

By: Representative Janus

To: Appropriations

HOUSE BILL NO. 37

1 AN ACT TO CREATE NEW SECTION 25-11-126, MISSISSIPPI CODE OF
2 1972, TO PROVIDE THAT PERSONS RECEIVING A RETIREMENT ALLOWANCE
3 FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO ARE ELECTED OR
4 APPOINTED TO A MUNICIPAL OR COUNTY OFFICE OR EMPLOYED IN A
5 MUNICIPAL OR COUNTY POSITION AFTER RETIREMENT, AND ELECTED OR
6 APPOINTED OFFICIALS IN A MUNICIPAL OR COUNTY OFFICE OR EMPLOYEES
7 IN A MUNICIPAL OR COUNTY POSITION WHO BECOME ELIGIBLE TO RECEIVE A
8 RETIREMENT ALLOWANCE FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM
9 WHILE HOLDING THAT OFFICE OR POSITION, MAY RECEIVE A RETIREMENT
10 ALLOWANCE FROM THE SYSTEM WHILE HOLDING THE OFFICE OR POSITION IN
11 ADDITION TO RECEIVING THE REGULAR COMPENSATION FOR THE OFFICE OR
12 POSITION; TO PROVIDE THAT THOSE PERSONS SHALL NOT BE CONTRIBUTING
13 MEMBERS OF THE RETIREMENT SYSTEM OR RECEIVE ANY CREDITABLE SERVICE
14 FOR THE PERIOD DURING WHICH THEY RECEIVE A RETIREMENT ALLOWANCE
15 WHILE HOLDING THE OFFICE OR POSITION; TO AMEND SECTIONS 25-11-103,
16 25-11-105 AND 25-11-127, MISSISSIPPI CODE OF 1972, IN CONFORMITY
17 WITH THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

19 SECTION 1. The following shall be codified as Section
20 25-11-126, Mississippi Code of 1972:

21 25-11-126. (1) (a) Any person who is receiving a
22 retirement allowance under this article and who is elected or
23 appointed to a municipal or county office or employed in a
24 municipal or county position after retirement, and (b) any elected
25 or appointed official in a municipal or county office or employee
26 in a municipal or county position who becomes eligible to receive
27 a retirement allowance under this article while holding that
28 office or position, may choose to receive or continue to receive a
29 retirement allowance under this article while holding the office
30 or position in addition to receiving the regular compensation for
31 the office or position in the manner provided in this section.

32 (2) Any person who is receiving a retirement allowance and
33 who is elected or appointed to a municipal or county office or

employed in a municipal or county position after retirement shall notify the executive director of the system before taking office or taking the position about his choice on continuing to receive the retirement allowance while holding the office or position. If the person chooses not to continue receiving the retirement allowance while holding the office or position, the retirement allowance shall cease on the day that he begins serving in the office or position. After leaving the office or position, in order to begin receiving a retirement allowance under this article again, the person shall make application to the executive director of the system, and the retirement allowance shall begin on the first of the month following the date that the application is received by the executive director.

(3) Any elected or appointed official in a municipal or county office or employee in a municipal or county position who becomes eligible to receive a retirement allowance while holding that office or position and who chooses to receive a retirement allowance while holding the office or position shall make application to the executive director of the system, and the retirement allowance shall begin on the first of the month following the date that the application is received by the executive director. Those elected or appointed officials or employees shall not be required to withdraw from service in order to receive the retirement allowance.

(4) Any person who receives or continues to receive a retirement allowance under this article while holding a municipal or county office or position as authorized by this section shall not be a contributing member of the retirement system or receive any creditable service for the period during which he receives a retirement allowance while holding the office or position. Any such person who chooses not to receive a retirement allowance while holding the office or position shall be a contributing member of the retirement system and shall receive creditable service for the period during which he holds the office or position without receiving a retirement allowance. If the person has previously received a retirement allowance under this article and he holds the office or position for more than six (6) months

71 without receiving a retirement allowance, he shall have his
72 allowance recomputed when he retires again, which shall include
73 the service after he again became a contributing member of the
74 retirement system.

