

By: Representative Young

To: Appropriations

HOUSE BILL NO. 768

1 AN ACT TO AMEND SECTION 25-11-109, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT STUDENTS EMPLOYED AT PUBLIC COLLEGES AND
3 UNIVERSITIES IN MISSISSIPPI TO TEACH CLASSES WHILE PURSUING THEIR
4 STUDIES SHALL RECEIVE CREDITABLE SERVICE IN THE PUBLIC EMPLOYEES'
5 RETIREMENT SYSTEM FOR THE TIME THEY TEACH SUCH CLASSES; TO AMEND
6 SECTION 25-11-105, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE
7 PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

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

9 SECTION 1. Section 25-11-109, Mississippi Code of 1972, is
10 amended as follows:

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

24 (2) In the computation of membership service or prior
25 service under the provisions of this article, the total months of
26 accumulative service during any fiscal year shall be calculated in
27 accordance with the schedule as follows: ten (10) or more months
28 of creditable service during any fiscal year shall constitute a
29 year of creditable service; seven (7) months to nine (9) months



30 inclusive, three-quarters (3/4) of a year of creditable service;
31 four (4) months to six (6) months inclusive, one-half-year of
32 creditable service; one (1) month to three (3) months inclusive,
33 one-quarter (1/4) of a year of creditable service. In no case
34 shall credit be allowed for any period of absence without
35 compensation except for disability while in receipt of a
36 disability retirement allowance, nor shall less than fifteen (15)
37 days of service in any month, or service less than the equivalent
38 of one-half (1/2) of the normal working load for the position and
39 less than one-half (1/2) of the normal compensation for the
40 position in any month, constitute a month of creditable service,
41 nor shall more than one (1) year of service be creditable for all
42 services rendered in any one (1) fiscal year; provided that for a
43 school employee, substantial completion of the legal school term
44 when and where the service was rendered shall constitute a year of
45 service credit for both prior service and membership service. Any
46 state or local elected official shall be deemed a full-time
47 employee for the purpose of creditable service for prior service
48 or membership service. However, an appointed or elected official
49 compensated on a per diem basis only shall not be allowed
50 creditable service for terms of office.

51 In the computation of any retirement allowance or any annuity
52 or benefits provided in this article, any fractional period of
53 service of less than one (1) year shall be taken into account and
54 a proportionate amount of such retirement allowance, annuity or
55 benefit shall be granted for any such fractional period of
56 service.

57 In the computation of unused leave for creditable service
58 authorized in Section 25-11-103, the following shall govern:
59 twenty-one (21) days of unused leave shall constitute one (1)
60 month of creditable service and in no case shall credit be allowed
61 for any period of unused leave of less than fifteen (15) days.
62 The number of months of unused leave shall determine the number of



63 quarters or years of creditable service in accordance with the
64 above schedule for membership and prior service. In order for the
65 member to receive creditable service for the number of days of
66 unused leave, the system must receive certification from the
67 governing authority.

68 For the purpose of this subsection, for members of the system
69 who are elected officers and who retire on or after July 1, 1987,
70 the following shall govern:

71 (a) For service prior to July 1, 1984, the members
72 shall receive credit for leave (combined personal and major
73 medical) for service as an elected official prior to that date at
74 the rate of thirty (30) days per year.

75 (b) For service on and after July 1, 1984, the member
76 shall receive credit for personal and major medical leave
77 beginning July 1, 1984, at the rates authorized in Sections
78 25-3-93 and 25-3-95, computed as a full-time employee.

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

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

94 When membership ceases, such prior service certificates shall
95 become void. Should the employee again become a member, he shall



96 enter the system as an employee not entitled to prior service
97 credit except as provided in Sections 25-11-105(I), 25-11-113 and
98 25-11-117.

99 (5) Creditable service at retirement, on which the
100 retirement allowance of a member shall be based, shall consist of
101 the membership service rendered by him since he last became a
102 member, and also, if he has a prior service certificate which is
103 in full force and effect, the amount of the service certified on
104 his prior service certificate.

