

By: Representative Taylor

To: Appropriations

HOUSE BILL NO. 372

1 AN ACT TO AMEND SECTION 25-11-103, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT ANY STATE EMPLOYEE WHO RETIRES UNDER THE PUBLIC
3 EMPLOYEES' RETIREMENT SYSTEM WITH UNUSED PERSONAL LEAVE IN EXCESS
4 OF 30 DAYS SHALL HAVE HIS OR HER AVERAGE COMPENSATION INCREASED BY
5 THE AMOUNT OF COMPENSATION THAT THE MEMBER WOULD HAVE BEEN PAID
6 FOR THE NUMBER OF PERSONAL LEAVE DAYS IN EXCESS OF 30 DAYS IF THE
7 MEMBER HAD USED THOSE PERSONAL LEAVE DAYS BEFORE RETIREMENT; AND
8 FOR RELATED PURPOSES.

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

10 SECTION 1. Section 25-11-103, Mississippi Code of 1972, is
11 amended as follows:

12 25-11-103. The following words and phrases as used in
13 Articles 1 and 3, unless a different meaning is plainly required
14 by the context, shall have the following meanings:

15 (a) "Accumulated contributions" shall mean the sum of
16 all the amounts deducted from the compensation of a member and
17 credited to his individual account in the annuity savings account,
18 together with regular interest thereon as provided in Section
19 25-11-123.

20 (b) "Actuarial cost" shall mean the amount of funds
21 presently required to provide future benefits as determined by the
22 board based on applicable tables and formulas provided by the
23 actuary.

24 (c) "Actuarial equivalent" shall mean a benefit of
25 equal value to the accumulated contributions, annuity or benefit,
26 as the case may be, when computed upon the basis of such mortality
27 tables as shall be adopted by the board of trustees, and regular
28 interest.

29 (d) "Actuarial tables" shall mean such tables of

30 mortality and rates of interest as shall be adopted by the board
31 in accordance with the recommendation of the actuary.

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

34 (f) "Average compensation" shall mean the average of
35 the four (4) highest years of earned compensation reported for an
36 employee in a fiscal or calendar year period, or combination
37 thereof which do not overlap, or the last forty-eight (48)
38 consecutive months of earned compensation reported for an
39 employee. The four (4) years need not be successive or joined
40 years of service. In no case shall the average compensation so
41 determined be in excess of One Hundred Twenty-five Thousand
42 Dollars (\$125,000.00). In computing the average compensation, any
43 amount paid in a lump sum for personal leave shall be included in
44 the calculation to the extent that such amount does not exceed an
45 amount which is equal to thirty (30) days of earned compensation
46 and to the extent that it does not cause the employees' earned
47 compensation to exceed the maximum reportable amount specified in
48 Section 25-11-103(k); provided, however, that such thirty-day
49 limitation shall not prevent the inclusion in the calculation of
50 leave earned under federal regulations prior to July 1, 1976, and
51 frozen as of that date as referred to in Section 25-3-99. Only
52 the amount of lump sum pay for personal leave due and paid upon
53 the death of a member attributable for up to one hundred fifty
54 (150) days shall be used in the deceased member's average
55 compensation calculation in determining the beneficiary's
56 benefits. In computing the average compensation, no amounts shall
57 be used which are in excess of the amount on which contributions
58 were required and paid, except as otherwise authorized in this
59 paragraph. If any member who is or has been granted any increase
60 in annual salary or compensation of more than eight percent (8%)
61 retires within twenty-four (24) months from the date that such
62 increase becomes effective, then the board shall exclude that part

