

By: Representatives Denton, Thompson

To: State Affairs;
Appropriations A

HOUSE BILL NO. 885

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; TO AMEND SECTION 25-11-111,
5 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A MEMBER OF THE SYSTEM
6 WHO SERVED AS A COUNTY OR MUNICIPAL ELECTION COMMISSIONER FOR AT
7 LEAST EIGHT YEARS BEFORE JULY 1, 2025, WHEN THE MEMBER WITHDRAWS
8 FROM SERVICE AND RECEIVES A RETIREMENT ALLOWANCE, SHALL RECEIVE AN
9 ADDITIONAL AMOUNT FOR EACH FULL YEAR THAT THE MEMBER SERVED AS AN
10 ELECTION COMMISSIONER BEFORE JULY 1, 2025; AND FOR RELATED
11 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, except for county and
66 municipal election commissioners.

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



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

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

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

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



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

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

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

109 (ii) For service on and after July 1, 1984, the
110 member shall receive credit for personal and major medical leave
111 beginning July 1, 1984, at the rates authorized in Sections
112 25-3-93 and 25-3-95, computed as a full-time employee.

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

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



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

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

136 When membership ceases, such prior service certificates shall
137 become void. Should the employee again become a member, he shall
138 enter the system as an employee not entitled to prior service
139 credit except as provided in Sections 25-11-105(I), 25-11-113 and
140 25-11-117.

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



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



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

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

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

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



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

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

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

238 (9) Any member of the Public Employees' Retirement System
239 who became a member of the system before July 1, 2007, and has at
240 least four (4) years of membership service credit, or who became a
241 member of the system on or after July 1, 2007, and has at least
242 eight (8) years of membership service credit, and who receives, or
243 has received, professional leave without compensation for
244 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.

SECTION 2. Section 25-11-111, Mississippi Code of 1972, is amended as follows:

25-11-111. (a) (1) Any member who became a member of the system before July 1, 2007, upon withdrawal from service upon or after attainment of the age of sixty (60) years who has completed at least four (4) years of membership service, or any member who became a member of the system before July 1, 2011, upon withdrawal from service regardless of age who has completed at least twenty-five (25) years of creditable service, shall be entitled to receive a retirement allowance, which shall begin on the first of the month following the date the member's application for the allowance is received by the board, but in no event before withdrawal from service.

(2) Any member who became a member of the system on or after July 1, 2007, upon withdrawal from service upon or after attainment of the age of sixty (60) years who has completed at least eight (8) years of membership service, or any member who became a member of the system on or after July 1, 2011, upon withdrawal from service regardless of age who has completed at least thirty (30) years of creditable service, shall be entitled to receive a retirement allowance, which shall begin on the first of the month following the date the member's application for the



318 allowance is received by the board, but in no event before
319 withdrawal from service.

320 (b) (1) Any member who became a member of the system before
321 July 1, 2007, whose withdrawal from service occurs before
322 attaining the age of sixty (60) years who has completed four (4)
323 or more years of membership service and has not received a refund
324 of his accumulated contributions, shall be entitled to receive a
325 retirement allowance, beginning upon his attaining the age of
326 sixty (60) years, of the amount earned and accrued at the date of
327 withdrawal from service. The retirement allowance shall begin on
328 the first of the month following the date the member's application
329 for the allowance is received by the board, but in no event before
330 withdrawal from service.

331 (2) Any member who became a member of the system on or
332 after July 1, 2007, whose withdrawal from service occurs before
333 attaining the age of sixty (60) years who has completed eight (8)
334 or more years of membership service and has not received a refund
335 of his accumulated contributions, shall be entitled to receive a
336 retirement allowance, beginning upon his attaining the age of
337 sixty (60) years, of the amount earned and accrued at the date of
338 withdrawal from service. The retirement allowance shall begin on
339 the first of the month following the date the member's application
340 for the allowance is received by the board, but in no event before
341 withdrawal from service.



(c) Any member in service who has qualified for retirement benefits may select any optional method of settlement of retirement benefits by notifying the Executive Director of the Board of Trustees of the Public Employees' Retirement System in writing, on a form prescribed by the board, of the option he has selected and by naming the beneficiary of the option and furnishing necessary proof of age. The option, once selected, may be changed at any time before actual retirement or death, but upon the death or retirement of the member, the optional settlement shall be placed in effect upon proper notification to the executive director.

