

By: Representative Lamar

To: Appropriations

HOUSE BILL NO. 1372

1 AN ACT TO AMEND SECTION 25-11-109, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE CERTAIN MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT
3 SYSTEM TO RECEIVE NOT MORE THAN FIVE YEARS OF CREDITABLE SERVICE
4 FOR SERVICE RENDERED AS AN EMPLOYEE OF ANY PUBLIC OR PRIVATE
5 EMPLOYER THAT DOES NOT PARTICIPATE IN THE RETIREMENT SYSTEM; TO
6 PROVIDE THAT IN ORDER TO BE ABLE TO RECEIVE THAT SERVICE, THE
7 MEMBER CANNOT BE RECEIVING AND WILL NOT BE ENTITLED TO RECEIVE A
8 RETIREMENT ALLOWANCE THAT INCLUDES THAT SERVICE FROM ANY PUBLIC OR
9 PRIVATE RETIREMENT SYSTEM OR PLAN SPONSORED BY THE EMPLOYER, AND
10 THE MEMBER MUST PAY TO THE RETIREMENT SYSTEM BEFORE THE DATE OF
11 RETIREMENT THE ACTUARIAL COST AS DETERMINED BY THE ACTUARY FOR
12 EACH YEAR, OR PORTION THEREOF, OF CREDITABLE SERVICE; TO PROVIDE
13 THAT IF THE MEMBER MAKES PAYMENT TO THE RETIREMENT SYSTEM FOR ANY
14 PORTION OF THAT SERVICE WITHIN ONE MONTH AFTER THE SERVICE IS
15 RENDERED, THE AMOUNT OF THE PAYMENT BY THE MEMBER SHALL BE THE SUM
16 OF THE CONTRIBUTION RATES FOR THE EMPLOYER AND THE EMPLOYEE TIMES
17 THE MEMBER'S EARNED COMPENSATION FOR THE LAST FISCAL YEAR THAT THE
18 MEMBER WAS AN ACTIVE MEMBER OF THE RETIREMENT SYSTEM, AND NOT THE
19 ACTUARIAL COST FOR THAT SERVICE; AND FOR RELATED PURPOSES.

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

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

23 25-11-109. (1) Under such rules and regulations as the
24 board of trustees shall adopt, each person who becomes a member of
25 this retirement system, as provided in Section 25-11-105, on or
26 before July 1, 1953, or who became a member of the system before



27 July 1, 2007, and contributes to the system for a minimum period
28 of four (4) years, or who became a member of the system on or
29 after July 1, 2007, and contributes to the system for a minimum
30 period of eight (8) years, shall receive credit for all state
31 service rendered before February 1, 1953. To receive that credit,
32 the member shall file a detailed statement of all services as an
33 employee rendered by him in the state service before February 1,
34 1953. For any member who joined the system after July 1, 1953,
35 and before July 1, 2007, any creditable service for which the
36 member is not required to make contributions shall not be credited
37 to the member until the member has contributed to the system for a
38 minimum period of at least four (4) years. For any member who
39 joined the system on or after July 1, 2007, any creditable service
40 for which the member is not required to make contributions shall
41 not be credited to the member until the member has contributed to
42 the system for a minimum period of at least eight (8) years.

43 (2) (a) (i) In the computation of creditable service for
44 service rendered before July 1, 2017, under the provisions of this
45 article, the total months of accumulative service during any
46 fiscal year shall be calculated in accordance with the schedule as
47 follows: ten (10) or more months of creditable service during any
48 fiscal year shall constitute a year of creditable service; seven
49 (7) months to nine (9) months inclusive, three-quarters (3/4) of a
50 year of creditable service; four (4) months to six (6) months
51 inclusive, one-half (1/2) year of creditable service; one (1)



month to three (3) months inclusive, one-quarter (1/4) of a year of creditable service.

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

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

(c) In the computation of any retirement allowance or any annuity or benefits provided in this article, any fractional period of service of less than one (1) year shall be taken into



77 account and a proportionate amount of such retirement allowance,
78 annuity or benefit shall be granted for any such fractional period
79 of service.

80 (d) (i) In the computation of unused leave for
81 creditable service authorized in Section 25-11-103, the following
82 shall govern for members who retire before July 1, 2017:
83 twenty-one (21) days of unused leave shall constitute one (1)
84 month of creditable service and in no case shall credit be allowed
85 for any period of unused leave of less than fifteen (15) days.
86 The number of months of unused leave shall determine the number of
87 quarters or years of creditable service in accordance with the
88 above schedule for membership and prior service.

89 (ii) In the computation of unused leave for
90 creditable service authorized in Section 25-11-103, the following
91 shall govern for members who retire on or after July 1, 2017:
92 creditable service for unused leave shall be calculated in monthly
93 increments in which one (1) month of service credit shall be
94 awarded for each twenty-one (21) days of unused leave, except that
95 the first fifteen (15) to fifty-seven (57) days of leave shall
96 constitute three (3) months of service for those who became a
97 member of the system before July 1, 2017.

98 (iii) In order for the member to receive
99 creditable service for the number of days of unused leave under
100 this paragraph, the system must receive certification from the
101 governing authority.



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

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

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

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

120 (iii) If a member is employed in a covered
121 nonelected position and a covered elected position simultaneously,
122 that member may not receive service credit for accumulated unused
123 leave for both positions at retirement for the period during which
124 the member was dually employed. During the period during which
125 the member is dually employed, the member shall only receive



credit for leave as provided for in this paragraph for an elected official.