105 (6) Anything in this article to the contrary
106 notwithstanding, any member who served on active duty in the Armed
107 Forces of the United States, or who served in maritime service
108 during periods of hostility in World War II, shall be entitled to
109 creditable service for his service on active duty in the armed
110 forces or in such maritime service, provided he entered state
111 service after his discharge from the armed forces or entered state
112 service after he completed such maritime service. The maximum
113 period for such creditable service for all military service shall
114 not exceed four (4) years unless positive proof can be furnished
115 by such person that he was retained in the armed forces during
116 World War II or in maritime service during World War II by causes
117 beyond his control and without opportunity of discharge. The
118 member shall furnish proof satisfactory to the board of trustees
119 of certification of military service or maritime service records
120 showing dates of entrance into active duty service and the date of
121 discharge. From and after July 1, 1993, no creditable service
122 shall be granted for any military service or maritime service to a
123 member who qualifies for a retirement allowance in another public
124 retirement system administered by the Board of Trustees of the
125 Public Employees' Retirement System based in whole or in part on
126 such military or maritime service. In no case shall the member
127 receive creditable service if the member received a dishonorable
128 discharge from the Armed Forces of the United States.



129 (7) Any member of the Public Employees' Retirement System
130 who has at least four (4) years of membership service credit shall
131 be entitled to receive a maximum of five (5) years creditable
132 service for service rendered in another state as a public employee
133 of such other state, or a political subdivision, public education
134 system or other governmental instrumentality thereof, or service
135 rendered as a teacher in American overseas dependent schools
136 conducted by the Armed Forces of the United States for children of
137 citizens of the United States residing in areas outside the
138 continental United States, provided that:

139 (a) The member shall furnish proof satisfactory to the
140 board of trustees of certification of such services from the
141 state, public education system, political subdivision or
142 retirement system of the state where the services were performed
143 or the governing entity of the American overseas dependent school
144 where the services were performed; and

145 (b) The member is not receiving or will not be entitled
146 to receive from the public retirement system of the other state or
147 from any other retirement plan, including optional retirement
148 plans, sponsored by the employer, a retirement allowance including
149 such services; and

150 (c) The member shall pay to the retirement system on
151 the date he or she is eligible for credit for such out-of-state
152 service or at any time thereafter prior to date of retirement the
153 actuarial cost as determined by the actuary for each year of
154 out-of-state creditable service. The provisions of this
155 subsection are subject to the limitations of Section 415 of the
156 Internal Revenue Code and regulations promulgated thereunder.

157 (8) Any member of the Public Employees' Retirement System
158 who has at least four (4) years of membership service credit and
159 who receives, or has received, professional leave without
160 compensation for professional purposes directly related to the



161 employment in state service shall receive creditable service for
162 the period of professional leave without compensation provided:

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

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

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

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

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

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

184 Any actively contributing member participating in the School
185 Administrator Sabbatical Program established in Section 37-9-77
186 shall qualify for continued participation under this subsection
187 (8).

188 (9) Any member of the Public Employees' Retirement System
189 who has at least four (4) years of credited membership service
190 shall be entitled to receive a maximum of ten (10) years
191 creditable service for:

192 (a) Any service rendered as an employee of any
193 political subdivision of this state, or any instrumentality



194 thereof, which does not participate in the Public Employees'
195 Retirement System; or

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

200 (c) Any service rendered as an employee of any
201 political subdivision of this state, or any instrumentality
202 thereof, for which coverage of the employee's position was or is
203 excluded; provided that the member pays into the retirement system
204 the actuarial cost as determined by the actuary for each year, or
205 portion thereof, of such service. Payment for such service may be
206 made in increments of one-quarter-year of creditable service.
207 After a member has made full payment to the retirement system for
208 all or any part of such service, the member shall receive
209 creditable service for the period of such service for which full
210 payment has been made to the retirement system.

211 (10) Any student who is employed by a state institution of
212 higher learning in Mississippi to teach classes at the institution
213 while the student is enrolled and pursuing studies at the
214 institution shall receive creditable service for any periods of
215 time that the student teaches such classes at the institution.

216 SECTION 2. Section 25-11-105, Mississippi Code of 1972, is
217 amended as follows:

218 25-11-105. I. **THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

219 The membership of this retirement system shall be composed as
220 follows:

221 (a) All persons who shall become employees in the state
222 service after January 31, 1953, and whose wages are subject to
223 payroll taxes and are lawfully reported on IRS Form W-2, except
224 those specifically excluded, or as to whom election is provided in
225 Articles 1 and 3, shall become members of the retirement system as
226 a condition of their employment.