75 SECTION 2. Section 25-11-103, Mississippi Code of 1972, is
76 amended as follows:

77 25-11-103. The following words and phrases as used in
78 Articles 1 and 3, unless a different meaning is plainly required
79 by the context, shall have the following meanings:

80 (a) "Accumulated contributions" shall mean the sum of
81 all the amounts deducted from the compensation of a member and
82 credited to his individual account in the annuity savings account,
83 together with regular interest thereon as provided in Section
84 25-11-123.

85 (b) "Actuarial cost" shall mean the amount of funds
86 presently required to provide future benefits as determined by the
87 board based on applicable tables and formulas provided by the
88 actuary.

89 (c) "Actuarial equivalent" shall mean a benefit of
90 equal value to the accumulated contributions, annuity or benefit,
91 as the case may be, when computed upon the basis of such mortality
92 tables as shall be adopted by the board of trustees, and regular
93 interest.

94 (d) "Actuarial tables" shall mean such tables of
95 mortality and rates of interest as shall be adopted by the board
96 in accordance with the recommendation of the actuary.

97 (e) "Agency" shall mean any governmental body employing
98 persons in the state service.

99 (f) "Average compensation" shall mean the average of
100 the four (4) highest years of earned compensation reported for an
101 employee in a fiscal or calendar year period, or combination
102 thereof which do not overlap, or the last forty-eight (48)
103 consecutive months of earned compensation reported for an

employee. The four (4) years need not be successive or joined years of service. In no case shall the average compensation so determined be in excess of One Hundred Twenty-five Thousand Dollars (\$125,000.00). In computing the average compensation, any amount paid in a lump sum for personal leave shall be included in the calculation to the extent that such amount does not exceed an amount which is equal to thirty (30) days of earned compensation and to the extent that it does not cause the employees' earned compensation to exceed the maximum reportable amount specified in Section 25-11-103(k); provided, however, that such thirty-day limitation shall not prevent the inclusion in the calculation of leave earned under federal regulations prior to July 1, 1976, and frozen as of that date as referred to in Section 25-3-99. Only the amount of lump sum pay for personal leave due and paid upon the death of a member attributable for up to one hundred fifty (150) days shall be used in the deceased member's average compensation calculation in determining the beneficiary's benefits. In computing the average compensation, no amounts shall be used which are in excess of the amount on which contributions were required and paid. If any member who is or has been granted any increase in annual salary or compensation of more than eight percent (8%) retires within twenty-four (24) months from the date that such increase becomes effective, then the board shall exclude that part of the increase in salary or compensation that exceeds eight percent (8%) in calculating that member's average compensation for retirement purposes. The board may enforce this provision by rule or regulation. However, increases in compensation in excess of eight percent (8%) per year granted within twenty-four (24) months of the date of retirement may be included in such calculation of average compensation if satisfactory proof is presented to the board showing that the increase in compensation was the result of an actual change in the position held or services rendered, or that such compensation

increase was authorized by the State Personnel Board or was increased as a result of statutory enactment, and the employer furnishes an affidavit stating that such increase granted within the last twenty-four (24) months was not contingent on a promise or agreement of the employee to retire. Nothing in Section 25-3-31 shall affect the calculation of the average compensation of any member for the purposes of this article. The average compensation of any member who retires before July 1, 1992, shall not exceed the annual salary of the Governor.

(g) "Beneficiary" shall mean any person entitled to receive a retirement allowance, an annuity or other benefit as provided by Articles 1 and 3. In the event of the death prior to retirement of any member whose spouse and/or children are not entitled to a retirement allowance, the lawful spouse of a member at the time of the death of such member shall be the beneficiary of such member unless the member has designated another beneficiary subsequent to the date of marriage in writing, and filed such writing in the office of the executive director of the board of trustees. No designation or change of beneficiary shall be made in any other manner.

