

By: Representative Arnold

To: Appropriations

HOUSE BILL NO. 790

1 AN ACT TO AMEND SECTION 25-11-109, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT COUNTY AND MUNICIPAL ELECTION COMMISSIONERS SHALL  
3 RECEIVE CREDITABLE SERVICE IN THE PUBLIC EMPLOYEES' RETIREMENT  
4 SYSTEM FOR THEIR TERMS OF OFFICE; AND FOR RELATED PURPOSES.

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

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

8 25-11-109. (1) Under such rules and regulations as the  
9 board of trustees shall adopt, each person who becomes a member of  
10 this retirement system, as provided in Section 25-11-105, on or  
11 before July 1, 1953, or who became a member of the system before  
12 July 1, 2007, and contributes to the system for a minimum period  
13 of four (4) years, or who became a member of the system on or  
14 after July 1, 2007, and contributes to the system for a minimum  
15 period of eight (8) years, shall receive credit for all state  
16 service rendered before February 1, 1953. To receive that credit,  
17 the member shall file a detailed statement of all services as an  
18 employee rendered by him in the state service before February 1,  
19 1953. For any member who joined the system after July 1, 1953,



20 and before July 1, 2007, any creditable service for which the  
21 member is not required to make contributions shall not be credited  
22 to the member until the member has contributed to the system for a  
23 minimum period of at least four (4) years. For any member who  
24 joined the system on or after July 1, 2007, any creditable service  
25 for which the member is not required to make contributions shall  
26 not be credited to the member until the member has contributed to  
27 the system for a minimum period of at least eight (8) years.

28 (2) (a) (i) In the computation of creditable service for  
29 service rendered before July 1, 2017, under the provisions of this  
30 article, the total months of accumulative service during any  
31 fiscal year shall be calculated in accordance with the schedule as  
32 follows: ten (10) or more months of creditable service during any  
33 fiscal year shall constitute a year of creditable service; seven  
34 (7) months to nine (9) months inclusive, three-quarters (3/4) of a  
35 year of creditable service; four (4) months to six (6) months  
36 inclusive, one-half (1/2) year of creditable service; one (1)  
37 month to three (3) months inclusive, one-quarter (1/4) of a year  
38 of creditable service.

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

43 (b) In no case shall credit be allowed for any period  
44 of absence without compensation except for disability while in



45 receipt of a disability retirement allowance, nor shall less than  
46 fifteen (15) days of service in any month, or service less than  
47 the equivalent of one-half (1/2) of the normal working load for  
48 the position and less than one-half (1/2) of the normal  
49 compensation for the position in any month, constitute a month of  
50 creditable service, nor shall more than one (1) year of service be  
51 creditable for all services rendered in any one (1) fiscal year;  
52 however, for a school employee, substantial completion of the  
53 legal school term when and where the service was rendered shall  
54 constitute a year of service credit. Any state or local elected  
55 official shall be deemed a full-time employee for the purpose of  
56 creditable service. However, an appointed or elected official  
57 compensated on a per diem basis only shall not be allowed  
58 creditable service for terms of office, except for county and  
59 municipal election commissioners.

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

66 (d) (i) In the computation of unused leave for  
67 creditable service authorized in Section 25-11-103, the following  
68 shall govern for members who retire before July 1, 2017:  
69 twenty-one (21) days of unused leave shall constitute one (1)



70 month of creditable service and in no case shall credit be allowed  
71 for any period of unused leave of less than fifteen (15) days.  
72 The number of months of unused leave shall determine the number of  
73 quarters or years of creditable service in accordance with the  
74 above schedule for membership and prior service.

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

84 (iii) In order for the member to receive  
85 creditable service for the number of days of unused leave under  
86 this paragraph, the system must receive certification from the  
87 governing authority.

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



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

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

102 (ii) For service on and after July 1, 1984, the  
103 member shall receive credit for personal and major medical leave  
104 beginning July 1, 1984, at the rates authorized in Sections  
105 25-3-93 and 25-3-95, computed as a full-time employee.

106 (iii) If a member is employed in a covered  
107 nonelected position and a covered elected position simultaneously,  
108 that member may not receive service credit for accumulated unused  
109 leave for both positions at retirement for the period during which  
110 the member was dually employed. During the period during which  
111 the member is dually employed, the member shall only receive  
112 credit for leave as provided for in this paragraph for an elected  
113 official.

