

By: Representative Moak

To: Appropriations

HOUSE BILL NO. 326

1 AN ACT TO AMEND SECTION 25-11-109, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE ELECTED OFFICIALS WHOSE SALARY IS PAID BY THE STATE
3 OF MISSISSIPPI AND WHO ARE MEMBERS OF THE PUBLIC EMPLOYEES'
4 RETIREMENT SYSTEM TO RECEIVE ONE-HALF YEAR OF ADDITIONAL
5 CREDITABLE SERVICE FOR EACH YEAR OF SERVICE AS SUCH AN ELECTED
6 OFFICIAL AFTER JANUARY 1, 2005, UP TO A MAXIMUM OF EIGHT YEARS OF
7 ADDITIONAL CREDITABLE SERVICE; TO REQUIRE THOSE MEMBERS TO MAKE AN
8 ANNUAL ELECTION TO PURCHASE ADDITIONAL CREDITABLE SERVICE FOR THE
9 UPCOMING YEAR; TO REQUIRE THOSE MEMBERS TO PAY ADDITIONAL EMPLOYEE
10 CONTRIBUTIONS DURING ANY YEAR FOR WHICH HE OR SHE HAS ELECTED TO
11 PURCHASE ADDITIONAL CREDITABLE SERVICE, IN AN AMOUNT EQUAL TO 50%
12 OF THE COMBINED TOTAL OF THE EMPLOYEE AND EMPLOYER CONTRIBUTIONS
13 THAT ARE PAID ON THE MEMBER'S EARNED COMPENSATION; TO AUTHORIZE
14 ELECTED OFFICIALS HOLDING OFFICE ON JULY 1, 2004, WHOSE SALARY IS
15 PAID BY THE STATE OF MISSISSIPPI AND WHO ARE MEMBERS OF THE PUBLIC
16 EMPLOYEES' RETIREMENT SYSTEM TO PURCHASE ONE-HALF YEAR OF
17 CREDITABLE SERVICE FOR EACH YEAR SERVED AS SUCH AN ELECTED
18 OFFICIAL BEFORE JANUARY 1, 2005, UP TO A MAXIMUM OF EIGHT YEARS OF
19 ADDITIONAL CREDITABLE SERVICE; TO REQUIRE THOSE MEMBERS TO PAY AN
20 AMOUNT EQUAL TO 50% OF THE COMBINED TOTAL OF THE EMPLOYEE AND
21 EMPLOYER CONTRIBUTIONS THAT WOULD HAVE BEEN PAID ON HIS OR HER
22 EARNED COMPENSATION FOR EACH YEAR OF ADDITIONAL CREDITABLE SERVICE
23 THAT THE MEMBER PURCHASES; TO REQUIRE THOSE MEMBERS TO PURCHASE
24 ALL ADDITIONAL CREDITABLE SERVICE UNDER THIS PROVISION BEFORE
25 JANUARY 1, 2007; AND FOR RELATED PURPOSES.

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

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

29 25-11-109. (1) Under such rules and regulations as the
30 board of trustees shall adopt, each person who becomes a member of
31 this retirement system, as provided in Section 25-11-105, on or
32 prior to July 1, 1953, or who becomes a member and contributes to
33 the system for a minimum period of four (4) years, shall receive
34 credit for all state service rendered before February 1, 1953. To
35 receive such credit, such member shall file a detailed statement
36 of all services as an employee rendered by him in the state
37 service before February 1, 1953. For any member who joined the
38 system after July 1, 1953, any creditable service for which the

39 member is not required to make contributions shall not be credited
40 to the member until the member has contributed to the system for a
41 minimum period of at least four (4) years.

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

69 In the computation of any retirement allowance or any annuity
70 or benefits provided in this article, any fractional period of
71 service of less than one (1) year shall be taken into account and

72 a proportionate amount of such retirement allowance, annuity or
73 benefit shall be granted for any such fractional period of
74 service.

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

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

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

93 (b) For service on and after July 1, 1984, the member
94 shall receive credit for personal and major medical leave
95 beginning July 1, 1984, at the rates authorized in Sections
96 25-3-93 and 25-3-95, computed as a full-time employee.

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

101 (4) Upon verification of the statement of prior service, the
102 board shall issue a prior service certificate certifying to each
103 member the length of prior service for which credit shall have
104 been allowed on the basis of his statement of service. So long as

105 membership continues, a prior service certificate shall be final
106 and conclusive for retirement purposes as to such service,
107 provided that any member may within five (5) years from the date
108 of issuance or modification of such certificate request the board
109 of trustees to modify or correct his prior service certificate.
110 Any modification or correction authorized shall only apply
111 prospectively.