(h) "Board" shall mean the board of trustees provided in Section 25-11-15 to administer the retirement system herein created.

(i) "Creditable service" shall mean "prior service," "retroactive service" and all lawfully credited unused leave not exceeding the accrual rates and limitations provided in Section 25-3-91 et seq., as of the date of withdrawal from service plus "membership service" for which credit is allowable as provided in Section 25-11-109. Except to limit creditable service reported to the system for the purpose of computing an employee's retirement allowance or annuity or benefits provided in this article, nothing in this paragraph shall limit or otherwise restrict the power of the governing authority of a municipality or other political

subdivision of the state to adopt such vacation and sick leave policies as it deems necessary.

(j) "Child" means either a natural child of the member, a child that has been made a child of the member by applicable court action before the death of the member, or a child under the permanent care of the member at the time of the latter's death, which permanent care status shall be determined by evidence satisfactory to the board.

(k) "Earned compensation" shall mean the full amount earned by an employee for a given pay period including any maintenance furnished up to a maximum of One Hundred Twenty-five Thousand Dollars (\$125,000.00) per year, and proportionately for less than one (1) year of service. The value of such maintenance when not paid in money shall be fixed by the employing state agency, and, in case of doubt, by the board of trustees as defined in Section 25-11-15. In any case, earned compensation shall be limited to the regular periodic compensation paid, exclusive of litigation fees, bond fees, and other similar extraordinary non-recurring payments. In the case of fee officials, the net earnings from their office after deduction of expenses shall apply, except that in no case shall earned compensation be less than the total direct payments made by the state or governmental subdivisions to the official, and employer and employee contributions shall be paid thereon. In the case of members of the state Legislature, all remuneration or amounts paid, except mileage allowance, shall apply. The amount by which an eligible employee's salary is reduced pursuant to a salary reduction agreement authorized under Section 25-17-5 shall be included as earned compensation under this paragraph, provided this inclusion does not conflict with federal law, including federal regulations and federal administrative interpretations thereunder, pertaining to the Federal Insurance Contributions Act or to Internal Revenue Code Section 125 cafeteria plans. Compensation in addition to an

employee's base salary that is paid to the employee pursuant to the vacation and sick leave policies of a municipality or other political subdivision of the state that employs him which exceeds the maximums authorized by Section 25-3-91 et seq. shall be excluded from the calculation of earned compensation under this article. The maximum salary applicable for retirement purposes before July 1, 1992, shall be the salary of the Governor. Nothing in Section 25-3-31 shall affect the determination of the earned compensation of any member for the purposes of this article.

(l) "Employee" means any person legally occupying a position in the state service, and shall include the employees of the retirement system created hereunder.

(m) "Employer" shall mean the State of Mississippi or any of its departments, agencies or subdivisions from which any employee receives his compensation.

(n) "Executive director" shall mean the secretary to the board of trustees, as provided in Section 25-11-15(9), and the administrator of the Public Employees' Retirement System and all systems under the management of the board of trustees. Wherever the term "Executive Secretary of the Public Employees' Retirement System" or "executive secretary" appears in this article or in any other provision of law, it shall be construed to mean the Executive Director of the Public Employees' Retirement System.

(o) "Fiscal year" shall mean the period beginning on July 1 of any year and ending on June 30 of the next succeeding year.

(p) "Medical board" shall mean the board of physicians or any governmental or non-governmental disability determination service designated by the board of trustees that is qualified to make disability determinations as provided for in Section 25-11-119.

(q) "Member" shall mean any person included in the membership of the system as provided in Section 25-11-105.

(r) "Membership service" shall mean service as an employee rendered while a member of the retirement system.

(s) "Position" means any office or any employment in the state service, or two (2) or more of them, the duties of which call for services to be rendered by one (1) person, including positions jointly employed by federal and state agencies administering federal and state funds.