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

118 (4) Upon verification of the statement of prior service, the  
119 board shall issue a prior service certificate certifying to each



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

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

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

140         (6) Any member who served on active duty in the Armed Forces  
141 of the United States, who served in the Commissioned Corps of the  
142 United States Public Health Service before 1972 or who served in  
143 maritime service during periods of hostility in World War II,  
144 shall be entitled to creditable service at no cost for his service



145 on active duty in the Armed Forces, in the Commissioned Corps of  
146 the United States Public Health Service before 1972 or in such  
147 maritime service, provided he entered state service after his  
148 discharge from the Armed Forces or entered state service after he  
149 completed such maritime service. The maximum period for such  
150 creditable service for all military service as defined in this  
151 subsection (6) shall not exceed four (4) years unless positive  
152 proof can be furnished by such person that he was retained in the  
153 Armed Forces during World War II or in maritime service during  
154 World War II by causes beyond his control and without opportunity  
155 of discharge. The member shall furnish proof satisfactory to the  
156 board of trustees of certification of military service or maritime  
157 service records showing dates of entrance into active duty service  
158 and the date of discharge. From and after July 1, 1993, no  
159 creditable service shall be granted for any military service or  
160 maritime service to a member who qualifies for a retirement  
161 allowance in another public retirement system administered by the  
162 Board of Trustees of the Public Employees' Retirement System  
163 based, in whole or in part, on such military or maritime service.  
164 In no case shall the member receive creditable service if the  
165 member received a dishonorable discharge from the Armed Forces of  
166 the United States.

167 (7) (a) Any member of the Public Employees' Retirement  
168 System whose membership service is interrupted as a result of  
169 qualified military service within the meaning of Section 414(u)(5)



170 of the Internal Revenue Code, and who has received the maximum  
171 service credit available under subsection (6) of this section,  
172 shall receive creditable service for the period of qualified  
173 military service that does not qualify as creditable service under  
174 subsection (6) of this section upon reentering membership service  
175 in an amount not to exceed five (5) years if:

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

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

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

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





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

199           (8) Any member of the Public Employees' Retirement System  
200 who became a member of the system before July 1, 2007, and who has  
201 at least four (4) years of membership service credit, or who  
202 became a member of the system on or after July 1, 2007, and who  
203 has at least eight (8) years of membership service credit, shall  
204 be entitled to receive a maximum of five (5) years' creditable  
205 service for service rendered in another state as a public employee  
206 of such other state, or a political subdivision, public education  
207 system or other governmental instrumentality thereof, or service  
208 rendered as a teacher in American overseas dependent schools  
209 conducted by the Armed Forces of the United States for children of  
210 citizens of the United States residing in areas outside the  
211 continental United States, provided that:

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



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

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

231 (9) Any member of the Public Employees' Retirement System  
232 who became a member of the system before July 1, 2007, and has at  
233 least four (4) years of membership service credit, or who became a  
234 member of the system on or after July 1, 2007, and has at least  
235 eight (8) years of membership service credit, and who receives, or  
236 has received, professional leave without compensation for  
237 professional purposes directly related to the employment in state  
238 service shall receive creditable service for the period of  
239 professional leave without compensation provided:

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



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

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

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

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

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

261 Any actively contributing member participating in the School  
262 Administrator Sabbatical Program established in Section 37-9-77  
263 shall qualify for continued participation under this subsection  
264 (9).

265 (10) Any member of the Public Employees' Retirement System  
266 who became a member of the system before July 1, 2007, and has at  
267 least four (4) years of credited membership service, or who became



268 a member of the system on or after July 1, 2007, and has at least  
269 eight (8) years of credited membership service, shall be entitled  
270 to receive a maximum of ten (10) years creditable service for:

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

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

279 (c) Any service rendered as an employee of any  
280 political subdivision of this state, or any instrumentality  
281 thereof, for which coverage of the employee's position was or is  
282 excluded; provided that the member pays into the retirement system  
283 the actuarial cost as determined by the actuary for each year, or  
284 portion thereof, of such service. After a member has made full  
285 payment to the retirement system for all or any part of such  
286 service, the member shall receive creditable service for the  
287 period of such service for which full payment has been made to the  
288 retirement system.

289 **SECTION 2.** This act shall take effect and be in force from  
290 and after July 1, 2023.

