

By: Senator(s) Dearing

To: Finance

SENATE BILL NO. 2871

1 AN ACT TO AMEND SECTION 25-11-109, MISSISSIPPI CODE OF 1972,  
2 TO ALLOW MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO  
3 RECEIVE CREDITABLE SERVICE FOR SERVICE RENDERED AS AN ELECTED  
4 OFFICIAL OF A POLITICAL SUBDIVISION OF THIS STATE WHICH WAS  
5 COMPENSATED ON A PER DIEM BASIS; 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. \* \* \*

47 In the computation of any retirement allowance or any annuity  
48 or benefits provided in this article, any fractional period of  
49 service of less than one (1) year shall be taken into account and  
50 a proportionate amount of such retirement allowance, annuity or  
51 benefit shall be granted for any such fractional period of  
52 service.

53 In the computation of unused leave for creditable service  
54 authorized in Section 25-11-103, the following shall govern:  
55 twenty-one (21) days of unused leave shall constitute one (1)  
56 month of creditable service and in no case shall credit be allowed  
57 for any period of unused leave of less than fifteen (15) days.  
58 The number of months of unused leave shall determine the number of  
59 quarters or years of creditable service in accordance with the  
60 above schedule for membership and prior service. In order for the  
61 member to receive creditable service for the number of days of

62 unused leave, the system must receive certification from the  
63 governing authority.

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

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

71 (b) For service on and after July 1, 1984, the member  
72 shall receive credit for personal and major medical leave  
73 beginning July 1, 1984, at the rates authorized in Sections  
74 25-3-93 and 25-3-95, computed as a full-time employee.

75 (3) Subject to the above restrictions and to such other  
76 rules and regulations as the board may adopt, the board shall  
77 verify, as soon as practicable after the filing of such statements  
78 of service, the services therein claimed.

79 (4) Upon verification of the statement of prior service, the  
80 board shall issue a prior service certificate certifying to each  
81 member the length of prior service for which credit shall have  
82 been allowed on the basis of his statement of service. So long as  
83 membership continues, a prior service certificate shall be final  
84 and conclusive for retirement purposes as to such service,  
85 provided that any member may within five (5) years from the date  
86 of issuance or modification of such certificate request the board  
87 of trustees to modify or correct his prior service certificate.  
88 Any modification or correction authorized shall only apply  
89 prospectively.

90 When membership ceases, such prior service certificates shall  
91 become void. Should the employee again become a member, he shall  
92 enter the system as an employee not entitled to prior service  
93 credit except as provided in Sections 25-11-105(I), 25-11-113 and  
94 25-11-117.

95           (5) Creditable service at retirement, on which the  
96 retirement allowance of a member shall be based, shall consist of  
97 the membership service rendered by him since he last became a  
98 member, and also, if he has a prior service certificate which is  
99 in full force and effect, the amount of the service certified on  
100 his prior service certificate.

101           (6) Any member who served on active duty in the Armed Forces  
102 of the United States, who served in the Commissioned Corps of the  
103 United States Public Health Service prior to 1972 or who served in  
104 maritime service during periods of hostility in World War II,  
105 shall be entitled to creditable service at no cost for his service  
106 on active duty in the Armed Forces, in the Commissioned Corps of  
107 the United States Public Health Service prior to 1972 or in such  
108 maritime service, provided he entered state service after his  
109 discharge from the Armed Forces or entered state service after he  
110 completed such maritime service. The maximum period for such  
111 creditable service for all military service as defined in this  
112 subsection (6) shall not exceed four (4) years unless positive  
113 proof can be furnished by such person that he was retained in the  
114 Armed Forces during World War II or in maritime service during  
115 World War II by causes beyond his control and without opportunity  
116 of discharge. The member shall furnish proof satisfactory to the  
117 board of trustees of certification of military service or maritime  
118 service records showing dates of entrance into active duty service  
119 and the date of discharge. From and after July 1, 1993, no  
120 creditable service shall be granted for any military service or  
121 maritime service to a member who qualifies for a retirement  
122 allowance in another public retirement system administered by the  
123 Board of Trustees of the Public Employees' Retirement System based  
124 in whole or in part on such military or maritime service. In no  
125 case shall the member receive creditable service if the member  
126 received a dishonorable discharge from the Armed Forces of the  
127 United States.

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

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

142                       (ii) The member returns to membership service  
143 within ninety (90) days of the end of his qualified military  
144 service; and

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

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

155           (c) The member shall furnish proof satisfactory to the  
156 board of trustees of certification of military service showing  
157 dates of entrance into qualified service and the date of discharge  
158 as well as proof that the member has returned to active employment  
159 within the time specified.

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

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

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

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

188           (9) Any member of the Public Employees' Retirement System  
189 who has at least four (4) years of membership service credit and  
190 who receives, or has received, professional leave without  
191 compensation for professional purposes directly related to the

192 employment in state service shall receive creditable service for  
193 the period of professional leave without compensation provided:

194 (a) The professional leave is performed with a public  
195 institution or public agency of this state, or another state or  
196 federal agency;

197 (b) The employer approves the professional leave  
198 showing the reason for granting the leave and makes a  
199 determination that the professional leave will benefit the  
200 employee and employer;

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

203 (d) The employee shall serve the employer on a  
204 full-time basis for a period of time equivalent to the  
205 professional leave period granted immediately following the  
206 termination of the leave period;

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

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

215 Any actively contributing member participating in the School  
216 Administrator Sabbatical Program established in Section 37-9-77  
217 shall qualify for continued participation under this subsection  
218 (9).

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

223 (a) Any service rendered as an employee of any  
224 political subdivision of this state, or any instrumentality

225 thereof, which does not participate in the Public Employees'  
226 Retirement System; or

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

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

242 **SECTION 2.** The Attorney General of the State of Mississippi  
243 shall submit this act, immediately upon approval by the Governor,  
244 or upon approval by the Legislature subsequent to a veto, to the  
245 Attorney General of the United States or to the United States  
246 District Court for the District of Columbia in accordance with the  
247 provisions of the Voting Rights Act of 1965, as amended and  
248 extended.

249 **SECTION 3.** This act shall take effect and be in force from  
250 and after the date it is effectuated under Section 5 of the Voting  
251 Rights Act of 1965, as amended and extended.