

By: Representatives Ishee, Smith (59th),
Palazzo

To: Appropriations

HOUSE BILL NO. 390

1 AN ACT TO AMEND SECTION 25-11-109, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT ANY VESTED MEMBER OF THE PUBLIC EMPLOYEES'
3 RETIREMENT SYSTEM WHO SERVED AS A SWORN LAW ENFORCEMENT OFFICER IN
4 HANCOCK, HARRISON OR JACKSON COUNTY DURING THE PERIOD FROM AUGUST
5 29, 2005, THROUGH SEPTEMBER 5, 2005, AND WHO SERVED AS A LAW
6 ENFORCEMENT OFFICER WITH THE SAME AGENCY OR POLITICAL SUBDIVISION
7 FOR NOT LESS THAN ONE YEAR THEREAFTER, SHALL BE ENTITLED TO
8 ADDITIONAL CREDITABLE SERVICE IN THE SYSTEM FOR THAT LAW
9 ENFORCEMENT SERVICE AT NO COST, NOT TO EXCEED ONE YEAR OF
10 CREDITABLE SERVICE; AND FOR RELATED PURPOSES.

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

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

14 25-11-109. (1) Under such rules and regulations as the
15 board of trustees shall adopt, each person who becomes a member of
16 this retirement system, as provided in Section 25-11-105, on or
17 prior to July 1, 1953, or who becomes a member and contributes to
18 the system for a minimum period of four (4) years, shall receive
19 credit for all state service rendered before February 1, 1953. To
20 receive such credit, such member shall file a detailed statement
21 of all services as an employee rendered by him in the state
22 service before February 1, 1953. For any member who joined the
23 system after July 1, 1953, any creditable service for which the
24 member is not required to make contributions shall not be credited
25 to the member until the member has contributed to the system for a
26 minimum period of at least four (4) years.

27 (2) In the computation of membership service or prior
28 service under the provisions of this article, the total months of
29 accumulative service during any fiscal year shall be calculated in
30 accordance with the schedule as follows: ten (10) or more months
31 of creditable service during any fiscal year shall constitute a

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

54 In the computation of any retirement allowance or any annuity
55 or benefits provided in this article, any fractional period of
56 service of less than one (1) year shall be taken into account and
57 a proportionate amount of such retirement allowance, annuity or
58 benefit shall be granted for any such fractional period of
59 service.

60 In the computation of unused leave for creditable service
61 authorized in Section 25-11-103, the following shall govern:
62 twenty-one (21) days of unused leave shall constitute one (1)
63 month of creditable service and in no case shall credit be allowed
64 for any period of unused leave of less than fifteen (15) days.

65 The number of months of unused leave shall determine the number of
66 quarters or years of creditable service in accordance with the
67 above schedule for membership and prior service. In order for the
68 member to receive creditable service for the number of days of
69 unused leave, the system must receive certification from the
70 governing authority.

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

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

78 (b) For service on and after July 1, 1984, the member
79 shall receive credit for personal and major medical leave
80 beginning July 1, 1984, at the rates authorized in Sections
81 25-3-93 and 25-3-95, computed as a full-time employee.

82 (3) Subject to the above restrictions and to such other
83 rules and regulations as the board may adopt, the board shall
84 verify, as soon as practicable after the filing of such statements
85 of service, the services therein claimed.

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

97 When membership ceases, such prior service certificates shall
98 become void. Should the employee again become a member, he shall
99 enter the system as an employee not entitled to prior service
100 credit except as provided in Sections 25-11-105(I), 25-11-113 and
101 25-11-117.

102 (5) Creditable service at retirement, on which the
103 retirement allowance of a member shall be based, shall consist of
104 the membership service rendered by him since he last became a
105 member, and also, if he has a prior service certificate which is
106 in full force and effect, the amount of the service certified on
107 his prior service certificate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

226 (10) Any member of the Public Employees' Retirement System
227 who has at least four (4) years of credited membership service

228 shall be entitled to receive a maximum of ten (10) years
229 creditable service for:

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

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

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

249 (11) Any member of the Public Employees' Retirement System
250 who has at least four (4) years of membership service credit, who
251 served as a sworn law enforcement officer in Hancock, Harrison or
252 Jackson County during the period from August 29, 2005, through
253 September 5, 2005, and who served as a law enforcement officer
254 with the same agency or political subdivision for not less than
255 one (1) year after September 5, 2005, shall be entitled to
256 additional creditable service in the system for that law
257 enforcement service at no cost, not to exceed one (1) year of
258 creditable service. The member shall furnish proof satisfactory
259 to the board of trustees of certification of service as a sworn
260 law enforcement officer in Hancock, Harrison or Jackson County

261 during the period from August 29, 2005, through September 5, 2005,
262 and service as a law enforcement officer with the same agency or
263 political subdivision for not less than one (1) year after
264 September 5, 2005. No creditable service shall be granted to a
265 member under this subsection (11) for such service as a sworn law
266 enforcement officer if the member qualifies for a retirement
267 allowance in another public retirement system administered by the
268 Board of Trustees of the Public Employees' Retirement System based
269 in whole or in part on that service.

270 **SECTION 2.** This act shall take effect and be in force from
271 and after July 1, 2007.