

By: Representative Stevens

To: Appropriations

HOUSE BILL NO. 1166

1 AN ACT TO AMEND SECTION 25-11-109, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE FOR CREDITABLE SERVICE IN THE PUBLIC EMPLOYEES'
3 RETIREMENT SYSTEM FOR SERVICE IN THE UNITED STATES PUBLIC HEALTH
4 SERVICE BEFORE 1972; 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 prior to July 1, 1953, or who becomes a member and contributes to
12 the system for a minimum period of four (4) years, shall receive
13 credit for all state service rendered before February 1, 1953. To
14 receive such credit, such member shall file a detailed statement
15 of all services as an employee rendered by him in the state
16 service before February 1, 1953. For any member who joined the
17 system after July 1, 1953, any creditable service for which the
18 member is not required to make contributions shall not be credited
19 to the member until the member has contributed to the system for a
20 minimum period of at least four (4) years.

21 (2) In the computation of membership service or prior
22 service under the provisions of this article, the total months of
23 accumulative service during any fiscal year shall be calculated in
24 accordance with the schedule as follows: ten (10) or more months
25 of creditable service during any fiscal year shall constitute a
26 year of creditable service; seven (7) months to nine (9) months
27 inclusive, three-quarters (3/4) of a year of creditable service;
28 four (4) months to six (6) months inclusive, one-half-year of



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

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

54 In the computation of unused leave for creditable service
55 authorized in Section 25-11-103, the following shall govern:
56 twenty-one (21) days of unused leave shall constitute one (1)
57 month of creditable service and in no case shall credit be allowed
58 for any period of unused leave of less than fifteen (15) days.
59 The number of months of unused leave shall determine the number of
60 quarters or years of creditable service in accordance with the
61 above schedule for membership and prior service. In order for the



62 member to receive creditable service for the number of days of
63 unused leave, the system must receive certification from the
64 governing authority.

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

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

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

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

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

91 When membership ceases, such prior service certificates shall
92 become void. Should the employee again become a member, he shall
93 enter the system as an employee not entitled to prior service



94 credit except as provided in Sections 25-11-105(I), 25-11-113 and
95 25-11-117.

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

102 (6) Anything in this article to the contrary
103 notwithstanding, any member who served on active duty in the Armed
104 Forces of the United States, or served in the United States Public
105 Health Service (Coast Guard, a branch of the United States Navy)
106 before 1972, or who served in maritime service during periods of
107 hostility in World War II, shall be entitled to creditable service
108 at no cost for his service on active duty in the Armed Forces or
109 in such maritime service, provided he entered state service after
110 his discharge from the Armed Forces of the United States Public
111 Health Service (Coast Guard, a branch of the United States Navy)
112 or entered state service after he completed such maritime service.
113 The maximum period for such creditable service for all military
114 service as defined in this subsection (6) shall not exceed four
115 (4) years unless positive proof can be furnished by such person
116 that he was retained in the Armed Forces during World War II or in
117 maritime service during World War II by causes beyond his control
118 and without opportunity of discharge. The member shall furnish
119 proof satisfactory to the board of trustees of certification of
120 military service or maritime service records showing dates of
121 entrance into active duty service and the date of discharge. From
122 and after July 1, 1993, no creditable service shall be granted for
123 any military service or maritime service to a member who qualifies
124 for a retirement allowance in another public retirement system
125 administered by the Board of Trustees of the Public Employees'
126 Retirement System based in whole or in part on such military or



127 maritime service. In no case shall the member receive creditable
128 service if the member received a dishonorable discharge from the
129 Armed Forces of the United States.

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

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

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

147 (iii) The employer at the time the member's
148 service was interrupted and to which employment the member returns
149 pays the contributions it would have made into the retirement
150 system for such period based on the member's salary at the time
151 the service was interrupted.

152 (b) The payments required to be made in paragraph
153 (a)(i) of this subsection may be made over a period beginning with
154 the date of return to membership service and not exceeding three
155 (3) times the member's qualified military service; provided,
156 however, that in no event shall such period exceed fifteen (15)
157 years.

158 (c) The member shall furnish proof satisfactory to the
159 board of trustees of certification of military service showing



160 dates of entrance into qualified service and the date of discharge
161 as well as proof that the member has returned to active employment
162 within the time specified.

163 (8) Any member of the Public Employees' Retirement System
164 who has at least four (4) years of membership service credit shall
165 be entitled to receive a maximum of five (5) years creditable
166 service for service rendered in another state as a public employee
167 of such other state, or a political subdivision, public education
168 system or other governmental instrumentality thereof, or service
169 rendered as a teacher in American overseas dependent schools
170 conducted by the Armed Forces of the United States for children of
171 citizens of the United States residing in areas outside the
172 continental United States, provided that:

173 (a) The member shall furnish proof satisfactory to the
174 board of trustees of certification of such services from the
175 state, public education system, political subdivision or
176 retirement system of the state where the services were performed
177 or the governing entity of the American overseas dependent school
178 where the services were performed; and

179 (b) The member is not receiving or will not be entitled
180 to receive from the public retirement system of the other state or
181 from any other retirement plan, including optional retirement
182 plans, sponsored by the employer, a retirement allowance including
183 such services; and

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

191 (9) Any member of the Public Employees' Retirement System
192 who has at least four (4) years of membership service credit and



193 who receives, or has received, professional leave without
194 compensation for professional purposes directly related to the
195 employment in state service shall receive creditable service for
196 the period of professional leave without compensation provided:

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

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

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

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

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

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

218 Any actively contributing member participating in the School
219 Administrator Sabbatical Program established in Section 37-9-77
220 shall qualify for continued participation under this subsection
221 (9).

222 (10) Any member of the Public Employees' Retirement System
223 who has at least four (4) years of credited membership service
224 shall be entitled to receive a maximum of ten (10) years
225 creditable service for:



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

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

234 (c) Any service rendered as an employee of any
235 political subdivision of this state, or any instrumentality
236 thereof, for which coverage of the employee's position was or is
237 excluded; provided that the member pays into the retirement system
238 the actuarial cost as determined by the actuary for each year, or
239 portion thereof, of such service. Payment for such service may be
240 made in increments of one-quarter-year of creditable service.
241 After a member has made full payment to the retirement system for
242 all or any part of such service, the member shall receive
243 creditable service for the period of such service for which full
244 payment has been made to the retirement system.

245 **SECTION 2.** This act shall take effect and be in force from
246 and after July 1, 2002.

