

By: Representative Watson

To: Appropriations

HOUSE BILL NO. 1399

1 AN ACT TO AMEND SECTION 25-11-109, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE ANY MEMBER OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM
3 WHO HAS ATTAINED THE AGE OF 56 AND WHO HAS COMPLETED AT LEAST FOUR
4 YEARS OF CREDITABLE SERVICE, OR ANY MEMBER WHO HAS COMPLETED AT
5 LEAST 21 YEARS OF CREDITABLE SERVICE, TO USE ANY SERVICE THE
6 MEMBER HAS AS A MEMBER OF THE SCHOOL BOARD OF ANY PUBLIC SCHOOL
7 DISTRICT AS CREDITABLE SERVICE FOR THE LIMITED PURPOSE OF
8 ATTAINING THE NUMBER YEARS NECESSARY TO RECEIVE A RETIREMENT
9 ALLOWANCE; AND FOR RELATED PURPOSES.

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

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

13 25-11-109. (1) Under such rules and regulations as the
14 board * * * adopts, each person who becomes a member of this
15 retirement system, as provided in Section 25-11-105, on or before
16 July 1, 1953, or who becomes a member and contributes to the
17 system for a minimum period of four (4) years, shall receive
18 credit for all state service rendered before February 1, 1953. To
19 receive the credit, the member shall file a detailed statement of
20 all services as an employee rendered by him in the state service
21 before February 1, 1953. For any member who joined the system
22 after July 1, 1953, any creditable service for which the member is
23 not required to make contributions shall not be credited to the
24 member until the member has contributed to the system for a
25 minimum period of at least four (4) years.

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

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

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

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

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

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

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

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

80 (3) Subject to the above restrictions and to any rules and
81 regulations as the board may adopt, the board shall verify, as
82 soon as practicable after the filing of the statements of service,
83 the services * * * claimed in the statements.

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

95 When membership ceases, the prior service certificates shall
96 become void. If the employee again becomes a member, he shall

97 enter the system as an employee not entitled to prior service
98 credit except as provided in Sections 25-11-105(I), 25-11-113 and
99 25-11-117.

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

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

130 service if the member received a dishonorable discharge from the
131 Armed Forces of the United States.

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

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

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

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

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

159 (c) The member shall furnish proof satisfactory to the
160 board * * * of certification of military service showing dates of
161 entrance into qualified service and the date of discharge as well

162 as proof that the member has returned to active employment within
163 the time specified.

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

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

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

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

193 (9) Any member of the Public Employees' Retirement System
194 who has at least four (4) years of membership service credit and

195 who receives, or has received, professional leave without
196 compensation for professional purposes directly related to the
197 employment in state service shall receive creditable service for
198 the period of professional leave without compensation provided:

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

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

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

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

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

217 (f) Any other rules and regulations consistent with
218 this subsection (9) as the board may adopt and in case of
219 question, the board shall have final power to decide the
220 questions.

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

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

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

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

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

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

248 (11) Any member of the Public Employees' Retirement System
249 who has attained the age of fifty-six (56) years who has completed
250 at least four (4) years of creditable service, or any member who
251 has completed at least twenty-one (21) years of creditable
252 service, may use any service that the member has as a member of
253 the school board of any public school district as creditable
254 service for the limited purpose of attaining the number years
255 necessary to receive a retirement allowance under this article.
256 The member shall furnish proof satisfactory to the board of
257 certification of school board service showing the dates of the
258 service.

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