

By: Representative Walker

To: Appropriations

## HOUSE BILL NO. 943

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

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

15 SECTION 1. The following section shall be codified as

16 Section 25-11-126, Mississippi Code of 1972:

17 25-11-126. (1) Any person who is receiving a retirement  
18 allowance under this article who is elected to an office in the  
19 state service after retirement, and any elected official in the  
20 state service who becomes eligible to receive a retirement  
21 allowance under this article while holding office or who is in  
22 office on effective date of this act and is eligible to receive a  
23 retirement allowance, may choose to receive or continue to receive  
24 a retirement allowance under this article while holding office.

25 (2) Any person who is receiving a retirement allowance who  
26 is elected to office after retirement shall notify the executive  
27 director of the system before taking office of his choice about  
28 continuing to receive the retirement allowance while holding  
29 office. If the person chooses not to continue receiving the  
30 retirement allowance while holding office, the retirement  
31 allowance shall cease on the day that he begins serving in the

32 office. After leaving office, in order to begin receiving a  
33 retirement allowance under this article again, the person shall  
34 make application to the executive director of the system, and the  
35 retirement allowance shall begin on the first of the month  
36 following the date that the application is received by the  
37 executive director.

38 (3) Any elected official who becomes eligible to receive a  
39 retirement allowance while holding office or who is in office on  
40 the effective date of this act and is eligible to receive a  
41 retirement allowance and who chooses to receive a retirement  
42 allowance while holding office shall make application to the  
43 executive director of the system, and the retirement allowance  
44 shall begin on the first of the month following the date that the  
45 application is received by the executive director. Those elected  
46 officials shall not be required to withdraw from service in order  
47 to receive the retirement allowance.

48 (4) Any person who receives or continues to receive a  
49 retirement allowance under this article while holding office as  
50 authorized by this section shall not be a contributing member of  
51 the retirement system or receive any creditable service for the  
52 period during which he receives a retirement allowance while  
53 holding office.

54 (5) Any person who chooses not to receive a retirement  
55 allowance while holding office shall be a contributing member of  
56 the retirement system and shall receive creditable service for the  
57 period during which he holds office without receiving a retirement  
58 allowance. If the person has previously received a retirement  
59 allowance under this article and he holds office for more than six  
60 (6) months without receiving a retirement allowance, he shall have  
61 his allowance recomputed when he retires again, which shall  
62 include the service after he again became a contributing member of  
63 the retirement system.

64 (6) This section applies to officials who are elected to  
65 office, but does not apply to persons in other positions of  
66 employment in the state service.

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

69           25-11-103. The following words and phrases as used in  
70 Articles 1 and 3, unless a different meaning is plainly required  
71 by the context, shall have the following meanings:

72           (a) "Accumulated contributions" shall mean the sum of  
73 all the amounts deducted from the compensation of a member and  
74 credited to his individual account in the annuity savings account,  
75 together with regular interest thereon as provided in Section  
76 25-11-123.

77           (b) "Actuarial cost" shall mean the amount of funds  
78 presently required to provide future benefits as determined by the  
79 board based on applicable tables and formulas provided by the  
80 actuary.

81           (c) "Actuarial equivalent" shall mean a benefit of  
82 equal value to the accumulated contributions, annuity or benefit,  
83 as the case may be, when computed upon the basis of such mortality  
84 tables as shall be adopted by the board of trustees, and regular  
85 interest.