(t) "Prior service" shall mean service rendered before February 1, 1953, for which credit is allowable under Sections 25-11-105 and 25-11-109, and which shall allow prior service for any person who is now or becomes a member of the Public Employees' Retirement System and who does contribute to the system for a minimum period of four (4) years.

(u) "Regular interest" shall mean interest compounded annually at such a rate as shall be determined by the board in accordance with Section 25-11-121.

(v) "Retirement allowance" shall mean an annuity for life as provided in this article, payable each year in twelve (12) equal monthly installments beginning as of the date fixed by the board. The retirement allowance shall be calculated in accordance with Section 25-11-111. Provided, any spouse who received a spouse retirement benefit in accordance with Section 25-11-111(d) prior to March 31, 1971, and said benefits were terminated because of eligibility for a Social Security benefit, may again receive his spouse retirement benefit from and after making application with the board of trustees to reinstate such spouse retirement benefit.

(w) "Retroactive service" shall mean service rendered after February 1, 1953, for which credit is allowable under Section 25-11-105(b) and Section 25-11-105(k).

(x) "System" shall mean the Public Employees' Retirement System of Mississippi established and described in Section 25-11-101.

(y) "State" shall mean the State of Mississippi or any political subdivision thereof or instrumentality thereof.

(z) "State service" shall mean all offices and positions of trust or employment in the employ of the state, or any political subdivision or instrumentality thereof, which elect to participate as provided by Section 25-11-105 (f), including the position of elected or fee officials of the counties and their deputies and employees performing public services or any department, independent agency, board or commission thereof, and shall also include all offices and positions of trust or employment in the employ of joint state and federal agencies administering state and federal funds and service rendered by employees of the public schools. Effective July 1, 1973, all nonprofessional public school employees, such as bus drivers, janitors, maids, maintenance workers and cafeteria employees, shall have the option to become members in accordance with Section 25-11-105(b), and shall be eligible to receive credit for services prior to July 1, 1973, provided the contributions and interest are paid by the employee in accordance with said section; provided, further, that the county or municipal separate school district may pay the employer contribution and pro rata share of interest of the retroactive service from available funds. From and after July 1, 1998, retroactive service credit shall be purchased at the actuarial cost in accordance with Section 25-11-105(b).

(aa) "Withdrawal from service" shall mean complete severance of employment in the state service of any member by resignation, dismissal or discharge, except in the case of elected or appointed officials or employees who become eligible to receive a retirement allowance under this article while holding the office or position and who choose to receive the retirement allowance while holding the office or position as authorized by Section 25-11-126.

(bb) The masculine pronoun, wherever used, shall

include the feminine pronoun.

SECTION 3. Section 25-11-105, Mississippi Code of 1972, is amended as follows:

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

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

(a) All persons who shall become employees in the state service after January 31, 1953, and whose wages are subject to payroll taxes and are lawfully reported on IRS Form W-2, except (i) those persons who are specifically excluded, (ii) those persons to whom election is provided in Articles 1 and 3, and (iii) those elected or appointed officials or employees who choose to receive or continue to receive a retirement allowance while holding the office or position as authorized by Section 25-11-126, shall become members of the retirement system as a condition of their employment.

(b) All persons who shall become employees in the state service after January 31, 1953, except those specifically excluded or as to whom election is provided in Articles 1 and 3, unless they shall file with the board prior to the lapse of sixty (60) days of employment or sixty (60) days after the effective date of the cited articles, whichever is later, on a form prescribed by the board, a notice of election not to be covered by the membership of the retirement system and a duly executed waiver of all present and prospective benefits which would otherwise inure to them on account of their participation in the system, shall become members of the retirement system; provided, however, that no credit for prior service will be granted to members until they have contributed to Article 3 of the retirement system for a minimum period of at least four (4) years. Such members shall receive credit for services performed prior to January 1, 1953, in employment now covered by Article 3, but no credit shall be granted for retroactive services between January 1, 1953, and the

