
255 all or any part of such service, the member shall receive
256 creditable service for the period of such service for which full
257 payment has been made to the retirement system.



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