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

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

91           (f) "Average compensation" shall mean the average of  
92 the four (4) highest years of earned compensation reported for an  
93 employee in a fiscal or calendar year period, or combination  
94 thereof which do not overlap, or the last forty-eight (48)  
95 consecutive months of earned compensation reported for an  
96 employee. The four (4) years need not be successive or joined  
97 years of service. In no case shall the average compensation so  
98 determined be in excess of One Hundred Twenty-five Thousand  
99 Dollars (\$125,000.00). In computing the average compensation, any  
100 amount paid in a lump sum for personal leave shall be included in  
101 the calculation to the extent that such amount does not exceed an

102 amount which is equal to thirty (30) days of earned compensation  
103 and to the extent that it does not cause the employees' earned  
104 compensation to exceed the maximum reportable amount specified in  
105 Section 25-11-103(k); provided, however, that such thirty-day  
106 limitation shall not prevent the inclusion in the calculation of  
107 leave earned under federal regulations prior to July 1, 1976, and  
108 frozen as of that date as referred to in Section 25-3-99. Only  
109 the amount of lump sum pay for personal leave due and paid upon  
110 the death of a member attributable for up to one hundred fifty  
111 (150) days shall be used in the deceased member's average  
112 compensation calculation in determining the beneficiary's  
113 benefits. In computing the average compensation, no amounts shall  
114 be used which are in excess of the amount on which contributions  
115 were required and paid. If any member who is or has been granted  
116 any increase in annual salary or compensation of more than eight  
117 percent (8%) retires within twenty-four (24) months from the date  
118 that such increase becomes effective, then the board shall exclude  
119 that part of the increase in salary or compensation that exceeds  
120 eight percent (8%) in calculating that member's average  
121 compensation for retirement purposes. The board may enforce this  
122 provision by rule or regulation. However, increases in  
123 compensation in excess of eight percent (8%) per year granted  
124 within twenty-four (24) months of the date of retirement may be  
125 included in such calculation of average compensation if  
126 satisfactory proof is presented to the board showing that the  
127 increase in compensation was the result of an actual change in the  
128 position held or services rendered, or that such compensation  
129 increase was authorized by the State Personnel Board or was  
130 increased as a result of statutory enactment, and the employer  
131 furnishes an affidavit stating that such increase granted within  
132 the last twenty-four (24) months was not contingent on a promise  
133 or agreement of the employee to retire. Nothing in Section  
134 25-3-31 shall affect the calculation of the average compensation

135 of any member for the purposes of this article. The average  
136 compensation of any member who retires before July 1, 1992, shall  
137 not exceed the annual salary of the Governor.

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

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

152 (i) "Creditable service" shall mean "prior service,"  
153 "retroactive service" and all lawfully credited unused leave not  
154 exceeding the accrual rates and limitations provided in Section  
155 25-3-91 et seq., as of the date of withdrawal from service plus  
156 "membership service" for which credit is allowable as provided in  
157 Section 25-11-109. Except to limit creditable service reported to  
158 the system for the purpose of computing an employee's retirement  
159 allowance or annuity or benefits provided in this article, nothing  
160 in this paragraph shall limit or otherwise restrict the power of  
161 the governing authority of a municipality or other political  
162 subdivision of the state to adopt such vacation and sick leave  
163 policies as it deems necessary.

164 (j) "Child" means either a natural child of the member,  
165 a child that has been made a child of the member by applicable  
166 court action before the death of the member, or a child under the  
167 permanent care of the member at the time of the latter's death,

168 which permanent care status shall be determined by evidence  
169 satisfactory to the board.

170 (k) "Earned compensation" shall mean the full amount  
171 earned by an employee for a given pay period including any  
172 maintenance furnished up to a maximum of One Hundred Twenty-five  
173 Thousand Dollars (\$125,000.00) per year, and proportionately for  
174 less than one (1) year of service. The value of such maintenance  
175 when not paid in money shall be fixed by the employing state  
176 agency, and, in case of doubt, by the board of trustees as defined  
177 in Section 25-11-15. In any case, earned compensation shall be  
178 limited to the regular periodic compensation paid, exclusive of  
179 litigation fees, bond fees, and other similar extraordinary  
180 non-recurring payments. In the case of fee officials, the net  
181 earnings from their office after deduction of expenses shall  
182 apply, except that in no case shall earned compensation be less  
183 than the total direct payments made by the state or governmental  
184 subdivisions to the official, and employer and employee  
185 contributions shall be paid thereon. In the case of members of  
186 the state Legislature, all remuneration or amounts paid, except  
187 mileage allowance, shall apply. The amount by which an eligible  
188 employee's salary is reduced pursuant to a salary reduction  
189 agreement authorized under Section 25-17-5 shall be included as  
190 earned compensation under this paragraph, provided this inclusion  
191 does not conflict with federal law, including federal regulations  
192 and federal administrative interpretations thereunder, pertaining  
193 to the Federal Insurance Contributions Act or to Internal Revenue  
194 Code Section 125 cafeteria plans. Compensation in addition to an  
195 employee's base salary that is paid to the employee pursuant to  
196 the vacation and sick leave policies of a municipality or other  
197 political subdivision of the state that employs him which exceeds  
198 the maximums authorized by Section 25-3-91 et seq. shall be  
199 excluded from the calculation of earned compensation under this  
200 article. The maximum salary applicable for retirement purposes