335 date of their entry into the retirement system unless the employee
336 pays into the retirement system both the employer's and the
337 employee's contributions on wages paid him during the period from
338 January 31, 1953, to the date of his becoming a contributing
339 member, together with interest at the rate determined by the board
340 of trustees. Members reentering after withdrawal from service
341 shall qualify for prior service under the provisions of Section
342 25-11-117. From and after July 1, 1998, upon eligibility as noted
343 above, the member may receive credit for such retroactive service
344 provided:

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

348 (2) The member shall pay to the retirement system
349 on the date he or she is eligible for such credit or at any time
350 thereafter prior to the date of retirement the actuarial cost for
351 each year of such creditable service. The provisions of this
352 subparagraph (2) shall be subject to the limitations of Section
353 415 of the Internal Revenue Code and regulations promulgated
354 thereunder.

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

359 (c) All persons who shall become employees in the state
360 service after January 31, 1953, and who are eligible for
361 membership in any other retirement system shall become members of
362 this retirement system as a condition of their employment unless
363 they elect at the time of their employment to become a member of
364 such other system.

365 (d) All persons who are employees in the state service
366 on January 31, 1953, and who are members of any nonfunded
367 retirement system operated by the State of Mississippi, or any of

its departments or agencies, shall become members of this system with prior service credit unless, before February 1, 1953, they shall file a written notice with the board of trustees that they do not elect to become members.

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

(f) Each political subdivision of the state and each instrumentality of the state or a political subdivision, or both, is hereby authorized to submit, for approval by the board of trustees, a plan for extending the benefits of this article to employees of any such political subdivision or instrumentality. Each such plan or any amendment to the plan for extending benefits thereof shall be approved by the board of trustees if it finds that such plan, or such plan as amended, is in conformity with such requirements as are provided in Articles 1 and 3; however, upon approval of such plan or any such plan heretofore approved by the board of trustees, the approved plan shall not be subject to cancellation or termination by the political subdivision or instrumentality. No such plan shall be approved unless:

(1) It provides that all services which constitute employment as defined in Section 25-11-5 and are performed in the employ of the political subdivision or instrumentality, by any employees thereof, shall be covered by the plan; with the exception of municipal employees who are already covered by existing retirement plans; provided, however, those employees in

401 this class may elect to come under the provisions of this article;

402 (2) It specifies the source or sources from which
403 the funds necessary to make the payments required by subsection
404 (d) of Section 25-11-123 and of subsections (f)(5)b and c of this
405 section are expected to be derived and contains reasonable
406 assurance that such sources will be adequate for such purpose;

407 (3) It provides for such methods of administration
408 of the plan by the political subdivision or instrumentality as are
409 found by the board of trustees to be necessary for the proper and
410 efficient administration thereof;

411 (4) It provides that the political subdivision or
412 instrumentality will make such reports, in such form and
413 containing such information, as the board of trustees may from
414 time to time require;

415 (5) It authorizes the board of trustees to
416 terminate the plan in its entirety in the discretion of the board
417 if it finds that there has been a failure to comply substantially
418 with any provision contained in such plan, such termination to
419 take effect at the expiration of such notice and on such
420 conditions as may be provided by regulations of the board and as
421 may be consistent with applicable federal law.

422 A. The board of trustees shall not finally
423 refuse to approve a plan submitted under subsection (f), and shall
424 not terminate an approved plan without reasonable notice and
425 opportunity for hearing to each political subdivision or
426 instrumentality affected thereby. The board's decision in any
427 such case shall be final, conclusive and binding unless an appeal
428 be taken by the political subdivision or instrumentality aggrieved
429 thereby to the Circuit Court of Hinds County, Mississippi, in
430 accordance with the provisions of law with respect to civil causes
431 by certiorari.

