

By: Senator(s) Morgan

To: Finance

SENATE BILL NO. 2837

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 SHALL HAVE COMPLETED AT  
 4 LEAST 4 YEARS OF CREDITABLE SERVICE, OR ANY MEMBER WHO SHALL HAVE  
 5 COMPLETED AT LEAST 21 YEARS OF CREDITABLE SERVICE, TO UTILIZE ANY  
 6 SERVICE THE MEMBER HAS AS A MEMBER OF THE SCHOOL BOARD OF ANY  
 7 PUBLIC SCHOOL DISTRICT AS CREDITABLE SERVICE FOR THE LIMITED  
 8 PURPOSE OF ATTAINING THE NUMBER YEARS NECESSARY TO RECEIVE A  
 9 RETIREMENT 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 \* \* \* shall adopt, each person who becomes a member of this  
 15 retirement system, as provided in Section 25-11-105, on or prior  
 16 to 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 prior to July 1, 1984, the members  
73 shall receive credit for leave (combined personal and major  
74 medical) for service as an elected official prior to that date at  
75 the rate of 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 therein claimed.

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 shall have  
87 been 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. Should the employee again become 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 which is  
104 in full force and effect, the amount of the service certified on  
105 his 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 prior to 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 prior to 1972 or in \* \* \*  
113 maritime service, provided 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 prior to date of retirement the  
188 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 thereunder.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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