

By: Senator(s) Kirby

To: Finance

SENATE BILL NO. 2051

1 AN ACT TO AMEND SECTION 25-11-109, MISSISSIPPI CODE OF 1972,  
 2 TO PROVIDE THAT ANY MEMBER OF THE PUBLIC EMPLOYEES' RETIREMENT  
 3 SYSTEM WHO HAS FOUR OR MORE YEARS OF CREDITABLE SERVICE IN THE  
 4 SYSTEM AND WHO HAS SERVED IN THE NATIONAL GUARD OR IN A RESERVE  
 5 COMPONENT OF THE UNITED STATES ARMED FORCES FOR NOT LESS THAN  
 6 TWENTY YEARS SHALL BE ENTITLED TO FOUR YEARS OF CREDITABLE SERVICE  
 7 IN THE SYSTEM FOR THAT SERVICE IN THE NATIONAL GUARD OR IN THE  
 8 RESERVE COMPONENT OF THE UNITED STATES ARMED FORCES; TO PROVIDE  
 9 THAT THE MAXIMUM AMOUNT OF CREDITABLE SERVICE THAT A MEMBER MAY  
 10 RECEIVE FOR ALL ACTIVE DUTY MILITARY SERVICE AND SERVICE IN THE  
 11 NATIONAL GUARD OR IN A RESERVE COMPONENT OF THE UNITED STATES  
 12 ARMED FORCES SHALL NOT EXCEED A CUMULATIVE TOTAL OF FOUR YEARS;  
 13 AND FOR RELATED PURPOSES.

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

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

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

30 (2) In the computation of membership service or prior  
 31 service under the provisions of this article, the total months of  
 32 accumulative service during any fiscal year shall be calculated in

33 accordance with the schedule as follows: ten (10) or more months  
34 of creditable service during any fiscal year shall constitute a  
35 year of creditable service; seven (7) months to nine (9) months  
36 inclusive, three-quarters (3/4) of a year of creditable service;  
37 four (4) months to six (6) months inclusive, one-half-year of  
38 creditable service; one (1) month to three (3) months inclusive,  
39 one-quarter (1/4) of a year of creditable service. In no case  
40 shall credit be allowed for any period of absence without  
41 compensation except for disability while in receipt of a  
42 disability retirement allowance, nor shall less than fifteen (15)  
43 days of service in any month, or service less than the equivalent  
44 of one-half (1/2) of the normal working load for the position and  
45 less than one-half (1/2) of the normal compensation for the  
46 position in any month, constitute a month of creditable service,  
47 nor shall more than one (1) year of service be creditable for all  
48 services rendered in any one (1) fiscal year; however, for a  
49 school employee, substantial completion of the legal school term  
50 when and where the service was rendered shall constitute a year of  
51 service credit for both prior service and membership service. Any  
52 state or local elected official shall be deemed a full-time  
53 employee for the purpose of creditable service for prior service  
54 or membership service. However, an appointed or elected official  
55 compensated on a per diem basis only shall not be allowed  
56 creditable service for terms of office.

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

63 In the computation of unused leave for creditable service  
64 authorized in Section 25-11-103, the following shall govern:  
65 twenty-one (21) days of unused leave shall constitute one (1)

66 month of creditable service and in no case shall credit be allowed  
67 for any period of unused leave of less than fifteen (15) days.  
68 The number of months of unused leave shall determine the number of  
69 quarters or years of creditable service in accordance with the  
70 above schedule for membership and prior service. In order for the  
71 member to receive creditable service for the number of days of  
72 unused leave, the system must receive certification from the  
73 governing authority.

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

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

81 (b) For service on and after July 1, 1984, the member  
82 shall receive credit for personal and major medical leave  
83 beginning July 1, 1984, at the rates authorized in Sections  
84 25-3-93 and 25-3-95, computed as a full-time employee.

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

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

98 Any modification or correction authorized shall only apply  
99 prospectively.

100 When membership ceases, such prior service certificates shall  
101 become void. Should the employee again become a member, he shall  
102 enter the system as an employee not entitled to prior service  
103 credit except as provided in Sections 25-11-105(I), 25-11-113 and  
104 25-11-117.

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

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

131 maritime service to a member who qualifies for a retirement  
132 allowance in another public retirement system administered by the  
133 Board of Trustees of the Public Employees' Retirement System based  
134 in whole or in part on such military or maritime service. In no  
135 case shall the member receive creditable service if the member  
136 received a dishonorable discharge from the Armed Forces of the  
137 United States.