432 B. Each political subdivision or
433 instrumentality as to which a plan has been approved under this

section shall pay into the contribution fund, with respect to wages (as defined in Section 25-11-5), at such time or times as the board of trustees may by regulation prescribe, contributions in the amounts and at the rates specified in the applicable agreement entered into by the board.

C. Every political subdivision or instrumentality required to make payments under subsection (f)(5)b hereof is authorized, in consideration of the employees' retention in or entry upon employment after enactment of Articles 1 and 3, to impose upon its employees, as to services which are covered by an approved plan, a contribution with respect to wages (as defined in Section 25-11-5) not exceeding the amount provided in Section 25-11-123(d) if such services constituted employment within the meaning of Articles 1 and 3, and to deduct the amount of such contribution from the wages as and when paid. Contributions so collected shall be paid into the contribution fund as partial discharge of the liability of such political subdivisions or instrumentality under subsection (f)(5)b hereof. Failure to deduct such contribution shall not relieve the employee or employer of liability thereof.

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

E. Each political subdivision of the state and each instrumentality of the state or a political subdivision

or subdivisions which submits a plan for approval of the board, as provided in this section, shall reimburse the board for coverage into the expense account, its pro rate share of the total expense of administering Articles 1 and 3 as provided by regulations of said board.

(g) The board may, in its discretion, deny the right of membership in this system to any class of employees whose compensation is only partly paid by the state or who are occupying positions on a part-time or intermittent basis. The board may, in its discretion, make optional with employees in any such classes their individual entrance into this system.

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

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

In the event any member of any other actuarially funded system maintained by an agency of the state changes his employment to an agency covered by this system, the board of trustees may authorize the receipt of the transfer of the member's creditable service and of the present value of the member's employer's accumulation account and of the present value of the member's

500 accumulated membership contributions from such other system,
501 provided the employee agrees to the transfer of his accumulated
502 membership contributions to this system and provided the other
503 system is authorized and agrees to make such transfer.

504 (j) Wherever herein state employment is referred to, it
505 shall include joint employment by state and federal agencies of
506 all kinds.

507 (k) Employees of a political subdivision or
508 instrumentality who were employed by such political subdivision or
509 instrumentality prior to an agreement between such entity and the
510 Public Employees' Retirement System to extend the benefits of this
511 article to its employees, and which agreement provides for the
512 establishment of retroactive service credit, and who have been
513 members of the retirement system and have remained contributors to
514 the retirement system for four (4) years, may receive credit for
515 such retroactive service with such political subdivision or
516 instrumentality, provided the employee and/or employer, as
517 provided under the terms of the modification of the joinder
518 agreement in allowing such coverage, pay into the retirement
519 system the employer's and employee's contributions on wages paid
520 the member during such previous employment, together with interest
521 or actuarial cost as determined by the board covering the period
522 from the date the service was rendered until the payment for the
523 credit for such service was made. Such wages shall be verified by
524 the Social Security Administration or employer payroll records.
525 Effective July 1, 1998, upon eligibility as noted above, a member
526 may receive credit for such retroactive service with such
527 political subdivision or instrumentality provided;

528 (1) The member shall furnish proof satisfactory to
529 the board of trustees of certification of such services from the
530 political subdivision or instrumentality where the services were
531 rendered or verification by the Social Security Administration;
532 and

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

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

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

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

II. THOSE WHO ARE NOT ELIGIBLE FOR MEMBERSHIP

The following classes of employees and officers shall not

become members of this retirement system, any other provisions of Articles 1 and 3 to the contrary notwithstanding:

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

(b) Students of any state educational institution employed by any agency of the state for temporary, part-time or intermittent work;

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

III. TERMINATION OF MEMBERSHIP

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

SECTION 4. Section 25-11-127, Mississippi Code of 1972, is amended as follows:

25-11-127. No person who is being paid a retirement allowance or a pension after retirement under this article shall be employed or paid for any service by the State of Mississippi, except as provided in this section or in Section 25-11-126. This section shall not apply to any pensioner who has been elected to public office after retirement, nor to any person employed because of special knowledge or experience. This section shall not be construed to mean that any person employed or elected under the above exceptions shall become a member under Article 3 of the retirement system, nor shall any retirant of this retirement system who is reemployed or is reelected to office after retirement continue to draw retirement benefits while so reemployed or reelected except those elected or appointed officials or employees who choose to continue to receive a retirement allowance while holding the office or position as authorized by Section 25-11-126. Any person who has been retired

under the provisions of Articles 1 and 3 and who is later reemployed in service covered by this article, except for those elected or appointed officials or employees who choose to continue to receive a retirement allowance while holding the office or position as authorized by Section 25-11-126, shall cease to receive benefits under this article and shall again become a contributing member of the retirement system; and when the person again retires, if his reemployment exceeds six (6) months, he shall have his benefit recomputed, including service after again becoming a member, provided * * * that the total retirement allowance paid to the retired member in his previous retirement shall be deducted from his retirement reserve and taken into consideration in recalculating the retirement allowance under a new option selected. Nothing contained in this section shall be construed as prohibiting any county or city not a member of the Public Employees' Retirement System from employing persons up to the age of seventy-three (73); and provided further that, through June 30, 1988, nothing contained in this section shall be construed as prohibiting any governmental unit which is a member from employing persons up to the age of seventy-three (73) who are not eligible for membership at the time of employment under Article 3.

The board of trustees of the retirement system shall have the right to prescribe rules and regulations for the carrying out of this provision.

The provisions of this section shall not be construed to prohibit any retirant regardless of age from being employed and from drawing retirement allowance either (a) for a period of time not to exceed one hundred twenty (120) days in any fiscal year, but less than one-half (1/2) of the normal working days for the position in any fiscal year, or (b) for a period of time in any fiscal year sufficient in length to permit a retirant to earn not in excess of twenty-five percent (25%) of retirant's average

632 compensation or the current rate of the salary in effect for the
633 regular position filled. Notice shall be given in writing to the
634 executive director of the system, setting forth the facts upon
635 which the * * * employment is being made, and such notice shall be
636 given within five (5) days from the date of employment and also
637 from the date of termination of the employment.

638 * * * Any member who is not eligible to exercise the
639 provisions of Section 25-11-126 who has attained seventy (70)
640 years of age and who has forty (40) or more years of creditable
641 service may continue in office or employment or be reemployed or
642 elected, provided such person files annually, in writing, in the
643 office of the employer and the office of the executive director of
644 the system prior to such services, a waiver of all salary or
645 compensation and elects to receive in lieu of such salary or
646 compensation a retirement allowance as provided in this section,
647 in which event no salary or compensation shall thereafter be due
648 or payable for such services. However, any such officer or
649 employee may receive in addition to such retirement allowance any
650 per diem, office expense allowance, mileage or travel expense
651 authorized by any statute of the State of Mississippi. * * *

652 SECTION 5. The Attorney General of the State of Mississippi
653 shall submit this act, immediately upon approval by the Governor,
654 or upon approval by the Legislature subsequent to a veto, to the
655 Attorney General of the United States or to the United States
656 District Court for the District of Columbia in accordance with the
657 provisions of the Voting Rights Act of 1965, as amended and
658 extended.

659 SECTION 6. This act shall take effect and be in force from
660 and after July 1, 1999, if it is effectuated on or before that
661 date under Section 5 of the Voting Rights Act of 1965, as amended
662 and extended. If it is effectuated under Section 5 of the Voting
663 Rights Act of 1965, as amended and extended, after July 1, 1999,
664 this act shall take effect and be in force from and after the date

665 it is effectuated under Section 5 of the Voting Rights Act of
666 1965, as amended and extended.