227 (b) All persons who shall become employees in the state
228 service after January 31, 1953, except those specifically excluded
229 or as to whom election is provided in Articles 1 and 3, unless
230 they shall file with the board prior to the lapse of sixty (60)
231 days of employment or sixty (60) days after the effective date of
232 the cited articles, whichever is later, on a form prescribed by
233 the board, a notice of election not to be covered by the
234 membership of the retirement system and a duly executed waiver of
235 all present and prospective benefits which would otherwise inure
236 to them on account of their participation in the system, shall
237 become members of the retirement system; provided, however, that
238 no credit for prior service will be granted to members until they
239 have contributed to Article 3 of the retirement system for a
240 minimum period of at least four (4) years. Such members shall
241 receive credit for services performed prior to January 1, 1953, in
242 employment now covered by Article 3, but no credit shall be
243 granted for retroactive services between January 1, 1953, and the
244 date of their entry into the retirement system unless the employee
245 pays into the retirement system both the employer's and the
246 employee's contributions on wages paid him during the period from
247 January 31, 1953, to the date of his becoming a contributing
248 member, together with interest at the rate determined by the board
249 of trustees. Members reentering after withdrawal from service
250 shall qualify for prior service under the provisions of Section
251 25-11-117. From and after July 1, 1998, upon eligibility as noted
252 above, the member may receive credit for such retroactive service
253 provided:

254 (1) The member shall furnish proof satisfactory to
255 the board of trustees of certification of such service from the
256 covered employer where the services were performed; and

257 (2) The member shall pay to the retirement system
258 on the date he or she is eligible for such credit or at any time
259 thereafter prior to the date of retirement the actuarial cost for



260 each year of such creditable service. The provisions of this
261 subparagraph (2) shall be subject to the limitations of Section
262 415 of the Internal Revenue Code and regulations promulgated
263 thereunder.

264 Nothing contained in this paragraph (b) shall be construed to
265 limit the authority of the board to allow the correction of
266 reporting errors or omissions based on the payment of the employee
267 and employer contributions plus applicable interest.

268 (c) All persons who shall become employees in the state
269 service after January 31, 1953, and who are eligible for
270 membership in any other retirement system shall become members of
271 this retirement system as a condition of their employment unless
272 they elect at the time of their employment to become a member of
273 such other system.

274 (d) All persons who are employees in the state service
275 on January 31, 1953, and who are members of any nonfunded
276 retirement system operated by the State of Mississippi, or any of
277 its departments or agencies, shall become members of this system
278 with prior service credit unless, before February 1, 1953, they
279 shall file a written notice with the board of trustees that they
280 do not elect to become members.

281 (e) All persons who are employees in the state service
282 on January 31, 1953, and who under existing laws are members of
283 any fund operated for the retirement of employees by the State of
284 Mississippi, or any of its departments or agencies, shall not be
285 entitled to membership in this retirement system unless, before
286 February 1, 1953, any such person shall indicate by a notice filed
287 with the board, on a form prescribed by the board, his individual
288 election and choice to participate in this system, but no such
289 person shall receive prior service credit unless he becomes a
290 member on or before February 1, 1953.

291 (f) Each political subdivision of the state and each
292 instrumentality of the state or a political subdivision, or both,



293 is hereby authorized to submit, for approval by the board of
294 trustees, a plan for extending the benefits of this article to
295 employees of any such political subdivision or instrumentality.
296 Each such plan or any amendment to the plan for extending benefits
297 thereof shall be approved by the board of trustees if it finds
298 that such plan, or such plan as amended, is in conformity with
299 such requirements as are provided in Articles 1 and 3; however,
300 upon approval of such plan or any such plan heretofore approved by
301 the board of trustees, the approved plan shall not be subject to
302 cancellation or termination by the political subdivision or
303 instrumentality, except that any community hospital serving a
304 municipality that joined the Public Employees' Retirement System
305 as of November 1, 1956, to offer social security coverage for its
306 employees and subsequently extended retirement annuity coverage to
307 its employees as of December 1, 1965, may, upon documentation of
308 extreme financial hardship, have future retirement annuity
309 coverage cancelled or terminated at the discretion of the board of
310 trustees. No such plan shall be approved unless:

311 (1) It provides that all services which constitute
312 employment as defined in Section 25-11-5 and are performed in the
313 employ of the political subdivision or instrumentality, by any
314 employees thereof, shall be covered by the plan; with the
315 exception of municipal employees who are already covered by
316 existing retirement plans; provided, however, those employees in
317 this class may elect to come under the provisions of this article;

