

**Adopted
AMENDMENT NO 1 PROPOSED TO**

Cmte Sub for House Bill No. 1091

BY: Representative Lamar

1 **AMEND** by inserting the following after line 1298 and
2 renumbering the succeeding sections accordingly:

3 **SECTION 13.** The director or head of any state agency may
4 employ a total of not more than five (5) employees for which the
5 agency shall be exempt from the provisions of Section 25-9-127(1)
6 and State Personnel Board rules, regulations and procedures during
7 the period of employment, and such employees shall be classified
8 as nonstate service during that period. For the purposes of this
9 section, the term "state agency" means any agency, department or
10 institution of the State of Mississippi.

11 **SECTION 14.** 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 of trustees shall adopt, each person who becomes a member of



15 this retirement system, as provided in Section 25-11-105, on or
16 before July 1, 1953, or who became a member of the system before
17 July 1, 2007, and contributes to the system for a minimum period
18 of four (4) years, or who became a member of the system on or
19 after July 1, 2007, and contributes to the system for a minimum
20 period of eight (8) years, shall receive credit for all state
21 service rendered before February 1, 1953. To receive that credit,
22 the member shall file a detailed statement of all services as an
23 employee rendered by him in the state service before February 1,
24 1953. For any member who joined the system after July 1, 1953,
25 and before July 1, 2007, any creditable service for which the
26 member is not required to make contributions shall not be credited
27 to the member until the member has contributed to the system for a
28 minimum period of at least four (4) years. For any member who
29 joined the system on or after July 1, 2007, any creditable service
30 for which the member is not required to make contributions shall
31 not be credited to the member until the member has contributed to
32 the system for a minimum period of at least eight (8) years.

33 (2) (a) (i) In the computation of creditable service for
34 service rendered before July 1, 2017, under the provisions of this
35 article, the total months of accumulative service during any
36 fiscal year shall be calculated in accordance with the schedule as
37 follows: ten (10) or more months of creditable service during any
38 fiscal year shall constitute a year of creditable service; seven
39 (7) months to nine (9) months inclusive, three-quarters (3/4) of a



40 year of creditable service; four (4) months to six (6) months
41 inclusive, one-half (1/2) year of creditable service; one (1)
42 month to three (3) months inclusive, one-quarter (1/4) of a year
43 of creditable service.

44 (ii) In the computation of creditable service
45 rendered on or after July 1, 2017, under the provisions of this
46 article, service credit shall be awarded in monthly increments in
47 a manner prescribed by regulations of the board.

48 (b) In no case shall credit be allowed for any period
49 of absence without compensation except for disability while in
50 receipt of a disability retirement allowance, nor shall less than
51 fifteen (15) days of service in any month, or service less than
52 the equivalent of one-half (1/2) of the normal working load for
53 the position and less than one-half (1/2) of the normal
54 compensation for the position in any month, constitute a month of
55 creditable service, nor shall more than one (1) year of service be
56 creditable for all services rendered in any one (1) fiscal year;
57 however, for a school employee, substantial completion of the
58 legal school term when and where the service was rendered shall
59 constitute a year of service credit. Any state or local elected
60 official shall be deemed a full-time employee for the purpose of
61 creditable service. However, an appointed or elected official
62 compensated on a per diem basis only shall not be allowed
63 creditable service for terms of office.



64 (c) In the computation of any retirement allowance or
65 any annuity or benefits provided in this article, any fractional
66 period of service of less than one (1) year shall be taken into
67 account and a proportionate amount of such retirement allowance,
68 annuity or benefit shall be granted for any such fractional period
69 of service.

70 (d) (i) In the computation of unused leave for
71 creditable service authorized in Section 25-11-103, the following
72 shall govern for members who retire before July 1, 2017:
73 twenty-one (21) days of unused leave shall constitute one (1)
74 month of creditable service and in no case shall credit be allowed
75 for any period of unused leave of less than fifteen (15) days.
76 The number of months of unused leave shall determine the number of
77 quarters or years of creditable service in accordance with the
78 above schedule for membership and prior service.

79 (ii) In the computation of unused leave for
80 creditable service authorized in Section 25-11-103, the following
81 shall govern for members who retire on or after July 1, 2017:
82 creditable service for unused leave shall be calculated in monthly
83 increments in which one (1) month of service credit shall be
84 awarded for each twenty-one (21) days of unused leave, except that
85 the first fifteen (15) to fifty-seven (57) days of leave shall
86 constitute three (3) months of service for those who became a
87 member of the system before July 1, 2017.



88 (iii) In order for the member to receive
89 creditable service for the number of days of unused leave under
90 this paragraph, the system must receive certification from the
91 governing authority.