201 before July 1, 1992, shall be the salary of the Governor. Nothing  
202 in Section 25-3-31 shall affect the determination of the earned  
203 compensation of any member for the purposes of this article.

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

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

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

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

221 (p) "Medical board" shall mean the board of physicians  
222 or any governmental or nongovernmental disability determination  
223 service designated by the board of trustees that is qualified to  
224 make disability determinations as provided for in Section  
225 25-11-119.

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

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

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

234 administering federal and state funds.

235 (t) "Prior service" shall mean service rendered before  
236 February 1, 1953, for which credit is allowable under Sections  
237 25-11-105 and 25-11-109, and which shall allow prior service for  
238 any person who is now or becomes a member of the Public Employees'  
239 Retirement System and who does contribute to the system for a  
240 minimum period of four (4) years.

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

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

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

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

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

263 (z) "State service" shall mean all offices and  
264 positions of trust or employment in the employ of the state, or  
265 any political subdivision or instrumentality thereof, which elect  
266 to participate as provided by Section 25-11-105(f), including the



267 position of elected or fee officials of the counties and their  
268 deputies and employees performing public services or any  
269 department, independent agency, board or commission thereof, and  
270 shall also include all offices and positions of trust or  
271 employment in the employ of joint state and federal agencies  
272 administering state and federal funds and service rendered by  
273 employees of the public schools. Effective July 1, 1973, all  
274 nonprofessional public school employees, such as bus drivers,  
275 janitors, maids, maintenance workers and cafeteria employees,  
276 shall have the option to become members in accordance with Section  
277 25-11-105(b), and shall be eligible to receive credit for services  
278 prior to July 1, 1973, provided the contributions and interest are  
279 paid by the employee in accordance with said section; provided,  
280 further, that the county or municipal separate school district may  
281 pay the employer contribution and pro rate share of interest of  
282 the retroactive service from available funds. From and after July  
283 1, 1998, retroactive service credit shall be purchased at the  
284 actuarial cost in accordance with Section 25-11-105(b).

285 (aa) "Withdrawal from service" shall mean complete  
286 severance of employment in the state service of any member by  
287 resignation, dismissal or discharge, except in the case of elected  
288 officials who become eligible to receive a retirement allowance  
289 under this article while holding office or who are in office on  
290 the effective date of this act and are eligible to receive a  
291 retirement allowance and who choose to receive the retirement  
292 allowance while holding office as authorized by Section 25-11-126.

293 (bb) The masculine pronoun, wherever used, shall  
294 include the feminine pronoun.

