

By: Senator(s) Tollison

To: Finance

SENATE BILL NO. 2328

1 AN ACT TO AMEND SECTION 25-11-109, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM
3 WHO SERVED IN THE MISSISSIPPI NATIONAL GUARD AS FULL-TIME
4 TECHNICIANS SHALL BE ENTITLED TO A CERTAIN AMOUNT OF CREDITABLE
5 SERVICE FOR SUCH 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 fiscal year; however, for a school
41 employee, substantial completion of the legal school term when and
42 where the service was rendered shall constitute a year of service
43 credit for both prior service and membership service. Any state
44 or local elected official shall be deemed a full-time employee for
45 the purpose of creditable service for prior service or membership
46 service. However, an appointed or elected official compensated on
47 a per diem basis only shall not be allowed creditable service for
48 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) Any member who served on active duty in the Armed Forces
104 of the United States, who served in the Commissioned Corps of the
105 United States Public Health Service prior to 1972, who served as a
106 full-time technician as an enlisted member of the Mississippi
107 National Guard or who served in maritime service during periods of
108 hostility in World War II, shall be entitled to creditable service
109 at no cost for his service on active duty in the Armed Forces, in
110 the Commissioned Corps of the United States Public Health Service
111 prior to 1972, who served as a full-time technician as an enlisted
112 member of the Mississippi National Guard or in such maritime
113 service, provided he entered state service after his discharge
114 from the Armed Forces or entered state service after he completed
115 such maritime service. The maximum period for such creditable
116 service for all military service as defined in this subsection (6)
117 shall not exceed four (4) years unless positive proof can be
118 furnished by such person that he was retained in the Armed Forces
119 during World War II or in maritime service during World War II by
120 causes beyond his control and without opportunity of discharge.
121 The member shall furnish proof satisfactory to the board of
122 trustees of certification of military service or maritime service
123 records showing dates of entrance into active duty service and the
124 date of discharge. From and after July 1, 1993, no creditable
125 service shall be granted for any military service or maritime
126 service to a member who qualifies for a retirement allowance in
127 another public retirement system administered by the Board of

128 Trustees of the Public Employees' Retirement System based in whole
129 or in part on such military or maritime service. In no case shall
130 the member receive creditable service if the member received a
131 dishonorable discharge from the Armed Forces of the United States.

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

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

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

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

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

159 (c) The member shall furnish proof satisfactory to the
160 board of trustees of certification of military service showing

161 dates of entrance into qualified service and the date of discharge
162 as well as proof that the member has returned to active employment
163 within the time specified.

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

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

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

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

192 (9) Any member of the Public Employees' Retirement System
193 who has at least four (4) years of membership service credit and

194 who receives, or has received, professional leave without
195 compensation for professional purposes directly related to the
196 employment in state service shall receive creditable service for
197 the period of professional leave without compensation provided:

198 (a) The professional leave is performed with a public
199 institution or public agency of this state, or another state or
200 federal agency;

201 (b) The employer approves the professional leave
202 showing the reason for granting the leave and makes a
203 determination that the professional leave will benefit the
204 employee and employer;

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

207 (d) The employee shall serve the employer on a
208 full-time basis for a period of time equivalent to the
209 professional leave period granted immediately following the
210 termination of the leave period;

211 (e) The contributing member shall pay to the retirement
212 system the actuarial cost as determined by the actuary for each
213 year of professional leave. The provisions of this subsection are
214 subject to the regulations of the Internal Revenue Code
215 limitations;

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

219 Any actively contributing member participating in the School
220 Administrator Sabbatical Program established in Section 37-9-77
221 shall qualify for continued participation under this subsection
222 (9).

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

227 (a) Any service rendered as an employee of any
228 political subdivision of this state, or any instrumentality
229 thereof, which does not participate in the Public Employees'
230 Retirement System; or

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

235 (c) Any service rendered as an employee of any
236 political subdivision of this state, or any instrumentality
237 thereof, for which coverage of the employee's position was or is
238 excluded; provided that the member pays into the retirement system
239 the actuarial cost as determined by the actuary for each year, or
240 portion thereof, of such service. Payment for such service may be
241 made in increments of one-quarter-year of creditable service.
242 After a member has made full payment to the retirement system for
243 all or any part of such service, the member shall receive
244 creditable service for the period of such service for which full
245 payment has been made to the retirement system.

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