112 When membership ceases, such prior service certificates shall
113 become void. Should the employee again become a member, he shall
114 enter the system as an employee not entitled to prior service
115 credit except as provided in Sections 25-11-105(I), 25-11-113 and
116 25-11-117.

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

123 (6) Any member who served on active duty in the Armed Forces
124 of the United States, who served in the Commissioned Corps of the
125 United States Public Health Service prior to 1972 or who served in
126 maritime service during periods of hostility in World War II,
127 shall be entitled to creditable service at no cost for his service
128 on active duty in the Armed Forces, in the Commissioned Corps of
129 the United States Public Health Service prior to 1972 or in such
130 maritime service, provided he entered state service after his
131 discharge from the Armed Forces or entered state service after he
132 completed such maritime service. The maximum period for such
133 creditable service for all military service as defined in this
134 subsection (6) shall not exceed four (4) years unless positive
135 proof can be furnished by such person that he was retained in the
136 Armed Forces during World War II or in maritime service during
137 World War II by causes beyond his control and without opportunity

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

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

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

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

167 (iii) The employer at the time the member's
168 service was interrupted and to which employment the member returns
169 pays the contributions it would have made into the retirement

170 system for such period based on the member's salary at the time
171 the service was interrupted.

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

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

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

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

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

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

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

216 (a) The professional leave is performed with a public
217 institution or public agency of this state, or another state or
218 federal agency;

219 (b) The employer approves the professional leave
220 showing the reason for granting the leave and makes a
221 determination that the professional leave will benefit the
222 employee and employer;

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

225 (d) The employee shall serve the employer on a
226 full-time basis for a period of time equivalent to the
227 professional leave period granted immediately following the
228 termination of the leave period;

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

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

237 Any actively contributing member participating in the School
238 Administrator Sabbatical Program established in Section 37-9-77
239 shall qualify for continued participation under this subsection
240 (9).

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

245 (a) Any service rendered as an employee of any
246 political subdivision of this state, or any instrumentality
247 thereof, which does not participate in the Public Employees'
248 Retirement System; or

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

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

264 (11) Any member of the Public Employees' Retirement System
265 who is an elected official whose salary is paid by the State of
266 Mississippi shall be entitled to receive additional creditable

267 service for each year served as such an elected official after
268 January 1, 2005, as follows:

269 (a) The member may purchase one-half (1/2) year of
270 creditable service for each year of service as such an elected
271 official, up to a maximum of eight (8) years of additional
272 creditable service;

273 (b) The member must make an election to purchase
274 additional creditable service for the upcoming year by January 1
275 of the year in which he or she takes office or by January 1 of
276 each succeeding year during the member's term of office. If the
277 member does not elect to purchase additional creditable service by
278 January 1 of any year, the member will not receive additional
279 creditable service for that year and he or she will not be allowed
280 to retroactively purchase additional creditable service for that
281 year; and

282 (c) The member must pay additional employee
283 contributions during any year for which he or she has elected to
284 purchase additional creditable service, in an amount equal to
285 fifty percent (50%) of the combined total of the employee and
286 employer contributions that are paid on the member's earned
287 compensation. The additional employee contributions shall be
288 deducted from the salary of the member in the same manner as
289 regular employee contributions are deducted under Section
290 25-11-123.

291 (12) Any member of the Public Employees' Retirement System
292 who is an elected official holding office on July 1, 2004, whose
293 salary is paid by the State of Mississippi shall be entitled to
294 receive additional creditable service for each year served as such
295 an elected official before January 1, 2005, as follows:

296 (a) The member must furnish proof satisfactory to the
297 board of trustees of certification of that service as such an
298 elected official;

299 (b) The member may purchase one-half (1/2) year of
300 creditable service for each year of service as such an elected
301 official, up to a maximum of eight (8) years of additional
302 creditable service;

303 (c) The member must pay an amount equal to fifty
304 percent (50%) of the combined total of the employee and employer
305 contributions that would have been paid on his or her earned
306 compensation for each year of additional creditable service that
307 the member purchases; and

308 (d) The member must make an election to purchase
309 additional creditable service under this subsection (12) before
310 January 1, 2005, and must purchase all additional creditable
311 service under this subsection before January 1, 2007.

312 **SECTION 2.** This act shall take effect and be in force from
313 and after July 1, 2004.