(d) Any member who became a member of the system before July 1, 2011, shall be entitled to an annual retirement allowance which shall consist of:

(1) A member's annuity, which shall be the actuarial equivalent of the accumulated contributions of the member at the time of retirement computed according to the actuarial table in use by the system; and

(2) An employer's annuity, which, together with the member's annuity provided above, shall be equal to two percent (2%) of the average compensation for each year of service up to and including twenty-five (25) years of creditable service, and two and one-half percent (2-1/2%) of the average compensation for each year of service exceeding twenty-five (25) years of creditable service.



(3) Any retired member or beneficiary thereof who was eligible to receive a retirement allowance before July 1, 1991, and who is still receiving a retirement allowance on July 1, 1992, shall receive an increase in the annual retirement allowance of the retired member equal to one-eighth of one percent ($1/8$ of 1%) of the average compensation for each year of state service in excess of twenty-five (25) years of membership service up to and including thirty (30) years. The maximum increase shall be five-eighths of one percent ($5/8$ of 1%). In no case shall a member who has been retired before July 1, 1987, receive less than Ten Dollars (\$10.00) per month for each year of creditable service and proportionately for each quarter year thereof. Persons retired on or after July 1, 1987, shall receive at least Ten Dollars (\$10.00) per month for each year of service and proportionately for each quarter year thereof reduced for the option selected. However, such Ten Dollars (\$10.00) minimum per month for each year of creditable service shall not apply to a retirement allowance computed under Section 25-11-114 based on a percentage of the member's average compensation.

(e) Any member who became a member of the system on or after July 1, 2011, shall be entitled to an annual retirement allowance which shall consist of:

(1) A member's annuity, which shall be the actuarial equivalent of the accumulated contributions of the member at the



time of retirement computed according to the actuarial table in use by the system; and

(2) An employer's annuity, which, together with the member's annuity provided above, shall be equal to two percent (2%) of the average compensation for each year of service up to and including thirty (30) years of creditable service, and two and one-half percent (2-1/2%) of average compensation for each year of service exceeding thirty (30) years of creditable service.

(f) Any member who became a member of the system on or after July 1, 2011, upon withdrawal from service upon or after attaining the age of sixty (60) years who has completed at least eight (8) years of membership service, or any such member upon withdrawal from service regardless of age who has completed at least thirty (30) years of creditable service, shall be entitled to receive a retirement allowance computed in accordance with the formula set forth in subsection (e) of this section. In the case of the retirement of any member who has attained age sixty (60) but who has not completed at least thirty (30) years of creditable service, the retirement allowance shall be computed in accordance with the formula set forth in subsection (e) of this section except that the total annual retirement allowance shall be reduced by an actuarial equivalent factor for each year of creditable service below thirty (30) years or the number of years in age that the member is below age sixty-five (65), whichever is less.



(g) If a member who withdraws from service and receives a retirement allowance under this section served as a county or municipal election commissioner for at least eight (8) years before July 1, 2025, in addition to the amount of the retirement allowance that the member will receive under any other provision of this section, the member shall receive Two Hundred Dollars (\$200.00) for each full year that the member served as a county or municipal election commissioner before July 1, 2025. In order to receive that additional amount, such years of service as an election commissioner before July 1, 2025, must be certified to the system by the county or municipality in which the election commissioner served.

(h) No member, except members excluded by the Age Discrimination in Employment Act Amendments of 1986 (Public Law 99-592), under either Article 1 or Article 3 in state service shall be required to retire because of age.

(* * *i) No payment on account of any benefit granted under the provisions of this section shall become effective or begin to accrue until January 1, 1953.

(* * *j) (1) A retiree or beneficiary may, on a form prescribed by and filed with the retirement system, irrevocably waive all or a portion of any benefits from the retirement system to which the retiree or beneficiary is entitled. The waiver shall be binding on the heirs and assigns of any retiree or beneficiary and the same must agree to forever hold harmless the Public



440 Employees' Retirement System of Mississippi from any claim to the
441 waived retirement benefits.

442 (2) Any waiver under this subsection shall apply only
443 to the person executing the waiver. A beneficiary shall be
444 entitled to benefits according to the option selected by the
445 member at the time of retirement. However, a beneficiary may, at
446 the option of the beneficiary, execute a waiver of benefits under
447 this subsection.

448 (3) The retirement system shall retain in the annuity
449 reserve account amounts that are not used to pay benefits because
450 of a waiver executed under this subsection.

451 (4) The board of trustees may provide rules and
452 regulations for the administration of waivers under this
453 subsection.

454 **SECTION 3.** This act shall take effect and be in force from
455 and after July 1, 2025.

