HOUSE BILL NO. 5

To: Appropriations

MISSISSIPPI LEGISLATURE
REGULAR SESSION 2003

By: Representative Fleming

HOUSE BILL NO. 5

AN ACT TO AMEND SECTION 25-11-109, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM SHALL BE ENTITLED TO RECEIVE A MAXIMUM OF TWO YEARS CREDITABLE SERVICE FOR SERVICE IN THE UNITED STATES PEACE CORPS; AND FOR RELATED PURPOSES.

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

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

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

(2) In the computation of membership service or prior service under the provisions of this article, the total months of accumulative service during any fiscal year shall be calculated in accordance with the schedule as follows: ten (10) or more months of creditable service during any fiscal year shall constitute a year of creditable service; seven (7) months to nine (9) months inclusive, three-quarters (3/4) of a year of creditable service;
four (4) months to six (6) months inclusive, one-half-year of
creditable service; one (1) month to three (3) months inclusive,
one-quarter (1/4) of a year of creditable service. In no case
shall credit be allowed for any period of absence without
compensation except for disability while in receipt of a
disability retirement allowance, nor shall less than fifteen (15)
days of service in any month, or service less than the equivalent
of one-half (1/2) of the normal working load for the position and
less than one-half (1/2) of the normal compensation for the
position in any month, constitute a month of creditable service,
nor shall more than one (1) year of service be creditable for all
services rendered in any one (1) fiscal year; however, for a
school employee, substantial completion of the legal school term
when and where the service was rendered shall constitute a year of
service credit for both prior service and membership service. Any
state or local elected official shall be deemed a full-time
employee for the purpose of creditable service for prior service
or membership service. However, an appointed or elected official
compensated on a per diem basis only shall not be allowed
creditable service for terms of office.

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

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

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

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

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

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

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

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

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

(6) Any member who served on active duty in the Armed Forces of the United States, who served in the Commissioned Corps of the United States Public Health Service prior to 1972 or who served in maritime service during periods of hostility in World War II, shall be entitled to creditable service at no cost for his service on active duty in the Armed Forces, in the Commissioned Corps of the United States Public Health Service prior to 1972 or in such maritime service, provided he entered state service after his discharge from the Armed Forces or entered state service after he completed such maritime service. The maximum period for such creditable service for all military service as defined in this subsection (6) shall not exceed four (4) years unless positive proof can be furnished by such person that he was retained in the Armed Forces during World War II or in maritime service during World War II by causes beyond his control and without opportunity of discharge. The member shall furnish proof satisfactory to the board of trustees of certification of military service or maritime service records showing dates of entrance into active duty service and the date of discharge. From and after July 1, 1993, no creditable service shall be granted for any military service or maritime service to a member who qualifies for a retirement allowance in another public retirement system administered by the Board of Trustees of the Public Employees' Retirement System based in whole or in part on such military or maritime service. In no case shall the member receive creditable service if the member

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received a dishonorable discharge from the Armed Forces of the United States.

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

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

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

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

(b) The payments required to be made in paragraph (a)(i) of this subsection may be made over a period beginning with the date of return to membership service and not exceeding three (3) times the member's qualified military service; however, in no event shall such period exceed five (5) years.

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

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

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

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

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

(9) Any member of the Public Employees' Retirement System
who has at least four (4) years of membership service credit and
who receives, or has received, professional leave without

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compensation for professional purposes directly related to the
employment in state service shall receive creditable service for
the period of professional leave without compensation provided:
(a) The professional leave is performed with a public
institution or public agency of this state, or another state or
federal agency;
(b) The employer approves the professional leave
showing the reason for granting the leave and makes a
determination that the professional leave will benefit the
employee and employer;
(c) Such professional leave shall not exceed two (2)
years during any ten-year period of state service;
(d) The employee shall serve the employer on a
full-time basis for a period of time equivalent to the
professional leave period granted immediately following the
termination of the leave period;
(e) The contributing member shall pay to the retirement
system the actuarial cost as determined by the actuary for each
year of professional leave. The provisions of this subsection are
subject to the regulations of the Internal Revenue Code
limitations;
(f) Such other rules and regulations consistent
herewith as the board may adopt and in case of question, the board
shall have final power to decide the questions.
Any actively contributing member participating in the School
Administrator Sabbatical Program established in Section 37-9-77
shall qualify for continued participation under this subsection
(9).
(10) Any member of the Public Employees' Retirement System
who has at least four (4) years of credited membership service
shall be entitled to receive a maximum of ten (10) years
creditable service for:
(a) Any service rendered as an employee of any political subdivision of this state, or any instrumentality thereof, which does not participate in the Public Employees' Retirement System; or

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

(c) Any service rendered as an employee of any political subdivision of this state, or any instrumentality thereof, for which coverage of the employee's position was or is excluded; provided that the member pays into the retirement system the actuarial cost as determined by the actuary for each year, or portion thereof, of such service. Payment for such service may be made in increments of one-quarter-year of creditable service.

After a member has made full payment to the retirement system for all or any part of such service, the member shall receive creditable service for the period of such service for which full payment has been made to the retirement system.

(11) Any member of the Public Employees' Retirement System who has at least four (4) years of membership service credit shall be entitled to receive a maximum of two (2) years creditable service for service rendered in the United States Peace Corps, provided that the member furnishes proof satisfactory to the board of trustees of certification of services, including dates of service, in the United States Peace Corps.

SECTION 2. This act shall take effect and be in force from and after July 1, 2003.