

By: Senator(s) Hewes (By Request)

To: Finance

SENATE BILL NO. 2903

1 AN ACT TO AMEND SECTION 25-11-109, MISSISSIPPI CODE OF 1972,  
2 TO ALLOW A MEMBER OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO  
3 RECEIVE CREDITABLE SERVICE FOR SERVICE RENDERED AS AN ELECTED  
4 OFFICIAL OF A POLITICAL SUBDIVISION OF THIS STATE WHICH WAS  
5 COMPENSATED ON A PER DIEM BASIS; AND FOR RELATED PURPOSES.

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

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

9 25-11-109. (1) Under such rules and regulations as the  
10 board of trustees shall adopt, each person who becomes a member of  
11 this retirement system, as provided in Section 25-11-105, on or  
12 prior to July 1, 1953, or who becomes a member and contributes to  
13 the system for a minimum period of four (4) years, shall receive  
14 credit for all state service rendered before February 1, 1953. To  
15 receive such credit, such member shall file a detailed statement  
16 of all services as an employee rendered by him in the state  
17 service before February 1, 1953. For any member who joined the  
18 system after July 1, 1953, any creditable service for which the  
19 member is not required to make contributions shall not be credited  
20 to the member until the member has contributed to the system for a  
21 minimum period of at least four (4) years.

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

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

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

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

62 above schedule for membership and prior service. In order for the  
63 member to receive creditable service for the number of days of  
64 unused leave, the system must receive certification from the  
65 governing authority.

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

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

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

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

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

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

95 credit except as provided in Sections 25-11-105(I), 25-11-113 and  
96 25-11-117.

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

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

128 received a dishonorable discharge from the Armed Forces of the  
129 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; however, in no  
156 event shall such period exceed five (5) years.

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

160 as well as proof that the member has returned to active employment  
161 within the time specified.

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

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

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

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

190 (9) Any member of the Public Employees' Retirement System  
191 who has at least four (4) years of membership service credit and  
192 who receives, or has received, professional leave without

193 compensation for professional purposes directly related to the  
194 employment in state service shall receive creditable service for  
195 the period of professional leave without compensation provided:

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

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

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

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

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

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

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

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

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

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

233 (c) Any service rendered as an employee of any  
234 political subdivision of this state, or any instrumentality  
235 thereof, for which coverage of the employee's position was or is  
236 excluded; or

237 (d) Through June 30, 1998, service rendered as an  
238 elected official of any political subdivision of this state, or  
239 any instrumentality thereof, which was compensated on a per diem  
240 basis; provided that the member pays into the retirement system  
241 the actuarial cost as determined by the actuary for each year, or  
242 portion thereof, of such service. Payment for such service may be  
243 made in increments of one-quarter-year of creditable service.  
244 After a member has made full payment to the retirement system for  
245 all or any part of such service, the member shall receive  
246 creditable service for the period of such service for which full  
247 payment has been made to the retirement system.

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