92 (e) For the purposes of this subsection, members of the
93 system who retire on or after July 1, 2010, shall receive credit
94 for one-half (1/2) day of leave for each full year of membership
95 service accrued after June 30, 2010. The amount of leave received
96 by a member under this paragraph shall be added to the lawfully
97 credited unused leave for which creditable service is provided
98 under Section 25-11-103(i).

99 (f) For the purpose of this subsection, for members of
100 the system who are elected officers and who retire on or after
101 July 1, 1987, the following shall govern:

102 (i) For service before July 1, 1984, the members
103 shall receive credit for leave (combined personal and major
104 medical) for service as an elected official before that date at
105 the rate of thirty (30) days per year.

106 (ii) For service on and after July 1, 1984, the
107 member shall receive credit for personal and major medical leave
108 beginning July 1, 1984, at the rates authorized in Sections
109 25-3-93 and 25-3-95, computed as a full-time employee.

110 (iii) If a member is employed in a covered
111 nonelected position and a covered elected position simultaneously,
112 that member may not receive service credit for accumulated unused



113 leave for both positions at retirement for the period during which
114 the member was dually employed. During the period during which
115 the member is dually employed, the member shall only receive
116 credit for leave as provided for in this paragraph for an elected
117 official.

118 (3) Subject to the above restrictions and to such other
119 rules and regulations as the board may adopt, the board shall
120 verify, as soon as practicable after the filing of such statements
121 of service, the services therein claimed.

122 (4) Upon verification of the statement of prior service, the
123 board shall issue a prior service certificate certifying to each
124 member the length of prior service for which credit shall have
125 been allowed on the basis of his statement of service. So long as
126 membership continues, a prior service certificate shall be final
127 and conclusive for retirement purposes as to such service,
128 provided that any member may within five (5) years from the date
129 of issuance or modification of such certificate request the board
130 of trustees to modify or correct his prior service certificate.
131 Any modification or correction authorized shall only apply
132 prospectively.

133 When membership ceases, such prior service certificates shall
134 become void. Should the employee again become a member, he shall
135 enter the system as an employee not entitled to prior service
136 credit except as provided in Sections 25-11-105(I), 25-11-113 and
137 25-11-117.



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

144 (6) Any member who served on active duty in the Armed Forces
145 of the United States, who served in the Commissioned Corps of the
146 United States Public Health Service before 1972 or who served in
147 maritime service during periods of hostility in World War II,
148 shall be entitled to creditable service at no cost for his service
149 on active duty in the Armed Forces, in the Commissioned Corps of
150 the United States Public Health Service before 1972 or in such
151 maritime service, provided he entered state service after his
152 discharge from the Armed Forces or entered state service after he
153 completed such maritime service. The maximum period for such
154 creditable service for all military service as defined in this
155 subsection (6) shall not exceed four (4) years unless positive
156 proof can be furnished by such person that he was retained in the
157 Armed Forces during World War II or in maritime service during
158 World War II by causes beyond his control and without opportunity
159 of discharge. The member shall furnish proof satisfactory to the
160 board of trustees of certification of military service or maritime
161 service records showing dates of entrance into active duty service
162 and the date of discharge. From and after July 1, 1993, no



163 creditable service shall be granted for any military service or
164 maritime service to a member who qualifies for a retirement
165 allowance in another public retirement system administered by the
166 Board of Trustees of the Public Employees' Retirement System
167 based, in whole or in part, on such military or maritime service.
168 In no case shall the member receive creditable service if the
169 member received a dishonorable discharge from the Armed Forces of
170 the United States.

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

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

185 (ii) The member returns to membership service
186 within ninety (90) days of the end of his qualified military
187 service; and



188 (iii) The employer at the time the member's
189 service was interrupted and to which employment the member returns
190 pays the contributions it would have made into the retirement
191 system for such period based on the member's salary at the time
192 the service was interrupted.

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

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

203 (8) Any member of the Public Employees' Retirement System
204 who became a member of the system before July 1, 2007, and who has
205 at least four (4) years of membership service credit, or who
206 became a member of the system on or after July 1, 2007, and who
207 has at least eight (8) 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 such 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 trustees of certification of such services from the
218 state, public education system, political subdivision or
219 retirement system of the state where the services were performed
220 or the governing entity of the American overseas dependent school
221 where the services were 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 such services; and

227 (c) The member shall pay to the retirement system on
228 the date he or she is eligible for credit for such 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 became a member of the system before July 1, 2007, and has at
237 least four (4) years of membership service credit, or who became a



238 member of the system on or after July 1, 2007, and has at least
239 eight (8) years of membership service credit, and who receives, or
240 has received, professional leave without compensation for
241 professional purposes directly related to the employment in state
242 service shall receive creditable service for the period of
243 professional leave without compensation provided:

244 (a) The professional leave is performed with a public
245 institution or public agency of this state, or another state or
246 federal agency;

247 (b) The employer approves the professional leave
248 showing the reason for granting the leave and makes a
249 determination that the professional leave will benefit the
250 employee and employer;

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

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

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



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

265 Any actively contributing member participating in the School
266 Administrator Sabbatical Program established in Section 37-9-77
267 shall qualify for continued participation under this subsection
268 (9).

