

By: Representatives Lamar, Faulkner, Burnett To: Ways and Means

HOUSE BILL NO. 1195

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 A MAXIMUM OF THREE YEARS CREDITABLE SERVICE; TO
4 PROVIDE THAT THE MEMBER SHALL PAY TO THE RETIREMENT SYSTEM BEFORE
5 THE DATE OF RETIREMENT THE ACTUARIAL COST AS DETERMINED BY THE
6 ACTUARY FOR EACH INCREMENT OF SERVICE PURCHASED; TO PROVIDE THAT A
7 MEMBER MAY RECEIVE NO MORE YEARS OF CREDITABLE SERVICE UNDER THIS
8 ACT THAN AN AMOUNT THAT, WHEN COMBINED WITH ALL OTHER CREDITABLE
9 SERVICE, EXCLUDING UNUSED LEAVE, WOULD CAUSE THE MEMBER TO HAVE
10 THE SPECIFIED NUMBER OF YEARS OF CREDITABLE SERVICE TO RETIRE
11 REGARDLESS OF AGE; AND FOR RELATED PURPOSES.

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

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

15 25-11-109. (1) Under such rules and regulations as the
16 board of trustees shall adopt, each person who becomes a member of
17 this retirement system, as provided in Section 25-11-105, on or
18 before July 1, 1953, or who became a member of the system before
19 July 1, 2007, and contributes to the system for a minimum period
20 of four (4) years, or who became a member of the system on or
21 after July 1, 2007, and contributes to the system for a minimum
22 period of eight (8) years, shall receive credit for all state



23 service rendered before February 1, 1953. To receive that credit,
24 the member shall file a detailed statement of all services as an
25 employee rendered by him in the state service before February 1,
26 1953. For any member who joined the system after July 1, 1953,
27 and before July 1, 2007, any creditable service for which the
28 member is not required to make contributions shall not be credited
29 to the member until the member has contributed to the system for a
30 minimum period of at least four (4) years. For any member who
31 joined the system on or after July 1, 2007, any creditable service
32 for which the member is not required to make contributions shall
33 not be credited to the member until the member has contributed to
34 the system for a minimum period of at least eight (8) years.

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

46 (ii) In the computation of creditable service
47 rendered on or after July 1, 2017, under the provisions of this



48 article, service credit shall be awarded in monthly increments in
49 a manner prescribed by regulations of the board.

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

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



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

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

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

94 (e) For the purposes of this subsection, members of the
95 system who retire on or after July 1, 2010, shall receive credit
96 for one-half (1/2) day of leave for each full year of membership



97 service accrued after June 30, 2010. The amount of leave received
98 by a member under this paragraph shall be added to the lawfully
99 credited unused leave for which creditable service is provided
100 under Section 25-11-103(i).

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

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

108 (ii) For service on and after July 1, 1984, the
109 member shall receive credit for personal and major medical leave
110 beginning July 1, 1984, at the rates authorized in Sections
111 25-3-93 and 25-3-95, computed as a full-time employee.

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

120 (3) Subject to the above restrictions and to such other
121 rules and regulations as the board may adopt, the board shall



122 verify, as soon as practicable after the filing of such statements
123 of service, the services therein claimed.

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

135 When membership ceases, such prior service certificates shall
136 become void. Should the employee again become a member, he shall
137 enter the system as an employee not entitled to prior service
138 credit except as provided in Sections 25-11-105(I), 25-11-113 and
139 25-11-117.

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



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



171 member received a dishonorable discharge from the Armed Forces of
172 the United States.

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

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

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

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



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

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

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

218 (a) The member shall furnish proof satisfactory to the
219 board of trustees of certification of such services from the



220 state, public education system, political subdivision or
221 retirement system of the state where the services were performed
222 or the governing entity of the American overseas dependent school
223 where the services were performed; and

224 (b) The member is not receiving or will not be entitled
225 to receive from the public retirement system of the other state or
226 from any other retirement plan, including optional retirement
227 plans, sponsored by the employer, a retirement allowance including
228 such services; and

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

237 (9) Any member of the Public Employees' Retirement System
238 who became a member of the system before July 1, 2007, and has at
239 least four (4) years of membership service credit, or who became a
240 member of the system on or after July 1, 2007, and has at least
241 eight (8) years of membership service credit, and who receives, or
242 has received, professional leave without compensation for
243 professional purposes directly related to the employment in state



244 service shall receive creditable service for the period of
245 professional leave without compensation provided:

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

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

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

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

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

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

267 Any actively contributing member participating in the School
268 Administrator Sabbatical Program established in Section 37-9-77



269 shall qualify for continued participation under this subsection
270 (9).

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

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

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

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



293 period of such service for which full payment has been made to the
294 retirement system.

295 (11) Any member of the Public Employees' Retirement System
296 who became a member of the system before July 1, 2007, and has at
297 least five (5) years of credited membership service, or who
298 became a member of the system on or after July 1, 2007, and has at
299 least eight (8) years of credited membership service, shall be
300 entitled to receive a maximum of three (3) years creditable
301 service, provided that:

302 (a) The member shall make application to the board of
303 trustees in such manner as deemed appropriate by the board of
304 trustees;

305 (b) The member shall pay to the retirement system at
306 any time before the date of retirement the actuarial cost as
307 determined by the actuary for each increment of service purchased
308 up to the maximum of three (3) years. The member may make such
309 payment in lump sum payments or periodically in monthly, quarterly
310 or annual payments, as elected by the member. The provisions of
311 this paragraph (b) shall be subject to the limitations of Section
312 415 of the Internal Revenue Code and regulations promulgated by
313 the board of trustees; and

314 (c) Any member who became a member of the system before
315 July 1, 2011, may receive no more years of creditable service
316 under this subsection (11) than an amount that, when combined with
317 all other creditable service, excluding unused leave, would cause



318 the member to have twenty-five (25) years of creditable service.
319 Any member who became a member of the system on or after July 1,
320 2011, may receive no more years of creditable service under this
321 subsection (11) than an amount that, when combined with all other
322 creditable service, excluding unused leave, would cause the member
323 to have thirty (30) years of creditable service.

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