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

297 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

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

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

309           (b) All persons who shall become employees in the state  
310 service after January 31, 1953, except those specifically excluded  
311 or as to whom election is provided in Articles 1 and 3, unless  
312 they shall file with the board prior to the lapse of sixty (60)  
313 days of employment or sixty (60) days after the effective date of  
314 the cited articles, whichever is later, on a form prescribed by  
315 the board, a notice of election not to be covered by the  
316 membership of the retirement system and a duly executed waiver of  
317 all present and prospective benefits which would otherwise inure  
318 to them on account of their participation in the system, shall  
319 become members of the retirement system; provided, however, that  
320 no credit for prior service will be granted to members until they  
321 have contributed to Article 3 of the retirement system for a  
322 minimum period of at least four (4) years. Such members shall  
323 receive credit for services performed prior to January 1, 1953, in  
324 employment now covered by Article 3, but no credit shall be  
325 granted for retroactive services between January 1, 1953, and the  
326 date of their entry into the retirement system unless the employee  
327 pays into the retirement system both the employer's and the  
328 employee's contributions on wages paid him during the period from  
329 January 31, 1953, to the date of his becoming a contributing  
330 member, together with interest at the rate determined by the board  
331 of trustees. Members reentering after withdrawal from service  
332 shall qualify for prior service under the provisions of Section

333 25-11-117. From and after July 1, 1998, upon eligibility as noted  
334 above, the member may receive credit for such retroactive service  
335 provided:

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

339 (2) The member shall pay to the retirement system  
340 on the date he or she is eligible for such credit or at any time  
341 thereafter prior to the date of retirement the actuarial cost for  
342 each year of such creditable service. The provisions of this  
343 subparagraph (2) shall be subject to the limitations of Section  
344 415 of the Internal Revenue Code and regulations promulgated  
345 thereunder.

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

350 (c) All persons who shall become employees in the state  
351 service after January 31, 1953, and who are eligible for  
352 membership in any other retirement system shall become members of  
353 this retirement system as a condition of their employment unless  
354 they elect at the time of their employment to become a member of  
355 such other system.

356 (d) All persons who are employees in the state service  
357 on January 31, 1953, and who are members of any nonfunded  
358 retirement system operated by the State of Mississippi, or any of  
359 its departments or agencies, shall become members of this system  
360 with prior service credit unless, before February 1, 1953, they  
361 shall file a written notice with the board of trustees that they  
362 do not elect to become members.

363 (e) All persons who are employees in the state service  
364 on January 31, 1953, and who under existing laws are members of  
365 any fund operated for the retirement of employees by the State of

366 Mississippi, or any of its departments or agencies, shall not be  
367 entitled to membership in this retirement system unless, before  
368 February 1, 1953, any such person shall indicate by a notice filed  
369 with the board, on a form prescribed by the board, his individual  
370 election and choice to participate in this system, but no such  
371 person shall receive prior service credit unless he becomes a  
372 member on or before February 1, 1953.

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

386 (1) It provides that all services which constitute  
387 employment as defined in Section 25-11-5 and are performed in the  
388 employ of the political subdivision or instrumentality, by any  
389 employees thereof, shall be covered by the plan; with the  
390 exception of municipal employees who are already covered by  
391 existing retirement plans; provided, however, those employees in  
392 this class may elect to come under the provisions of this article;

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

398 (3) It provides for such methods of administration

399 of the plan by the political subdivision or instrumentality as are  
400 found by the board of trustees to be necessary for the proper and  
401 efficient administration thereof;

402 (4) It provides that the political subdivision or  
403 instrumentality will make such reports, in such form and  
404 containing such information, as the board of trustees may from  
405 time to time require;

406 (5) It authorizes the board of trustees to  
407 terminate the plan in its entirety in the discretion of the board  
408 if it finds that there has been a failure to comply substantially  
409 with any provision contained in such plan, such termination to  
410 take effect at the expiration of such notice and on such  
411 conditions as may be provided by regulations of the board and as  
412 may be consistent with applicable federal law.

413 A. The board of trustees shall not finally  
414 refuse to approve a plan submitted under subsection (f), and shall  
415 not terminate an approved plan without reasonable notice and  
416 opportunity for hearing to each political subdivision or  
417 instrumentality affected thereby. The board's decision in any  
418 such case shall be final, conclusive and binding unless an appeal  
419 be taken by the political subdivision or instrumentality aggrieved  
420 thereby to the Circuit Court of Hinds County, Mississippi, in  
421 accordance with the provisions of law with respect to civil causes  
422 by certiorari.

