

By: Representative Watson

To: Appropriations

HOUSE BILL NO. 1398

1 AN ACT TO AMEND SECTION 37-6-13, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE MEMBERS OF SCHOOL BOARDS TO BECOME MEMBERS OF THE PUBLIC
3 EMPLOYEES RETIREMENT SYSTEM; TO AMEND SECTION 25-11-109,
4 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED
5 PURPOSES.

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

7 **SECTION 1.** Section 37-6-13, Mississippi Code of 1972, is
8 amended as follows:

9 37-6-13. (1) Each person serving as a member of the school
10 board of any school district shall receive per diem in the amount
11 of Sixty-seven Dollars (\$67.00) for no more than thirty-six (36)
12 meetings of the school board during any one (1) fiscal year or, in
13 his or her discretion, irrevocably may choose to receive as
14 compensation for his or her services an annual salary in the
15 amount of Two Thousand Four Hundred Dollars (\$2,400.00), which
16 choice shall remain in force for all successive terms or periods
17 of service of that member. The receipt of the compensation shall
18 not entitle any member of a school board to receive or be eligible
19 for any state employee group insurance * * * or other fringe
20 benefits; however, any member of a school board may become a
21 member of the Public Employees' Retirement System if that school
22 board member meets the eligibility requirements prescribed under
23 Article 3, Chapter 11, Title 25, Mississippi Code of 1972. Each
24 member shall be reimbursed for the necessary expenses and mileage
25 in attending meetings of the school board. In addition to the
26 foregoing, all members may be reimbursed for mileage and actual
27 expenses incurred in the further performance of their duties,
28 including attendance at any mandatory school board training

29 session or at regional and national education meetings, when the
30 mileage and other expenses are authorized by the board before the
31 date on which they occur. Detailed vouchers shall be submitted
32 for reimbursement for all expenses authorized by this section.
33 The reimbursement shall be in accordance with Section 25-3-41.

34 The expenses shall be paid on order of the school board by
35 pay certificates issued by the superintendent of the school
36 district involved against the funds available for payment of the
37 administrative expense of the district.

38 (2) (a) If a member of a school board misses twenty percent
39 (20%) or more of the meetings of the school board during a
40 calendar year, except for absences caused by required military
41 duty, the member must reimburse the school district that portion
42 of the total salary paid to the member that year that is
43 proportionate to the number of meetings missed by the member in
44 relation to the total number of school board meetings held during
45 that year. For purposes of this subsection, consideration may be
46 given only to meetings of which public notice is required.

47 (b) Before February 1 of each year, the president of
48 each local school board shall submit a report to the State Board
49 of Education containing the names of any members of the school
50 board who missed twenty percent (20%) or more of the school board
51 meetings during the preceding calendar year.

52 **SECTION 2.** Section 25-11-109, Mississippi Code of 1972, is
53 amended as follows:

54 25-11-109. (1) Under such rules and regulations as the
55 board * * * shall adopt, each person who becomes a member of this
56 retirement system, as provided in Section 25-11-105, on or before
57 July 1, 1953, or who becomes a member and contributes to the
58 system for a minimum period of four (4) years, shall receive
59 credit for all state service rendered before February 1, 1953. To
60 receive the credit, the member shall file a detailed statement of
61 all services as an employee rendered by him in the state service

62 before February 1, 1953. For any member who joined the system
63 after July 1, 1953, any creditable service for which the member is
64 not required to make contributions shall not be credited to the
65 member until the member has contributed to the system for a
66 minimum period of at least four (4) years.

67 (2) In the computation of membership service or prior
68 service under the provisions of this article, the total months of
69 accumulative service during any fiscal year shall be calculated in
70 accordance with the schedule as follows: ten (10) or more months
71 of creditable service during any fiscal year shall constitute a
72 year of creditable service; seven (7) months to nine (9) months
73 inclusive, three-quarters (3/4) of a year of creditable service;
74 four (4) months to six (6) months inclusive, one-half-year of
75 creditable service; one (1) month to three (3) months inclusive,
76 one-quarter (1/4) of a year of creditable service. In no case
77 shall credit be allowed for any period of absence without
78 compensation except for disability while in receipt of a
79 disability retirement allowance, nor shall less than fifteen (15)
80 days of service in any month, or service less than the equivalent
81 of one-half (1/2) of the normal working load for the position and
82 less than one-half (1/2) of the normal compensation for the
83 position in any month, constitute a month of creditable service,
84 nor shall more than one (1) year of service be creditable for all
85 services rendered in any one (1) fiscal year; however, for a
86 school employee, substantial completion of the legal school term
87 when and where the service was rendered shall constitute a year of
88 service credit for both prior service and membership service. Any
89 state or local elected official shall be deemed a full-time
90 employee for the purpose of creditable service for prior service
91 or membership service. However, except as otherwise provided in
92 Section 37-6-13, an appointed or elected official compensated on a
93 per diem basis only shall not be allowed creditable service for
94 terms of office.

