HOUSE BILL NO. 1161

AN ACT TO AMEND SECTION 25-11-109, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY MEMBER OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO SERVED IN THE MISSISSIPPI NATIONAL GUARD SHALL BE ENTITLED TO CREDITABLE SERVICE IN THE RETIREMENT SYSTEM AT THE RATE OF ONE MONTH OF CREDITABLE SERVICE FOR EVERY THREE MONTHS OF SERVICE IN THE MISSISSIPPI NATIONAL GUARD, NOT TO EXCEED A MAXIMUM OF THIRTY-SIX MONTHS OF CREDITABLE SERVICE FOR ALL SERVICE IN THE MISSISSIPPI NATIONAL GUARD; 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 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) Anything in this article to the contrary notwithstanding, any member who served in the Mississippi National Guard shall be entitled to creditable service at the rate of one month of creditable service for every three (3) months of service in the Mississippi National Guard, not to exceed a maximum of thirty-six (36) months of creditable service for all service in the Mississippi National Guard. The member shall furnish proof satisfactory to the board of trustees of certification of Mississippi National Guard service showing dates of entrance into service and the date of discharge. Creditable service shall not be granted for any service in the Mississippi National Guard 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 that National Guard service. If a member receives any creditable service under subsection (6) or (7) for active duty military service with the Mississippi National Guard, the member will not receive additional creditable service for that active duty military service under this subsection. A member shall not receive any creditable service under this subsection if the member received a dishonorable discharge from the Mississippi National Guard.

(9) 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.

(10) 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 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 37-9-7 shall qualify for continued participation under this subsection (10).

(11) 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.

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