

By: Representative McCoy

To: Appropriations

## HOUSE BILL NO. 174

1 AN ACT TO AMEND SECTION 25-11-109, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT ANY MEMBER OF THE PUBLIC EMPLOYEES' RETIREMENT  
3 SYSTEM WHO SERVED IN THE MISSISSIPPI NATIONAL GUARD SHALL BE  
4 ENTITLED TO CREDITABLE SERVICE IN THE RETIREMENT SYSTEM AT THE  
5 RATE OF ONE MONTH OF CREDITABLE SERVICE FOR EVERY THREE MONTHS OF  
6 SERVICE IN THE MISSISSIPPI NATIONAL GUARD, NOT TO EXCEED A MAXIMUM  
7 OF FORTY-EIGHT MONTHS OF CREDITABLE SERVICE FOR ALL SERVICE IN THE  
8 MISSISSIPPI NATIONAL GUARD; AND FOR RELATED PURPOSES.

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

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

12 25-11-109. (1) Under such rules and regulations as the  
13 board of trustees shall adopt, each person who becomes a member of  
14 this retirement system, as provided in Section 25-11-105, on or  
15 prior to July 1, 1953, or who becomes a member and contributes to  
16 the system for a minimum period of four (4) years, shall receive  
17 credit for all state service rendered before February 1, 1953. To  
18 receive such credit, such member shall file a detailed statement  
19 of all services as an employee rendered by him in the state  
20 service before February 1, 1953. For any member who joined the  
21 system after July 1, 1953, any creditable service for which the  
22 member is not required to make contributions shall not be credited  
23 to the member until the member has contributed to the system for a  
24 minimum period of at least four (4) years.

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

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

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

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

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

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

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

76 (b) For service on and after July 1, 1984, the member  
77 shall receive credit for personal and major medical leave  
78 beginning July 1, 1984, at the rates authorized in Sections  
79 25-3-93 and 25-3-95, computed as a full-time employee.

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

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

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

97 enter the system as an employee not entitled to prior service  
98 credit except as provided in Sections 25-11-105(I), 25-11-113 and  
99 25-11-117.

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

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

130 case shall the member receive creditable service if the member  
131 received a dishonorable discharge from the Armed Forces of the  
132 United States.

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

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

147 (ii) The member returns to membership service  
148 within ninety (90) days of the end of his qualified military  
149 service; and

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

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

160 (c) The member shall furnish proof satisfactory to the  
161 board of trustees of certification of military service showing  
162 dates of entrance into qualified service and the date of discharge

163 as well as proof that the member has returned to active employment  
164 within the time specified.

165 (8) Anything in this article to the contrary  
166 notwithstanding, any member who served in the Mississippi National  
167 Guard shall be entitled to creditable service at the rate of one  
168 (1) month of creditable service for every three (3) months of  
169 service in the Mississippi National Guard, not to exceed a maximum  
170 of forty-eight (48) months of creditable service for all service  
171 in the Mississippi National Guard. However, the maximum amount of  
172 creditable service that a member may receive for all military  
173 service and Mississippi National Guard service under subsection  
174 (6) and this subsection shall not exceed a cumulative total of  
175 four (4) years. The member shall furnish proof satisfactory to  
176 the board of trustees of certification of Mississippi National  
177 Guard service showing dates of entrance into service and the date  
178 of discharge. Creditable service shall not be granted for any  
179 service in the Mississippi National Guard to a member who  
180 qualifies for a retirement allowance in another public retirement  
181 system administered by the Board of Trustees of the Public  
182 Employees' Retirement System based in whole or in part on that  
183 National Guard service. If a member receives any creditable  
184 service under subsection (6) or (7) for active duty military  
185 service with the Mississippi National Guard, the member will not  
186 receive additional creditable service for that active duty  
187 military service under this subsection. A member shall not  
188 receive any creditable service under this subsection if the member  
189 received a dishonorable discharge from the Mississippi National  
190 Guard.

191 (9) Any member of the Public Employees' Retirement System  
192 who has at least four (4) years of membership service credit shall  
193 be entitled to receive a maximum of five (5) years creditable  
194 service for service rendered in another state as a public employee  
195 of such other state, or a political subdivision, public education

196 system or other governmental instrumentality thereof, or service  
197 rendered as a teacher in American overseas dependent schools  
198 conducted by the Armed Forces of the United States for children of  
199 citizens of the United States residing in areas outside the  
200 continental United States, provided that:

201 (a) The member shall furnish proof satisfactory to the  
202 board of trustees of certification of such services from the  
203 state, public education system, political subdivision or  
204 retirement system of the state where the services were performed  
205 or the governing entity of the American overseas dependent school  
206 where the services were performed; and

207 (b) The member is not receiving or will not be entitled  
208 to receive from the public retirement system of the other state or  
209 from any other retirement plan, including optional retirement  
210 plans, sponsored by the employer, a retirement allowance including  
211 such services; and

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

219 (10) Any member of the Public Employees' Retirement System  
220 who has at least four (4) years of membership service credit and  
221 who receives, or has received, professional leave without  
222 compensation for professional purposes directly related to the  
223 employment in state service shall receive creditable service for  
224 the period of professional leave without compensation provided:

225 (a) The professional leave is performed with a public  
226 institution or public agency of this state, or another state or  
227 federal agency;

228           (b) The employer approves the professional leave  
229 showing the reason for granting the leave and makes a  
230 determination that the professional leave will benefit the  
231 employee and employer;

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

234           (d) The employee shall serve the employer on a  
235 full-time basis for a period of time equivalent to the  
236 professional leave period granted immediately following the  
237 termination of the leave period;

238           (e) The contributing member shall pay to the retirement  
239 system the actuarial cost as determined by the actuary for each  
240 year of professional leave. The provisions of this subsection are  
241 subject to the regulations of the Internal Revenue Code  
242 limitations;

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

246           Any actively contributing member participating in the School  
247 Administrator Sabbatical Program established in Section 37-9-77  
248 shall qualify for continued participation under this subsection  
249 (10).

250           (11) Any member of the Public Employees' Retirement System  
251 who has at least four (4) years of credited membership service  
252 shall be entitled to receive a maximum of ten (10) years  
253 creditable service for:

254           (a) Any service rendered as an employee of any  
255 political subdivision of this state, or any instrumentality  
256 thereof, which does not participate in the Public Employees'  
257 Retirement System; or

258           (b) Any service rendered as an employee of any  
259 political subdivision of this state, or any instrumentality



260 thereof, which participates in the Public Employees' Retirement  
261 System but did not elect retroactive coverage; or

262 (c) Any service rendered as an employee of any  
263 political subdivision of this state, or any instrumentality  
264 thereof, for which coverage of the employee's position was or is  
265 excluded; provided that the member pays into the retirement system  
266 the actuarial cost as determined by the actuary for each year, or  
267 portion thereof, of such service. Payment for such service may be  
268 made in increments of one-quarter-year of creditable service.  
269 After a member has made full payment to the retirement system for  
270 all or any part of such service, the member shall receive  
271 creditable service for the period of such service for which full  
272 payment has been made to the retirement system.

273 **SECTION 2.** This act shall take effect and be in force from  
274 and after July 1, 2005.