63 of the increase in salary or compensation that exceeds eight
64 percent (8%) in calculating that member's average compensation for
65 retirement purposes. The board may enforce this provision by rule
66 or regulation. However, increases in compensation in excess of
67 eight percent (8%) per year granted within twenty-four (24) months
68 of the date of retirement may be included in such calculation of
69 average compensation if satisfactory proof is presented to the
70 board showing that the increase in compensation was the result of
71 an actual change in the position held or services rendered, or
72 that such compensation increase was authorized by the State
73 Personnel Board or was increased as a result of statutory
74 enactment, and the employer furnishes an affidavit stating that
75 such increase granted within the last twenty-four (24) months was
76 not contingent on a promise or agreement of the employee to
77 retire. Nothing in Section 25-3-31 shall affect the calculation
78 of the average compensation of any member for the purposes of this
79 article. The average compensation of any member who retires
80 before July 1, 1992, shall not exceed the annual salary of the
81 Governor. Notwithstanding any provision of this paragraph to the
82 contrary, any member who retires with unused personal leave in
83 excess of thirty (30) days earned under Section 25-3-93 shall have
84 his or her average compensation increased by the amount of
85 compensation that the member would have been paid for the number
86 of personal leave days in excess of thirty (30) days if the member
87 had used those personal leave days before retirement.

88 (g) "Beneficiary" shall mean any person entitled to
89 receive a retirement allowance, an annuity or other benefit as
90 provided by Articles 1 and 3. In the event of the death prior to
91 retirement of any member whose spouse and/or children are not
92 entitled to a retirement allowance, the lawful spouse of a member
93 at the time of the death of such member shall be the beneficiary
94 of such member unless the member has designated another
95 beneficiary subsequent to the date of marriage in writing, and

96 filed such writing in the office of the executive director of the
97 board of trustees. No designation or change of beneficiary shall
98 be made in any other manner.

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

102 (i) "Creditable service" shall mean "prior service,"
103 "retroactive service" and all lawfully credited unused leave not
104 exceeding the accrual rates and limitations provided in Section
105 25-3-91 et seq., as of the date of withdrawal from service plus
106 "membership service" for which credit is allowable as provided in
107 Section 25-11-109. Except to limit creditable service reported to
108 the system for the purpose of computing an employee's retirement
109 allowance or annuity or benefits provided in this article, nothing
110 in this paragraph shall limit or otherwise restrict the power of
111 the governing authority of a municipality or other political
112 subdivision of the state to adopt such vacation and sick leave
113 policies as it deems necessary.

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

120 (k) "Earned compensation" shall mean the full amount
121 earned by an employee for a given pay period including any
122 maintenance furnished up to a maximum of One Hundred Twenty-five
123 Thousand Dollars (\$125,000.00) per year, and proportionately for
124 less than one (1) year of service. The value of such maintenance
125 when not paid in money shall be fixed by the employing state
126 agency, and, in case of doubt, by the board of trustees as defined
127 in Section 25-11-15. In any case, earned compensation shall be
128 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

162 administrator of the Public Employees' Retirement System and all
163 systems under the management of the board of trustees. Wherever
164 the term "Executive Secretary of the Public Employees' Retirement
165 System" or "executive secretary" appears in this article or in any
166 other provision of law, it shall be construed to mean the
167 Executive Director of the Public Employees' Retirement System.

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

171 (p) "Medical board" shall mean the board of physicians
172 or any governmental or non-governmental disability determination
173 service designated by the board of trustees that is qualified to
174 make disability determinations as provided for in Section
175 25-11-119.

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

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

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

185 (t) "Prior service" shall mean service rendered before
186 February 1, 1953, for which credit is allowable under Sections
187 25-11-105 and 25-11-109, and which shall allow prior service for
188 any person who is now or becomes a member of the Public Employees'
189 Retirement System and who does contribute to the system for a
190 minimum period of four (4) years.

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

194 (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

228 prior to July 1, 1973, provided the contributions and interest are
229 paid by the employee in accordance with said section; provided,
230 further, that the county or municipal separate school district may
231 pay the employer contribution and pro rate share of interest of
232 the retroactive service from available funds. From and after July
233 1, 1998, retroactive service credit shall be purchased at the
234 actuarial cost in accordance with Section 25-11-105(b).

235 (aa) "Withdrawal from service" shall mean complete
236 severance of employment in the state service of any member by
237 resignation, dismissal or discharge.

238 (bb) The masculine pronoun, wherever used, shall
239 include the feminine pronoun.

240 SECTION 2. This act shall take effect and be in force from
241 and after July 1, 1999.