

By: Senator(s) Blackmon

To: Finance

SENATE BILL NO. 2008

1 AN ACT TO CREATE NEW SECTION 25-11-126, MISSISSIPPI CODE OF
2 1972, TO PROVIDE THAT CERTAIN PERSONS RECEIVING A RETIREMENT
3 ALLOWANCE FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO ARE
4 EMPLOYED AS TEACHERS IN THE PUBLIC SCHOOL SYSTEM AFTER THEIR
5 RETIREMENT, AND CERTAIN PERSONS EMPLOYED AS TEACHERS IN THE PUBLIC
6 SCHOOL SYSTEM WHO ARE ELIGIBLE TO RECEIVE A RETIREMENT ALLOWANCE
7 FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM, MAY RECEIVE A
8 RETIREMENT ALLOWANCE DURING THEIR EMPLOYMENT AS TEACHERS IN
9 ADDITION TO RECEIVING A TEACHER'S SALARY; TO PROVIDE THAT THOSE
10 PERSONS SHALL NOT BE CONTRIBUTING MEMBERS OF THE RETIREMENT SYSTEM
11 NOR RECEIVE ANY CREDITABLE SERVICE FOR THE PERIOD DURING WHICH
12 THEY RECEIVE A RETIREMENT ALLOWANCE DURING THEIR EMPLOYMENT AS
13 TEACHERS; TO CREATE SECTION 25-11-128, MISSISSIPPI CODE OF 1972,
14 TO PROVIDE THAT PERSONS RECEIVING A RETIREMENT ALLOWANCE FROM THE
15 PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO ARE ELECTED TO PUBLIC
16 OFFICE AFTER RETIREMENT AND ELECTED OFFICIALS WHO BECOME ELIGIBLE
17 TO RECEIVE A RETIREMENT ALLOWANCE FROM THE PUBLIC EMPLOYEES'
18 RETIREMENT SYSTEM WHILE HOLDING OFFICE MAY RECEIVE A RETIREMENT
19 ALLOWANCE FROM THE SYSTEM WHILE HOLDING SUCH OFFICE IN ADDITION TO
20 RECEIVING A SALARY AND OTHER COMPENSATION FOR SUCH OFFICE; TO
21 PROVIDE THAT SUCH PERSONS SHALL NOT BE CONTRIBUTING MEMBERS OF THE
22 RETIREMENT SYSTEM NOR RECEIVE ANY CREDITABLE SERVICE FOR THE
23 PERIOD DURING WHICH THEY RECEIVE A RETIREMENT ALLOWANCE WHILE
24 HOLDING OFFICE; TO AMEND SECTIONS 25-11-103, 25-11-105 AND
25 25-11-127, MISSISSIPPI CODE OF 1972, IN CONFORMITY WITH THE
26 PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

28 SECTION 1. The following shall be codified as Section

29 25-11-126, Mississippi Code of 1972:

30 25-11-126. (1) (a) Any person who has completed
31 twenty-five (25) or more years of creditable service and is
32 receiving a retirement allowance under this article, who was
33 employed as a teacher in the public school system at the time of
34 his retirement and who is employed as a teacher in the public
35 school system after his retirement, may choose to continue
36 receiving the retirement allowance under this article during his
37 employment as a teacher after his retirement in addition to
38 receiving the salary authorized under Section 37-19-7, in the

39 manner provided in this section.

40 (b) Any person who is employed as a teacher in the
41 public school system who completes twenty-five (25) or more years
42 of creditable service during his employment as a teacher, may
43 choose to receive a retirement allowance under this article during
44 his employment as a teacher in the public school system in
45 addition to receiving the salary authorized under Section
46 37-19-7(3), in the manner provided in this section.

47 (2) Any person described in subsection (1)(a) of this
48 section shall notify the executive director of the retirement
49 system, before being employed as a teacher in the public school
50 system after his retirement, about his choice on continuing to
51 receive the retirement allowance during his employment as a
52 teacher. If the person chooses not to continue receiving the
53 retirement allowance during his employment as a teacher, the
54 retirement allowance shall cease on the day that he begins
55 employment as a teacher after his retirement. After the person
56 leaves employment as a teacher that he began after his retirement,
57 in order to begin receiving a retirement allowance under this
58 article again, the person shall make application to the executive
59 director of the retirement system, and the retirement allowance
60 shall begin on the first of the month following the date that the
61 application is received by the executive director.

