

By: Representative McCoy

To: Appropriations

HOUSE BILL NO. 879

1 AN ACT TO AMEND SECTION 25-11-109, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE THAT ANY RETIRED MEMBER OF THE PUBLIC EMPLOYEES'
 3 RETIREMENT SYSTEM WHO IS A MEMBER OF THE MISSISSIPPI NATIONAL
 4 GUARD OR A MEMBER OF A RESERVE COMPONENT OF THE UNITED STATES
 5 ARMED FORCES THAT IS BASED IN MISSISSIPPI, WHO SERVES ON ACTIVE
 6 DUTY WITH THE NATIONAL GUARD OR THE RESERVE COMPONENT OF THE ARMED
 7 FORCES FOR FOUR OR MORE CONSECUTIVE MONTHS WHILE A RETIRED MEMBER
 8 OF THE SYSTEM, SHALL BE ENTITLED TO CREDITABLE SERVICE AT NO COST
 9 FOR THAT ACTIVE DUTY SERVICE; TO PROVIDE THAT WHEN THE RETIRED
 10 MEMBER IS NO LONGER SERVING ON ACTIVE DUTY WITH THE NATIONAL GUARD
 11 OR THE RESERVE COMPONENT OF THE ARMED FORCES, THE RETIRED MEMBER
 12 MAY APPLY TO THE SYSTEM TO RECEIVE THAT CREDITABLE SERVICE AND
 13 HAVE HIS OR HER RETIREMENT ALLOWANCE RECOMPUTED WITH THAT
 14 CREDITABLE SERVICE INCLUDED; TO PROVIDE THAT THE PRECEDING
 15 PROVISIONS SHALL BE RETROACTIVE TO INCLUDE ACTIVE DUTY SERVICE
 16 THAT OCCURRED BEFORE JULY 1, 2004; AND FOR RELATED PURPOSES.

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

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

20 25-11-109. (1) Under such rules and regulations as the
 21 board of trustees shall adopt, each person who becomes a member of
 22 this retirement system, as provided in Section 25-11-105, on or
 23 prior to July 1, 1953, or who becomes a member and contributes to
 24 the system for a minimum period of four (4) years, shall receive
 25 credit for all state service rendered before February 1, 1953. To
 26 receive such credit, such member shall file a detailed statement
 27 of all services as an employee rendered by him in the state
 28 service before February 1, 1953. For any member who joined the
 29 system after July 1, 1953, any creditable service for which the
 30 member is not required to make contributions shall not be credited
 31 to the member until the member has contributed to the system for a
 32 minimum period of at least four (4) years.

33 (2) In the computation of membership service or prior
 34 service under the provisions of this article, the total months of

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

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

66 In the computation of unused leave for creditable service
67 authorized in Section 25-11-103, the following shall govern:

68 twenty-one (21) days of unused leave shall constitute one (1)
69 month of creditable service and in no case shall credit be allowed
70 for any period of unused leave of less than fifteen (15) days.
71 The number of months of unused leave shall determine the number of
72 quarters or years of creditable service in accordance with the
73 above schedule for membership and prior service. In order for the
74 member to receive creditable service for the number of days of
75 unused leave, the system must receive certification from the
76 governing authority.

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

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

84 (b) For service on and after July 1, 1984, the member
85 shall receive credit for personal and major medical leave
86 beginning July 1, 1984, at the rates authorized in Sections
87 25-3-93 and 25-3-95, computed as a full-time employee.

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

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

101 Any modification or correction authorized shall only apply
102 prospectively.

103 When membership ceases, such prior service certificates shall
104 become void. Should the employee again become a member, he shall
105 enter the system as an employee not entitled to prior service
106 credit except as provided in Sections 25-11-105(I), 25-11-113 and
107 25-11-117.

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

114 (6) (a) Any member who served on active duty in the Armed
115 Forces of the United States, who served in the Commissioned Corps
116 of the United States Public Health Service before 1972, or who
117 served in maritime service during periods of hostility in World
118 War II, shall be entitled to creditable service at no cost for his
119 service on active duty in the Armed Forces, in the Commissioned
120 Corps of the United States Public Health Service before 1972, or
121 in that maritime service, provided that he entered state service
122 after his discharge from the Armed Forces or entered state service
123 after he completed that maritime service.

124 (b) Any retired member of the system who is a member of
125 the Mississippi National Guard or a member of a reserve component
126 of the United States Armed Forces that is based in Mississippi,
127 who serves on active duty with the National Guard or the reserve
128 component of the Armed Forces for four (4) or more consecutive
129 months while a retired member of the system, shall be entitled to
130 creditable service at no cost for that active duty service. When
131 the retired member is no longer serving on active duty with the
132 National Guard or the reserve component of the Armed Forces, the
133 retired member may apply to the system to receive that creditable

134 service and have his or her retirement allowance recomputed with
135 that creditable service included.

136 (c) The maximum period for creditable service for all
137 military service as defined in this subsection (6) shall not
138 exceed four (4) years, unless positive proof can be furnished by
139 the person that he was retained in the Armed Forces during World
140 War II or in maritime service during World War II by causes beyond
141 his control and without opportunity of discharge. The member
142 shall furnish proof satisfactory to the board of trustees of
143 certification of military service or maritime service records
144 showing dates of entrance into active duty service and the date of
145 discharge. From and after July 1, 1993, no creditable service
146 shall be granted for any military service or maritime service to a
147 member who qualifies for a retirement allowance in another public
148 retirement system administered by the Board of Trustees of the
149 Public Employees' Retirement System based in whole or in part on
150 that military or maritime service. In no case shall the member
151 receive creditable service if the member received a dishonorable
152 discharge from the Armed Forces of the United States.

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

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

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

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

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

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

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

195 (a) The member shall furnish proof satisfactory to the
196 board of trustees of certification of such services from the
197 state, public education system, political subdivision or
198 retirement system of the state where the services were performed

199 or the governing entity of the American overseas dependent school
200 where the services were performed; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

265 creditable service for the period of such service for which full
266 payment has been made to the retirement system.

267 **SECTION 2.** The amendment to Section 25-11-109(6) by Section
268 1 of this act that provides creditable service to retired members
269 of the Public Employees' Retirement System who are members of the
270 Mississippi National Guard or members of a reserve component of
271 the United States Armed Forces that is based in Mississippi, who
272 serve on active duty with the National Guard or the reserve
273 component of the Armed Forces for four (4) or more consecutive
274 months while a retired member of the system, shall be retroactive
275 to include active duty service that occurred before July 1, 2004.
276 Any retired member of the system who is eligible to receive
277 creditable service for active duty service with the National Guard
278 or the reserve component of the Armed Forces that occurred before
279 July 1, 2004:

280 (a) Who is not serving on active duty on July 1, 2004,
281 shall have until July 1, 2006, to apply to the system to obtain
282 that creditable service; or

283 (b) Who is serving on active duty on July 1, 2004,
284 shall have two (2) years from the date that the retired member is
285 no longer serving on active duty to apply to the system to obtain
286 that creditable service.

287 **SECTION 3.** This act shall take effect and be in force from
288 and after July 1, 2004.