423 B. Each political subdivision or  
424 instrumentality as to which a plan has been approved under this  
425 section shall pay into the contribution fund, with respect to  
426 wages (as defined in Section 25-11-5), at such time or times as  
427 the board of trustees may by regulation prescribe, contributions  
428 in the amounts and at the rates specified in the applicable  
429 agreement entered into by the board.

430 C. Every political subdivision or  
431 instrumentality required to make payments under subsection (f)(5)b

432 hereof is authorized, in consideration of the employees' retention  
433 in or entry upon employment after enactment of Articles 1 and 3,  
434 to impose upon its employees, as to services which are covered by  
435 an approved plan, a contribution with respect to wages (as defined  
436 in Section 25-11-5) not exceeding the amount provided in Section  
437 25-11-123(d) if such services constituted employment within the  
438 meaning of Articles 1 and 3, and to deduct the amount of such  
439 contribution from the wages as and when paid. Contributions so  
440 collected shall be paid into the contribution fund as partial  
441 discharge of the liability of such political subdivisions or  
442 instrumentality under subsection (f)(5)b hereof. Failure to  
443 deduct such contribution shall not relieve the employee or  
444 employer of liability thereof.

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

456           E. Each political subdivision of the state  
457 and each instrumentality of the state or a political subdivision  
458 or subdivisions which submits a plan for approval of the board, as  
459 provided in this section, shall reimburse the board for coverage  
460 into the expense account, its pro rate share of the total expense  
461 of administering Articles 1 and 3 as provided by regulations of  
462 said board.

463           (g) The board may, in its discretion, deny the right of  
464 membership in this system to any class of employees whose

465 compensation is only partly paid by the state or who are occupying  
466 positions on a part-time or intermittent basis. The board may, in  
467 its discretion, make optional with employees in any such classes  
468 their individual entrance into this system.

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

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

485 In the event any member of any other actuarially funded  
486 system maintained by an agency of the state changes his employment  
487 to an agency covered by this system, the board of trustees may  
488 authorize the receipt of the transfer of the member's creditable  
489 service and of the present value of the member's employer's  
490 accumulation account and of the present value of the member's  
491 accumulated membership contributions from such other system,  
492 provided the employee agrees to the transfer of his accumulated  
493 membership contributions to this system and provided the other  
494 system is authorized and agrees to make such transfer.

495 (j) Wherever herein state employment is referred to, it  
496 shall include joint employment by state and federal agencies of  
497 all kinds.

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

519           (1) The member shall furnish proof satisfactory to  
520 the board of trustees of certification of such services from the  
521 political subdivision or instrumentality where the services were  
522 rendered or verification by the Social Security Administration;  
523 and

524           (2) The member shall pay to the retirement system  
525 on the date he or she is eligible for such credit or at any time  
526 thereafter prior to the date of retirement the actuarial cost for  
527 each year of such creditable service. The provisions of this  
528 subparagraph (2) shall be subject to the limitations of Section  
529 415 of the Internal Revenue Code and regulations promulgated  
530 thereunder.



531           Nothing contained in this paragraph (k) shall be construed to  
532 limit the authority of the board to allow the correction of  
533 reporting errors or omissions based on the payment of employee and  
534 employer contributions plus applicable interest. Payment for such  
535 time shall be made in increments of not less than one-quarter  
536 (1/4) year of creditable service beginning with the most recent  
537 service. Upon the payment of all or part of such required  
538 contributions, plus interest or the actuarial cost as provided  
539 above, the member shall receive credit for the period of  
540 creditable service for which full payment has been made to the  
541 retirement system.