95 In the computation of any retirement allowance or any annuity
96 or benefits provided in this article, any fractional period of
97 service of less than one (1) year shall be taken into account and
98 a proportionate amount of the retirement allowance, annuity or
99 benefit shall be granted for the fractional period of service.

100 In the computation of unused leave for creditable service
101 authorized in Section 25-11-103, the following shall govern:
102 twenty-one (21) days of unused leave shall constitute one (1)
103 month of creditable service and in no case shall credit be allowed
104 for any period of unused leave of less than fifteen (15) days.
105 The number of months of unused leave shall determine the number of
106 quarters or years of creditable service in accordance with the
107 above schedule for membership and prior service. In order for the
108 member to receive creditable service for the number of days of
109 unused leave, the system must receive certification from the
110 governing authority.

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

114 (a) For service before July 1, 1984, the members shall
115 receive credit for leave (combined personal and major medical) for
116 service as an elected official before that date at the rate of
117 thirty (30) days per year.

118 (b) For service on and after July 1, 1984, the member
119 shall receive credit for personal and major medical leave
120 beginning July 1, 1984, at the rates authorized in Sections
121 25-3-93 and 25-3-95, computed as a full-time employee.

122 (3) Subject to the above restrictions and to any rules and
123 regulations as the board may adopt, the board shall verify, as
124 soon as practicable after the filing of the statements of service,
125 the services * * * claimed in the statements.

126 (4) Upon verification of the statement of prior service, the
127 board shall issue a prior service certificate certifying to each

128 member the length of prior service for which credit has been
129 allowed on the basis of his statement of service. So long as
130 membership continues, a prior service certificate shall be final
131 and conclusive for retirement purposes as to the service, provided
132 that any member may within five (5) years from the date of
133 issuance or modification of the certificate request the
134 board * * * to modify or correct his prior service certificate.
135 Any modification or correction authorized shall only apply
136 prospectively.

137 When membership ceases, the prior service certificates shall
138 become void. If the employee again becomes a member, he shall
139 enter the system as an employee not entitled to prior service
140 credit except as provided in Sections 25-11-105(I), 25-11-113 and
141 25-11-117.

142 (5) Creditable service at retirement, on which the
143 retirement allowance of a member shall be based, shall consist of
144 the membership service rendered by him since he last became a
145 member, and also, if he has a prior service certificate that is in
146 full force and effect, the amount of the service certified on his
147 prior service certificate.

148 (6) Any member who served on active duty in the Armed Forces
149 of the United States, who served in the Commissioned Corps of the
150 United States Public Health Service before 1972 or who served in
151 maritime service during periods of hostility in World War II,
152 shall be entitled to creditable service at no cost for his service
153 on active duty in the Armed Forces, in the Commissioned Corps of
154 the United States Public Health Service before 1972 or in * * *
155 maritime service, provided that he entered state service after his
156 discharge from the Armed Forces or entered state service after he
157 completed the maritime service. The maximum period for * * *
158 creditable service for all military service as defined in this
159 subsection (6) shall not exceed four (4) years unless positive
160 proof can be furnished by the person that he was retained in the

161 Armed Forces during World War II or in maritime service during
162 World War II by causes beyond his control and without opportunity
163 of discharge. The member shall furnish proof satisfactory to the
164 board * * * of certification of military service or maritime
165 service records showing dates of entrance into active duty service
166 and the date of discharge. From and after July 1, 1993, no
167 creditable service shall be granted for any military service or
168 maritime service to a member who qualifies for a retirement
169 allowance in another public retirement system administered by the
170 board * * * based in whole or in part on * * * military or
171 maritime service. In no case shall the member receive creditable
172 service if the member received a dishonorable discharge from the
173 Armed Forces of the United States.