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

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

152                 (ii) The member returns to membership service  
153 within ninety (90) days of the end of his qualified military  
154 service; and

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

160         (b) The payments required to be made in paragraph  
161 (a)(i) of this subsection may be made over a period beginning with  
162 the date of return to membership service and not exceeding three

163 (3) times the member's qualified military service; however, in no  
164 event shall such period exceed five (5) years.

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

170 (8) Any member who has four (4) or more years of creditable  
171 service in the system and who has served in the National Guard or  
172 in a reserve component of the United States Armed Forces for not  
173 less than twenty (20) years shall be entitled to four (4) years of  
174 creditable service in the system for that service in the National  
175 Guard or in the reserve component of the United States Armed  
176 Forces. However, the maximum amount of creditable service that a  
177 member may receive for all military service under subsection (6)  
178 and service in the National Guard or in a reserve component of the  
179 United States Armed Forces under this subsection shall not exceed  
180 a cumulative total of four (4) years. The member shall furnish  
181 proof satisfactory to the board of trustees of certification of  
182 service in the National Guard or in a reserve component of the  
183 United States Armed Forces, showing dates of entrance into service  
184 and the date of discharge. Creditable service shall not be  
185 granted for any service in the National Guard or in a reserve  
186 component of the United States Armed Forces to a member who  
187 qualifies for a retirement allowance in another public retirement  
188 system administered by the board of trustees based in whole or in  
189 part on that service in the National Guard or in the reserve  
190 component of the United States Armed Forces. If a member receives  
191 any creditable service under subsection (6) or (7) for active duty  
192 military service with the National Guard or with a reserve  
193 component of the United States Armed Forces, the member will not  
194 receive additional creditable service for that active duty  
195 military service under this subsection. A member shall not

196 receive any creditable service under this subsection if the member  
197 received a dishonorable discharge from the National Guard or from  
198 a reserve component of the United States Armed Forces.

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

209           (a) The member shall furnish proof satisfactory to the  
210 board of trustees of certification of such services from the  
211 state, public education system, political subdivision or  
212 retirement system of the state where the services were performed  
213 or the governing entity of the American overseas dependent school  
214 where the services were performed; and

215           (b) The member is not receiving or will not be entitled  
216 to receive from the public retirement system of the other state or  
217 from any other retirement plan, including optional retirement  
218 plans, sponsored by the employer, a retirement allowance including  
219 such services; and

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

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

229 who receives, or has received, professional leave without  
230 compensation for professional purposes directly related to the  
231 employment in state service shall receive creditable service for  
232 the period of professional leave without compensation provided:

233 (a) The professional leave is performed with a public  
234 institution or public agency of this state, or another state or  
235 federal agency;

236 (b) The employer approves the professional leave  
237 showing the reason for granting the leave and makes a  
238 determination that the professional leave will benefit the  
239 employee and employer;

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

242 (d) The employee shall serve the employer on a  
243 full-time basis for a period of time equivalent to the  
244 professional leave period granted immediately following the  
245 termination of the leave period;

246 (e) The contributing member shall pay to the retirement  
247 system the actuarial cost as determined by the actuary for each  
248 year of professional leave. The provisions of this subsection are  
249 subject to the regulations of the Internal Revenue Code  
250 limitations;

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

254 Any actively contributing member participating in the School  
255 Administrator Sabbatical Program established in Section 37-9-77  
256 shall qualify for continued participation under this subsection  
257 (10).

258 (11) Any member of the Public Employees' Retirement System  
259 who has at least four (4) years of credited membership service  
260 shall be entitled to receive a maximum of ten (10) years  
261 creditable service for:



262 (a) Any service rendered as an employee of any  
263 political subdivision of this state, or any instrumentality  
264 thereof, which does not participate in the Public Employees'  
265 Retirement System; or

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

270 (c) Any service rendered as an employee of any  
271 political subdivision of this state, or any instrumentality  
272 thereof, for which coverage of the employee's position was or is  
273 excluded; provided that the member pays into the retirement system  
274 the actuarial cost as determined by the actuary for each year, or  
275 portion thereof, of such service. Payment for such service may be  
276 made in increments of one-quarter-year of creditable service.  
277 After a member has made full payment to the retirement system for  
278 all or any part of such service, the member shall receive  
279 creditable service for the period of such service for which full  
280 payment has been made to the retirement system.

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