62 (3) Any person described in subsection (1)(b) who chooses to
63 receive a retirement allowance during his employment as a teacher
64 in the public school system shall make application to the
65 executive director of the retirement system, and the retirement
66 allowance shall begin on the first of the month following the date
67 that the application is received by the executive director. Those
68 persons shall not be required to withdraw from service in order to
69 receive the retirement allowance.

70 (4) Any person to whom this section applies who receives or
71 continues to receive a retirement allowance under this article
72 during his employment as a teacher shall not be a contributing
73 member of the retirement system nor receive any creditable service
74 for the period during which he receives a retirement allowance
75 during his employment as a teacher. Any person to whom this

76 section applies who chooses not to receive a retirement allowance
77 during his employment as a teacher shall be a contributing member
78 of the retirement system and shall receive creditable service for
79 the period during which he is employed as a teacher without
80 receiving a retirement allowance. If the person has previously
81 received a retirement allowance under this article and he is
82 employed as a teacher for more than six (6) months without
83 receiving a retirement allowance, he shall have his allowance
84 recomputed when he retires again, which shall include the service
85 after he again became a contributing member of the retirement
86 system.

87 SECTION 2. The following shall be codified as Section
88 25-11-128, Mississippi Code of 1972:

89 25-11-128. (1) Any person who is receiving a retirement
90 allowance under this article and who is elected to an office in
91 the state service after retirement, and any elected official in
92 the state service who becomes eligible to receive a retirement
93 allowance under this article while holding office, may choose to
94 receive or continue to receive a retirement allowance under this
95 article while holding office in addition to receiving the salary
96 and other compensation for such office.

97 (2) Any person who is receiving a retirement allowance and
98 who is elected to office after retirement shall notify the
99 executive director of the system before taking office of his
100 choice about continuing to receive the retirement allowance while
101 holding office. If the person chooses not to continue receiving
102 the retirement allowance while holding office, the retirement
103 allowance shall cease on the day that he begins serving in the
104 office. After leaving office, in order to begin receiving a
105 retirement allowance under this article again, such person shall
106 make application to the executive director of the system, and the
107 retirement allowance shall begin on the first of the month
108 following the date that the application is received by the

109 executive director.

110 (3) Any elected official who becomes eligible to receive a
111 retirement allowance while holding office or who is in office on
112 the effective date of this section and is eligible to receive a
113 retirement allowance and who chooses to receive a retirement
114 allowance while holding office shall make application to the
115 executive director of the system, and the retirement allowance
116 shall begin on the first of the month following the date that the
117 application is received by the executive director. Such elected
118 officials shall not be required to withdraw from service in order
119 to receive the retirement allowance.

120 (4) Any person to whom this section applies who receives or
121 continues to receive a retirement allowance under this article
122 while holding office as authorized by this section shall not be a
123 contributing member of the retirement system nor receive any
124 creditable service for the period during which he receives a
125 retirement allowance while holding office.

126 (5) Any person to whom this section applies who chooses not
127 to receive a retirement allowance while holding office shall be a
128 contributing member of the retirement system and shall receive
129 creditable service for the period during which he holds office
130 without receiving a retirement allowance. If such person has
131 previously received a retirement allowance under this article and
132 he holds office for more than six (6) months without receiving a
133 retirement allowance, he shall have his allowance recomputed when
134 he retires again, which shall include the service after he again
135 became a contributing member of the retirement system.

136 (6) This section shall apply to officials who are elected to
137 office, but shall not apply to persons in other positions of
138 employment in the state service.

139 SECTION 3. Section 25-11-103, Mississippi Code of 1972, is
140 amended as follows:

141 25-11-103. The following words and phrases as used in

142 Articles 1 and 3, unless a different meaning is plainly required
143 by the context, shall have the following meanings:

144 (a) "Accumulated contributions" shall mean the sum of
145 all the amounts deducted from the compensation of a member and
146 credited to his individual account in the annuity savings account,
147 together with regular interest thereon as provided in Section
148 25-11-123.