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

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

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

(5) Creditable service at retirement, on which the retirement allowance of a member shall be based, shall consist of the membership service rendered by him since he last became a



member, and also, if he has a prior service certificate that is in full force and effect, the amount of the service certified on his prior service certificate.

(6) Any member who served on active duty in the Armed Forces of the United States, who served in the Commissioned Corps of the United States Public Health Service before 1972 or who served in maritime service during periods of hostility in World War II, shall be entitled to creditable service at no cost for his service on active duty in the Armed Forces, in the Commissioned Corps of the United States Public Health Service before 1972 or in such maritime service, provided he entered state service after his discharge from the Armed Forces or entered state service after he completed such maritime service. The maximum period for such creditable service for all military service as defined in this subsection (6) shall not exceed four (4) years unless positive proof can be furnished by such person that he was retained in the Armed Forces during World War II or in maritime service during World War II by causes beyond his control and without opportunity of discharge. The member shall furnish proof satisfactory to the board of trustees of certification of military service or maritime service records showing dates of entrance into active duty service and the date of discharge. From and after July 1, 1993, no creditable service shall be granted for any military service or maritime service to a member who qualifies for a retirement allowance in another public retirement system administered by the



Board of Trustees of the Public Employees' Retirement System based, in whole or in part, on such military or maritime service. In no case shall the member receive creditable service if the member received a dishonorable discharge from the Armed Forces of the United States.

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

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

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

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



201 system for such period based on the member's salary at the time
202 the service was interrupted.

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

208 (c) The member shall furnish proof satisfactory to the
209 board of trustees of certification of military service showing
210 dates of entrance into qualified service and the date of discharge
211 as well as proof that the member has returned to active employment
212 within the time specified.

213 (8) Any member of the Public Employees' Retirement System
214 who became a member of the system before July 1, 2007, and who has
215 at least four (4) years of membership service credit, or who
216 became a member of the system on or after July 1, 2007, and who
217 has at least eight (8) years of membership service credit, shall
218 be entitled to receive a maximum of five (5) years' creditable
219 service for service rendered in another state as a public employee
220 of such other state, or a political subdivision, public education
221 system or other governmental instrumentality thereof, or service
222 rendered as a teacher in American overseas dependent schools
223 conducted by the Armed Forces of the United States for children of
224 citizens of the United States residing in areas outside the
225 continental United States, provided that:



226 (a) The member shall furnish proof satisfactory to the
227 board of trustees of certification of such services from the
228 state, public education system, political subdivision or
229 retirement system of the state where the services were performed
230 or the governing entity of the American overseas dependent school
231 where the services were performed; and

232 (b) The member is not receiving or will not be entitled
233 to receive from the public retirement system of the other state or
234 from any other retirement plan, including optional retirement
235 plans, sponsored by the employer, a retirement allowance including
236 such services; and

237 (c) The member shall pay to the retirement system on
238 the date he or she is eligible for credit for such out-of-state
239 service or at any time thereafter before the date of retirement
240 the actuarial cost as determined by the actuary for each year of
241 out-of-state creditable service. The provisions of this
242 subsection are subject to the limitations of Section 415 of the
243 Internal Revenue Code and regulations promulgated under that
244 section.

245 (9) Any member of the Public Employees' Retirement System
246 who became a member of the system before July 1, 2007, and has at
247 least four (4) years of membership service credit, or who became a
248 member of the system on or after July 1, 2007, and has at least
249 eight (8) years of membership service credit, and who receives, or
250 has received, professional leave without compensation for



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

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

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

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

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

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

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



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

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

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

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

(c) Any service rendered as an employee of any political subdivision of this state, or any instrumentality thereof, for which coverage of the employee's position was or is excluded; provided that the member pays into the retirement system the actuarial cost as determined by the actuary for each year, or portion thereof, of such service. After a member has made full payment to the retirement system for all or any part of such



service, the member shall receive creditable service for the period of such service for which full payment has been made to the retirement system.

(11) Any member of the Public Employees' Retirement System who became a member of the system before July 1, 2007, and who has at least five (5) years of membership service credit, or who became a member of the system on or after July 1, 2007, and who has at least eight (8) years of membership service credit, shall be entitled to receive a maximum of five (5) years of creditable service for service rendered as an employee of any public or private employer that does not participate in the Public Employees' Retirement System, provided that:

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

(b) The member is not receiving or will not be entitled to receive a retirement allowance that includes that service from any public or private retirement system or plan sponsored by the employer; and

(c) The member may receive no more years of creditable service under this subsection (11) than an amount that, when combined with all other creditable service, excluding unused leave, would cause the member to become eligible to receive a retirement allowance under Section 25-11-111; and



(d) The member shall pay to the retirement system on the date he or she is eligible for credit for that service or at any time thereafter before the date of retirement the actuarial cost as determined by the actuary for each year, or portion thereof, of creditable service. However, if the member makes payment to the retirement system for any portion of that service within one (1) month after the service is rendered, the amount of the payment by the member shall be the sum of the contribution rates for the employer and the employee times the member's earned compensation for the last fiscal year that the member was an active member of the retirement system, and not the actuarial cost for that service.

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

SECTION 2. This act shall take effect and be in force from and after July 1, 2022.

