

By: Senator(s) Nunnelee

To: Finance

SENATE BILL NO. 2341

1 AN ACT TO AMEND SECTIONS 25-11-109 AND 25-11-131, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT A MEMBER OF THE PUBLIC EMPLOYEES'
3 RETIREMENT SYSTEM SHALL RECEIVE SERVICE CREDIT FOR CERTAIN
4 NATIONAL GUARD OR RESERVE SERVICE THAT WAS ERRONEOUSLY CREDITED TO
5 HIS MEMBERSHIP ACCOUNT; 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 (1) fiscal year; however, for a
41 school employee, substantial completion of the legal school term
42 when and where the service was rendered shall constitute a year of
43 service credit for both prior service and membership service. Any
44 state or local elected official shall be deemed a full-time
45 employee for the purpose of creditable service for prior service
46 or membership service. However, an appointed or elected official
47 compensated on a per diem basis only shall not be allowed
48 creditable service for 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) (a) Any member who served on active duty in the Armed
104 Forces of the United States, who served in the Commissioned Corps
105 of the United States Public Health Service prior to 1972 or who
106 served in maritime service during periods of hostility in World
107 War II, shall be entitled to creditable service at no cost for his
108 service on active duty in the Armed Forces, in the Commissioned
109 Corps of the United States Public Health Service prior to 1972 or
110 in such maritime service, provided he entered state service after
111 his discharge from the Armed Forces or entered state service after
112 he completed such maritime service. The maximum period for such
113 creditable service for all military service as defined in this
114 subsection (6) shall not exceed four (4) years unless positive
115 proof can be furnished by such person that he was retained in the
116 Armed Forces during World War II or in maritime service during
117 World War II by causes beyond his control and without opportunity
118 of discharge. The member shall furnish proof satisfactory to the
119 board of trustees of certification of military service or maritime
120 service records showing dates of entrance into active duty service
121 and the date of discharge. From and after July 1, 1993, no
122 creditable service shall be granted for any military service or
123 maritime service to a member who qualifies for a retirement
124 allowance in another public retirement system administered by the
125 Board of Trustees of the Public Employees' Retirement System based
126 in whole or in part on such military or maritime service. In no
127 case shall the member receive creditable service if the member

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

130 (b) Any member who was erroneously granted credit by
131 the system for service in the National Guard or United States
132 Reserves prior to July 1, 2004, shall be entitled to creditable
133 service at no cost for such service; however, creditable service
134 for service in the National Guard or Reserves shall not exceed
135 four (4) years.

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

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

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

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

158 (b) The payments required to be made in paragraph
159 (a)(i) of this subsection may be made over a period beginning with
160 the date of return to membership service and not exceeding three

161 (3) times the member's qualified military service; however, in no
162 event shall such period exceed five (5) years.

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

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

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

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

189 (c) The member shall pay to the retirement system on
190 the date he or she is eligible for credit for such out-of-state
191 service or at any time thereafter prior to date of retirement the
192 actuarial cost as determined by the actuary for each year of
193 out-of-state creditable service. The provisions of this

194 subsection are subject to the limitations of Section 415 of the
195 Internal Revenue Code and regulations promulgated thereunder.

196 (9) Any member of the Public Employees' Retirement System
197 who has at least four (4) years of membership service credit and
198 who receives, or has received, professional leave without
199 compensation for professional purposes directly related to the
200 employment in state service shall receive creditable service for
201 the period of professional leave without compensation provided:

202 (a) The professional leave is performed with a public
203 institution or public agency of this state, or another state or
204 federal agency;

205 (b) The employer approves the professional leave
206 showing the reason for granting the leave and makes a
207 determination that the professional leave will benefit the
208 employee and employer;

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

211 (d) The employee shall serve the employer on a
212 full-time basis for a period of time equivalent to the
213 professional leave period granted immediately following the
214 termination of the leave period;

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

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

223 Any actively contributing member participating in the School
224 Administrator Sabbatical Program established in Section 37-9-77
225 shall qualify for continued participation under this subsection
226 (9).

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

231 (a) Any service rendered as an employee of any
232 political subdivision of this state, or any instrumentality
233 thereof, which does not participate in the Public Employees'
234 Retirement System; or

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

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

250 **SECTION 2.** Section 25-11-131, Mississippi Code of 1972, is
251 amended as follows:

252 25-11-131. (1) Any person or corporation who shall receive
253 and retain any payment, after the death of a member or after the
254 death of the beneficiary of any member, which amount is not
255 lawfully due, shall be liable for the repayment of such amount to
256 the retirement system plus interest thereon at ten percent (10%)
257 per annum plus all costs of collection. Any person who shall
258 knowingly make any false statement or shall falsify or permit to
259 be falsified any record or records of this retirement system in

260 any attempt to defraud such system as a result of such act shall
261 be guilty of a misdemeanor if the amount obtained or attempted to
262 be obtained does not exceed the amount of Five Hundred Dollars
263 (\$500.00), and, on conviction thereof by any court of competent
264 jurisdiction, shall be punished by a fine not exceeding Five
265 Hundred Dollars (\$500.00) or imprisonment in the county jail not
266 exceeding six (6) months, or both; if such amount obtained or
267 attempted to be obtained shall exceed the sum of Five Hundred
268 Dollars (\$500.00), such person or persons shall be guilty of a
269 felony and, on conviction thereof by any court of competent
270 jurisdiction, shall be punished by a fine not exceeding Ten
271 Thousand Dollars (\$10,000.00) or by imprisonment in the State
272 Penitentiary not exceeding five (5) years, or both.

273 (2) Except as otherwise provided in subsection (3) of this
274 section, should any change or error in the records result in any
275 member or beneficiary receiving from the retirement system more or
276 less than he would have been entitled to receive had the records
277 been correct, the board * * * shall correct such error upon
278 detection, regardless of the length of time between the reporting
279 error or the time payment started and the time the board became
280 aware of the error, and, as far as practicable, adjust the payment
281 in such a manner that the actuarial equivalent of the benefit to
282 which such member or beneficiary was correctly entitled shall be
283 paid. This responsibility is, and has been, the duty of the board
284 since the creation of the retirement system.

285 (3) If, prior to July 1, 2004, the retirement system has
286 credited the retirement account of a member with not more than
287 four (4) years of service in the National Guard or United States
288 Reserves and later determines this credit to be an error, the
289 board shall not be allowed to correct such error.

290 **SECTION 3.** This act shall take effect and be in force from
291 and after its passage.