318 (2) It specifies the source or sources from which
319 the funds necessary to make the payments required by paragraph (d)
320 of Section 25-11-123 and of paragraph (f) (5)B and C of this
321 section are expected to be derived and contains reasonable
322 assurance that such sources will be adequate for such purpose;

323 (3) It provides for such methods of administration
324 of the plan by the political subdivision or instrumentality as are



325 found by the board of trustees to be necessary for the proper and
326 efficient administration thereof;

327 (4) It provides that the political subdivision or
328 instrumentality will make such reports, in such form and
329 containing such information, as the board of trustees may from
330 time to time require;

331 (5) It authorizes the board of trustees to
332 terminate the plan in its entirety in the discretion of the board
333 if it finds that there has been a failure to comply substantially
334 with any provision contained in such plan, such termination to
335 take effect at the expiration of such notice and on such
336 conditions as may be provided by regulations of the board and as
337 may be consistent with applicable federal law.

338 A. The board of trustees shall not finally
339 refuse to approve a plan submitted under paragraph (f), and shall
340 not terminate an approved plan without reasonable notice and
341 opportunity for hearing to each political subdivision or
342 instrumentality affected thereby. The board's decision in any
343 such case shall be final, conclusive and binding unless an appeal
344 be taken by the political subdivision or instrumentality aggrieved
345 thereby to the Circuit Court of Hinds County, Mississippi, in
346 accordance with the provisions of law with respect to civil causes
347 by certiorari.

348 B. Each political subdivision or
349 instrumentality as to which a plan has been approved under this
350 section shall pay into the contribution fund, with respect to
351 wages (as defined in Section 25-11-5), at such time or times as
352 the board of trustees may by regulation prescribe, contributions
353 in the amounts and at the rates specified in the applicable
354 agreement entered into by the board.

355 C. Every political subdivision or
356 instrumentality required to make payments under paragraph(f)(5)B
357 hereof is authorized, in consideration of the employees' retention



358 in or entry upon employment after enactment of Articles 1 and 3,
359 to impose upon its employees, as to services which are covered by
360 an approved plan, a contribution with respect to wages (as defined
361 in Section 25-11-5) not exceeding the amount provided in Section
362 25-11-123(d) if such services constituted employment within the
363 meaning of Articles 1 and 3, and to deduct the amount of such
364 contribution from the wages as and when paid. Contributions so
365 collected shall be paid into the contribution fund as partial
366 discharge of the liability of such political subdivisions or
367 instrumentalities under paragraph (f)(5)B hereof. Failure to
368 deduct such contribution shall not relieve the employee or
369 employer of liability thereof.

370 D. Any state agency, school, political
371 subdivision, instrumentality or any employer that is required to
372 submit contribution payments or wage reports under any section of
373 this chapter shall be assessed interest on delinquent payments or
374 wage reports as determined by the board of trustees in accordance
375 with rules and regulations adopted by the board and such assessed
376 interest may be recovered by action in a court of competent
377 jurisdiction against such reporting agency liable therefor or may,
378 upon due certification of delinquency and at the request of the
379 board of trustees, be deducted from any other monies payable to
380 such reporting agency by any department or agency of the state.

381 E. Each political subdivision of the state
382 and each instrumentality of the state or a political subdivision
383 or subdivisions which submits a plan for approval of the board, as
384 provided in this section, shall reimburse the board for coverage
385 into the expense account, its pro rata share of the total expense
386 of administering Articles 1 and 3 as provided by regulations of
387 said board.

388 (g) The board may, in its discretion, deny the right of
389 membership in this system to any class of employees whose
390 compensation is only partly paid by the state or who are occupying



391 positions on a part-time or intermittent basis. The board may, in
392 its discretion, make optional with employees in any such classes
393 their individual entrance into this system.

394 (h) An employee whose membership in this system is
395 contingent on his own election, and who elects not to become a
396 member, may thereafter apply for and be admitted to membership;
397 but no such employee shall receive prior service credit unless he
398 becomes a member prior to July 1, 1953, except as provided in
399 paragraph (b).

400 (i) In the event any member of this system should
401 change his employment to any agency of the state having an
402 actuarially funded retirement system, the board of trustees may
403 authorize the transfer of the member's creditable service and of
404 the present value of the member's employer's accumulation account
405 and of the present value of the member's accumulated membership
406 contributions to such other system, provided the employee agrees
407 to the transfer of his accumulated membership contributions and
408 provided such other system is authorized to receive and agrees to
409 make such transfer.