149 (b) "Actuarial cost" shall mean the amount of funds
150 presently required to provide future benefits as determined by the
151 board based on applicable tables and formulas provided by the
152 actuary.

153 (c) "Actuarial equivalent" shall mean a benefit of
154 equal value to the accumulated contributions, annuity or benefit,
155 as the case may be, when computed upon the basis of such mortality
156 tables as shall be adopted by the board of trustees, and regular
157 interest.

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

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

163 (f) "Average compensation" shall mean the average of
164 the four (4) highest years of earned compensation reported for an
165 employee in a fiscal or calendar year period, or combination
166 thereof which do not overlap, or the last forty-eight (48)
167 consecutive months of earned compensation reported for an
168 employee. The four (4) years need not be successive or joined
169 years of service. In no case shall the average compensation so
170 determined be in excess of One Hundred Twenty-five Thousand
171 Dollars (\$125,000.00). In computing the average compensation, any
172 amount paid in a lump sum for personal leave shall be included in
173 the calculation to the extent that such amount does not exceed an
174 amount which is equal to thirty (30) days of earned compensation

175 and to the extent that it does not cause the employees' earned
176 compensation to exceed the maximum reportable amount specified in
177 Section 25-11-103(k); provided, however, that such thirty-day
178 limitation shall not prevent the inclusion in the calculation of
179 leave earned under federal regulations prior to July 1, 1976, and
180 frozen as of that date as referred to in Section 25-3-99. Only
181 the amount of lump sum pay for personal leave due and paid upon
182 the death of a member attributable for up to one hundred fifty
183 (150) days shall be used in the deceased member's average
184 compensation calculation in determining the beneficiary's
185 benefits. In computing the average compensation, no amounts shall
186 be used which are in excess of the amount on which contributions
187 were required and paid. If any member who is or has been granted
188 any increase in annual salary or compensation of more than eight
189 percent (8%) retires within twenty-four (24) months from the date
190 that such increase becomes effective, then the board shall exclude
191 that part of the increase in salary or compensation that exceeds
192 eight percent (8%) in calculating that member's average
193 compensation for retirement purposes. The board may enforce this
194 provision by rule or regulation. However, increases in
195 compensation in excess of eight percent (8%) per year granted
196 within twenty-four (24) months of the date of retirement may be
197 included in such calculation of average compensation if
198 satisfactory proof is presented to the board showing that the
199 increase in compensation was the result of an actual change in the
200 position held or services rendered, or that such compensation
201 increase was authorized by the State Personnel Board or was
202 increased as a result of statutory enactment, and the employer
203 furnishes an affidavit stating that such increase granted within
204 the last twenty-four (24) months was not contingent on a promise
205 or agreement of the employee to retire. Nothing in Section
206 25-3-31 shall affect the calculation of the average compensation
207 of any member for the purposes of this article. The average

208 compensation of any member who retires before July 1, 1992, shall
209 not exceed the annual salary of the Governor.

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

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

224 (i) "Creditable service" shall mean "prior service,"
225 "retroactive service" and all lawfully credited unused leave not
226 exceeding the accrual rates and limitations provided in Section
227 25-3-91 et seq., as of the date of withdrawal from service plus
228 "membership service" for which credit is allowable as provided in
229 Section 25-11-109. Except to limit creditable service reported to
230 the system for the purpose of computing an employee's retirement
231 allowance or annuity or benefits provided in this article, nothing
232 in this paragraph shall limit or otherwise restrict the power of
233 the governing authority of a municipality or other political
234 subdivision of the state to adopt such vacation and sick leave
235 policies as it deems necessary.

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

241 satisfactory to the board.

