

By: Representative McBride

To: Appropriations

HOUSE BILL NO. 1071

1 AN ACT TO AMEND SECTION 25-11-109, MISSISSIPPI CODE OF 1972,
2 TO INCREASE THE MAXIMUM NUMBER OF YEARS OF MILITARY SERVICE FOR
3 WHICH A MEMBER OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM MAY
4 RECEIVE CREDITABLE SERVICE FROM FOUR YEARS TO SIX YEARS; AND FOR
5 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) 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 before 1972 or who served in
106 maritime service during periods of hostility in World War II,
107 shall be entitled to creditable service at no cost for his service
108 on active duty in the Armed Forces, in the Commissioned Corps of
109 the United States Public Health Service before 1972 or in such
110 maritime service, provided he entered state service after his
111 discharge from the Armed Forces or entered state service after he
112 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 six (6) 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 (7) (a) Any member of the Public Employees' Retirement
131 System whose membership service is interrupted as a result of
132 qualified military service within the meaning of Section 414(u)(5)
133 of the Internal Revenue Code, and who has received the maximum
134 service credit available under subsection (6) of this section,
135 shall receive creditable service for the period of qualified
136 military service that does not qualify as creditable service under
137 subsection (6) of this section upon reentering membership service
138 in an amount not to exceed five (5) years if:

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

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

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

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

157 (c) The member shall furnish proof satisfactory to the
158 board of trustees of certification of military service showing
159 dates of entrance into qualified service and the date of discharge

160 as well as proof that the member has returned to active employment
161 within the time specified.

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

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

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

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

190 (9) Any member of the Public Employees' Retirement System
191 who has at least four (4) years of membership service credit and
192 who receives, or has received, professional leave without

193 compensation for professional purposes directly related to the
194 employment in state service shall receive creditable service for
195 the period of professional leave without compensation provided:

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

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

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

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

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

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

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

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

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

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

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

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