269 (10) Any member of the Public Employees' Retirement System
270 who became a member of the system before July 1, 2007, and has at
271 least four (4) years of credited membership service, or who became
272 a member of the system on or after July 1, 2007, and has at least
273 eight (8) years of credited membership service, shall be entitled
274 to receive a maximum of ten (10) years creditable service for:

275 (a) Any service rendered as an employee of any
276 political subdivision of this state, or any instrumentality
277 thereof, that does not participate in the Public Employees'
278 Retirement System; or

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

283 (c) Any service rendered as an employee of any
284 political subdivision of this state, or any instrumentality
285 thereof, for which coverage of the employee's position was or is
286 excluded; provided that the member pays into the retirement system



287 the actuarial cost as determined by the actuary for each year, or
288 portion thereof, of such service. After a member has made full
289 payment to the retirement system for all or any part of such
290 service, the member shall receive creditable service for the
291 period of such service for which full payment has been made to the
292 retirement system.

293 (11) Any member of the Public Employees' Retirement System
294 who became a member of the system before July 1, 2007, and who has
295 at least four (4) years of membership service credit, or who
296 became a member of the system on or after July 1, 2007, and who
297 has at least eight (8) years of membership service credit, shall
298 be entitled to receive creditable service for service rendered as
299 an employee of any public or private employer in this state that
300 does not participate in the Public Employees' Retirement System,
301 provided that:

302 (a) The member shall furnish proof satisfactory to the
303 board of trustees of certification of that service from the
304 employer for which the service was performed; and

305 (b) The member is not receiving a retirement allowance
306 that includes that service from any public or private retirement
307 system or plan sponsored by the employer; and

308 (c) The member may receive no more years of creditable
309 service under this subsection (11) than an amount that, when
310 combined with all other creditable service, excluding unused



311 leave, would cause the member to become eligible to receive a
312 retirement allowance under Section 25-11-111; and

313 (d) The member shall pay to the retirement system on
314 the date he or she is eligible for credit for that service or at
315 any time thereafter before the date of retirement the actuarial
316 cost as determined by the actuary for each year, or portion
317 thereof, of creditable service.

318 After a member has made full payment to the retirement system
319 for all or any part of that service, the member shall receive
320 creditable service for the period of that service for which full
321 payment has been made to the retirement system. Compensation
322 earned by the member for service rendered as an employee of any
323 public or private employer in this state that does not participate
324 in the Public Employees' Retirement System shall not be included
325 for the purpose of determining the member's earned compensation or
326 average compensation."

327 **AMEND further** on line 1301 by striking "13" and inserting in
328 lieu thereof "15".

329 **AMEND further** the title on line 47 by inserting the following
330 after the semicolon:

331 "TO AUTHORIZE THE DIRECTOR OR HEAD OF ANY STATE AGENCY TO EMPLOY A
332 TOTAL OF NOT MORE THAN FIVE EMPLOYEES FOR WHICH THE AGENCY SHALL
333 BE EXEMPT FROM CERTAIN PROVISIONS OF SECTION 25-9-101, MISSISSIPPI
334 CODE OF 1972, AND STATE PERSONNEL BOARD RULES, REGULATIONS AND
335 PROCEDURES DURING THE PERIOD OF EMPLOYMENT, AND TO PROVIDE THAT
336 SUCH EMPLOYEES SHALL BE CLASSIFIED AS NONSTATE SERVICE DURING THAT
337 PERIOD; TO AMEND SECTION 25-11-109, MISSISSIPPI CODE OF 1972, TO
338 AUTHORIZE VESTED MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT
339 SYSTEM TO RECEIVE CREDITABLE SERVICE FOR SERVICE RENDERED AS AN



340 EMPLOYEE OF ANY PUBLIC OR PRIVATE EMPLOYER IN THIS STATE THAT DOES
341 NOT PARTICIPATE IN THE RETIREMENT SYSTEM; TO PROVIDE THAT IN ORDER
342 TO BE ABLE TO RECEIVE THAT SERVICE, THE MEMBER CANNOT BE RECEIVING
343 A RETIREMENT ALLOWANCE THAT INCLUDES THAT SERVICE FROM ANY PUBLIC
344 OR PRIVATE RETIREMENT SYSTEM OR PLAN SPONSORED BY THE EMPLOYER,
345 AND THE MEMBER MUST PAY TO THE RETIREMENT SYSTEM BEFORE THE DATE
346 OF RETIREMENT THE ACTUARIAL COST AS DETERMINED BY THE ACTUARY FOR
347 EACH YEAR, OR PORTION THEREOF, OF CREDITABLE SERVICE;"