410 In the event any member of any other actuarially funded
411 system maintained by an agency of the state changes his employment
412 to an agency covered by this system, the board of trustees may
413 authorize the receipt of the transfer of the member's creditable
414 service and of the present value of the member's employer's
415 accumulation account and of the present value of the member's
416 accumulated membership contributions from such other system,
417 provided the employee agrees to the transfer of his accumulated
418 membership contributions to this system and provided the other
419 system is authorized and agrees to make such transfer.

420 (j) Wherever herein state employment is referred to, it
421 shall include joint employment by state and federal agencies of
422 all kinds.



423 (k) Employees of a political subdivision or
424 instrumentality who were employed by such political subdivision or
425 instrumentality prior to an agreement between such entity and the
426 Public Employees' Retirement System to extend the benefits of this
427 article to its employees, and which agreement provides for the
428 establishment of retroactive service credit, and who have been
429 members of the retirement system and have remained contributors to
430 the retirement system for four (4) years, may receive credit for
431 such retroactive service with such political subdivision or
432 instrumentality, provided the employee and/or employer, as
433 provided under the terms of the modification of the joinder
434 agreement in allowing such coverage, pay into the retirement
435 system the employer's and employee's contributions on wages paid
436 the member during such previous employment, together with interest
437 or actuarial cost as determined by the board covering the period
438 from the date the service was rendered until the payment for the
439 credit for such service was made. Such wages shall be verified by
440 the Social Security Administration or employer payroll records.
441 Effective July 1, 1998, upon eligibility as noted above, a member
442 may receive credit for such retroactive service with such
443 political subdivision or instrumentality provided:

444 (1) The member shall furnish proof satisfactory to
445 the board of trustees of certification of such services from the
446 political subdivision or instrumentality where the services were
447 rendered or verification by the Social Security Administration;
448 and

449 (2) The member shall pay to the retirement system
450 on the date he or she is eligible for such credit or at any time
451 thereafter prior to the date of retirement the actuarial cost for
452 each year of such creditable service. The provisions of this
453 subparagraph (2) shall be subject to the limitations of Section
454 415 of the Internal Revenue Code and regulations promulgated
455 thereunder.



456 Nothing contained in this paragraph (k) shall be construed to
457 limit the authority of the board to allow the correction of
458 reporting errors or omissions based on the payment of employee and
459 employer contributions plus applicable interest. Payment for such
460 time shall be made in increments of not less than one-quarter
461 (1/4) year of creditable service beginning with the most recent
462 service. Upon the payment of all or part of such required
463 contributions, plus interest or the actuarial cost as provided
464 above, the member shall receive credit for the period of
465 creditable service for which full payment has been made to the
466 retirement system.

467 (1) Through June 30, 1998, any state service eligible
468 for retroactive service credit, no part of which has ever been
469 reported, and requiring the payment of employee and employer
470 contributions plus interest, or, from and after July 1, 1998, any
471 state service eligible for retroactive service credit, no part of
472 which has ever been reported to the retirement system, and
473 requiring the payment of the actuarial cost for such creditable
474 service, may, at the member's option, be purchased in quarterly
475 increments as provided above at such time as its purchase is
476 otherwise allowed.

477 (m) All rights to purchase retroactive service credit
478 or repay a refund as provided in Section 25-11-101 et seq. shall
479 terminate upon retirement.

480 **II. THOSE WHO ARE NOT ELIGIBLE FOR MEMBERSHIP**

481 The following classes of employees and officers shall not
482 become members of this retirement system, any other provisions of
483 Articles 1 and 3 to the contrary notwithstanding:

484 (a) Patient or inmate help in state charitable, penal
485 or correctional institutions;

486 (b) Students of any state educational institution
487 employed by any agency of the state for temporary, part-time or
488 intermittent work, except for those students described in Section



489 25-11-109(10), who shall be members of the system and receive
490 creditable service for their work;

491 (c) Participants of Comprehensive Employment and
492 Training Act of 1973 (CETA) being Public Law 93-203, who enroll on
493 or after July 1, 1979.

494 **III. TERMINATION OF MEMBERSHIP**

495 Membership in this system shall cease by a member withdrawing
496 his accumulated contributions, or by a member withdrawing from
497 active service with a retirement allowance, or by a member's
498 death.

499 SECTION 3. This act shall take effect and be in force from
500 and after July 1, 2001.