174 (7) (a) Any member of the Public Employees' Retirement
175 System whose membership service is interrupted as a result of
176 qualified military service within the meaning of Section 414(u)(5)
177 of the Internal Revenue Code, and who has received the maximum
178 service credit available under subsection (6) of this section,
179 shall receive creditable service for the period of qualified
180 military service that does not qualify as creditable service under
181 subsection (6) of this section upon reentering membership service
182 in an amount not to exceed five (5) years if:

183 (i) The member pays the contributions he would
184 have made to the retirement system if he had remained in
185 membership service for the period of qualified military service
186 based upon his salary at the time his membership service was
187 interrupted;

188 (ii) The member returns to membership service
189 within ninety (90) days of the end of his qualified military
190 service; and

191 (iii) The employer at the time the member's
192 service was interrupted and to which employment the member returns
193 pays the contributions it would have made into the retirement

194 system for the period based on the member's salary at the time the
195 service was interrupted.

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

201 (c) The member shall furnish proof satisfactory to the
202 board * * * of certification of military service showing dates of
203 entrance into qualified service and the date of discharge as well
204 as proof that the member has returned to active employment within
205 the time specified.

206 (8) Any member of the Public Employees' Retirement System
207 who has at least four (4) years of membership service credit shall
208 be entitled to receive a maximum of five (5) years creditable
209 service for service rendered in another state as a public employee
210 of the other state, or a political subdivision, public education
211 system or other governmental instrumentality thereof, or service
212 rendered as a teacher in American overseas dependent schools
213 conducted by the Armed Forces of the United States for children of
214 citizens of the United States residing in areas outside the
215 continental United States, provided that:

216 (a) The member shall furnish proof satisfactory to the
217 board * * * of certification of the service from the state, public
218 education system, political subdivision or retirement system of
219 the state where the services were performed or the governing
220 entity of the American overseas dependent school where the service
221 was performed; and

222 (b) The member is not receiving or will not be entitled
223 to receive from the public retirement system of the other state or
224 from any other retirement plan, including optional retirement
225 plans, sponsored by the employer, a retirement allowance including
226 the service; and

227 (c) The member shall pay to the retirement system on
228 the date he or she is eligible for credit for the out-of-state
229 service or at any time thereafter before the date of retirement
230 the actuarial cost as determined by the actuary for each year of
231 out-of-state creditable service. The provisions of this
232 subsection are subject to the limitations of Section 415 of the
233 Internal Revenue Code and regulations promulgated under that
234 section.

235 (9) Any member of the Public Employees' Retirement System
236 who has at least four (4) years of membership service credit and
237 who receives, or has received, professional leave without
238 compensation for professional purposes directly related to the
239 employment in state service shall receive creditable service for
240 the period of professional leave without compensation provided:

241 (a) The professional leave is performed with a public
242 institution or public agency of this state, or another state or
243 federal agency;

244 (b) The employer approves the professional leave
245 showing the reason for granting the leave and makes a
246 determination that the professional leave will benefit the
247 employee and employer;

248 (c) The professional leave shall not exceed two (2)
249 years during any ten-year period of state service;

250 (d) The employee shall serve the employer on a
251 full-time basis for a period of time equivalent to the
252 professional leave period granted immediately following the
253 termination of the leave period;

254 (e) The contributing member shall pay to the retirement
255 system the actuarial cost as determined by the actuary for each
256 year of professional leave. The provisions of this subsection are
257 subject to the regulations of the Internal Revenue Code
258 limitations;

259 (f) Any other rules and regulations consistent with
260 this subsection (9) as the board may adopt and in case of
261 question, the board shall have final power to decide the
262 questions.

263 Any actively contributing member participating in the School
264 Administrator Sabbatical Program established in Section 37-9-77
265 shall qualify for continued participation under this subsection
266 (9).

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

271 (a) Any service rendered as an employee of any
272 political subdivision of this state, or any instrumentality
273 thereof, that does not participate in the Public Employees'
274 Retirement System; or

275 (b) Any service rendered as an employee of any
276 political subdivision of this state, or any instrumentality
277 thereof, that participates in the Public Employees' Retirement
278 System but did not elect retroactive coverage; or

279 (c) Any service rendered as an employee of any
280 political subdivision of this state, or any instrumentality
281 thereof, for which coverage of the employee's position was or is
282 excluded; provided that the member pays into the retirement system
283 the actuarial cost as determined by the actuary for each year, or
284 portion thereof, of the service. Payment for the service may be
285 made in increments of one-quarter-year of creditable service.
286 After a member has made full payment to the retirement system for
287 all or any part of the service, the member shall receive
288 creditable service for the period of the service for which full
289 payment has been made to the retirement system.

290 **SECTION 3.** This act shall take effect and be in force from
291 and after July 1, 2007.