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

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

555           **II. THOSE WHO ARE NOT ELIGIBLE FOR MEMBERSHIP**

556           The following classes of employees and officers shall not  
557 become members of this retirement system, any other provisions of  
558 Articles 1 and 3 to the contrary notwithstanding:

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

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

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

567 **III. TERMINATION OF MEMBERSHIP**

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

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

574 25-11-127. No person who is being paid a retirement  
575 allowance or a pension after retirement under this article shall  
576 be employed or paid for any service by the State of Mississippi,  
577 except as provided in this section or in Section 25-11-126. This  
578 section shall not apply to any pensioner who has been elected to  
579 public office after retirement, nor to any person employed because  
580 of special knowledge or experience. This section shall not be  
581 construed to mean that any person employed or elected under the  
582 above exceptions shall become a member under Article 3 of the  
583 retirement system, nor shall any retirant of this retirement  
584 system who is reemployed or is reelected to office after  
585 retirement continue to draw retirement benefits while so  
586 reemployed or reelected, except those elected officials who choose  
587 to continue to receive a retirement allowance while holding office  
588 as authorized by Section 25-11-126. Any person who has been  
589 retired under the provisions of Articles 1 and 3 and who is later  
590 reemployed in service covered by this article shall cease to  
591 receive benefits hereunder and shall again become a contributing  
592 member of the retirement system; and upon again retiring, if his  
593 reemployment exceeds six (6) months, shall have his benefit  
594 recomputed, including service after again becoming a member.  
595 Provided, further, that the total retirement allowance paid to the  
596 retired member in his previous retirement shall be deducted from

597 his retirement reserve and taken into consideration in  
598 recalculating the retirement allowance under a new option  
599 selected. Nothing contained in this section shall be construed as  
600 prohibiting any county or city not a member of the Public  
601 Employees' Retirement System from employing persons up to the age  
602 of seventy-three (73); and provided further that, through June 30,  
603 1988, nothing contained in this section shall be construed as  
604 prohibiting any governmental unit which is a member from employing  
605 persons up to the age of seventy-three (73) who are not eligible  
606 for membership at the time of employment under Article 3.

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

610 The provisions of this section shall not be construed to  
611 prohibit any retirant regardless of age from being employed and  
612 from drawing retirement allowance either (a) for a period of time  
613 not to exceed one hundred twenty (120) days in any fiscal year,  
614 but less than one-half (1/2) of the normal working days for the  
615 position in any fiscal year, or (b) for a period of time in any  
616 fiscal year sufficient in length to permit a retirant to earn not  
617 in excess of twenty-five percent (25%) of retirant's average  
618 compensation or the current rate of the salary in effect for the  
619 regular position filled. Notice shall be given in writing to the  
620 executive director of the system, setting forth the facts upon  
621 which the \* \* \* employment is being made, and such notice shall be  
622 given within five (5) days from the date of employment and also  
623 from the date of termination of the employment. It is further  
624 provided that any member who has attained seventy (70) years of  
625 age and who has forty (40) or more years of creditable service may  
626 continue in \* \* \* employment or be reemployed \* \* \* provided such  
627 person files annually, in writing, in the office of the employer  
628 and the office of the executive director of the system prior to  
629 such services, a waiver of all salary or compensation and elects

630 to receive in lieu of such salary or compensation a retirement  
631 allowance as provided in this section, in which event no salary or  
632 compensation shall thereafter be due or payable for such services  
633 and provided further, that any such officer or employee may  
634 receive in addition to such retirement allowance any per diem,  
635 office expense allowance, mileage or travel expense authorized by  
636 any statute of the State of Mississippi. Any other member may  
637 continue in municipal or county office or employment or be  
638 reemployed \* \* \* in a municipality or county provided such person  
639 files annually, in writing, in the office of the employer and the  
640 office of the executive director of the system prior to such  
641 services, a waiver of all salary or compensation and elects to  
642 receive in lieu of such salary or compensation a retirement  
643 allowance as provided in this section, in which event no salary or  
644 compensation shall thereafter be due or payable for such services  
645 and provided, further, that any such officer or employee may  
646 receive in addition to such retirement allowance any per diem,  
647 office expense allowance, mileage or travel expense authorized by  
648 any statute of the State of Mississippi.

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

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

663 1965, as amended and extended.