242 (k) "Earned compensation" shall mean the full amount
243 earned by an employee for a given pay period including any
244 maintenance furnished up to a maximum of One Hundred Twenty-five
245 Thousand Dollars (\$125,000.00) per year, and proportionately for
246 less than one (1) year of service. The value of such maintenance
247 when not paid in money shall be fixed by the employing state
248 agency, and, in case of doubt, by the board of trustees as defined
249 in Section 25-11-15. In any case, earned compensation shall be
250 limited to the regular periodic compensation paid, exclusive of
251 litigation fees, bond fees, and other similar extraordinary
252 nonrecurring payments. In the case of fee officials, the net
253 earnings from their office after deduction of expenses shall
254 apply, except that in no case shall earned compensation be less
255 than the total direct payments made by the state or governmental
256 subdivisions to the official, and employer and employee
257 contributions shall be paid thereon. In the case of members of
258 the state Legislature, all remuneration or amounts paid, except
259 mileage allowance, shall apply. The amount by which an eligible
260 employee's salary is reduced pursuant to a salary reduction
261 agreement authorized under Section 25-17-5 shall be included as
262 earned compensation under this paragraph, provided this inclusion
263 does not conflict with federal law, including federal regulations
264 and federal administrative interpretations thereunder, pertaining
265 to the Federal Insurance Contributions Act or to Internal Revenue
266 Code Section 125 cafeteria plans. Compensation in addition to an
267 employee's base salary that is paid to the employee pursuant to
268 the vacation and sick leave policies of a municipality or other
269 political subdivision of the state that employs him which exceeds
270 the maximums authorized by Section 25-3-91 et seq. shall be
271 excluded from the calculation of earned compensation under this
272 article. The maximum salary applicable for retirement purposes
273 before July 1, 1992, shall be the salary of the Governor. Nothing

274 in Section 25-3-31 shall affect the determination of the earned
275 compensation of any member for the purposes of this article.

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

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

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

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

293 (p) "Medical board" shall mean the board of physicians
294 or any governmental or nongovernmental disability determination
295 service designated by the board of trustees that is qualified to
296 make disability determinations as provided for in Section
297 25-11-119.

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

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

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

307 (t) "Prior service" shall mean service rendered before
308 February 1, 1953, for which credit is allowable under Sections
309 25-11-105 and 25-11-109, and which shall allow prior service for
310 any person who is now or becomes a member of the Public Employees'
311 Retirement System and who does contribute to the system for a
312 minimum period of four (4) years.

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

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

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

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

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

335 (z) "State service" shall mean all offices and
336 positions of trust or employment in the employ of the state, or
337 any political subdivision or instrumentality thereof, which elect
338 to participate as provided by Section 25-11-105(f), including the
339 position of elected or fee officials of the counties and their

340 deputies and employees performing public services or any
341 department, independent agency, board or commission thereof, and
342 shall also include all offices and positions of trust or
343 employment in the employ of joint state and federal agencies
344 administering state and federal funds and service rendered by
345 employees of the public schools. Effective July 1, 1973, all
346 nonprofessional public school employees, such as bus drivers,
347 janitors, maids, maintenance workers and cafeteria employees,
348 shall have the option to become members in accordance with Section
349 25-11-105(b), and shall be eligible to receive credit for services
350 prior to July 1, 1973, provided the contributions and interest are
351 paid by the employee in accordance with said section; provided,
352 further, that the county or municipal separate school district may
353 pay the employer contribution and pro rata share of interest of
354 the retroactive service from available funds. From and after July
355 1, 1998, retroactive service credit shall be purchased at the
356 actuarial cost in accordance with Section 25-11-105(b).

357 (aa) "Withdrawal from service" shall mean complete
358 severance of employment in the state service of any member by
359 resignation, dismissal or discharge, except in the case of (i)
360 persons who become eligible to receive a retirement allowance
361 under this article during their employment as teachers and who
362 choose to receive the retirement allowance during their employment
363 as teachers as authorized by Section 25-11-126, and (ii) elected
364 officials who become eligible to receive a retirement allowance
365 under this article while holding office and who choose to receive
366 the retirement allowance while holding office as authorized by
367 Section 25-11-128.

368 (bb) The masculine pronoun, wherever used, shall
369 include the feminine pronoun.

370 SECTION 4. Section 25-11-105, Mississippi Code of 1972, is
371 amended as follows:

372 25-11-105. I. **THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

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

375 (a) All persons who shall become employees in the state
376 service after January 31, 1953, and whose wages are subject to
377 payroll taxes and are lawfully reported on IRS Form W-2, except
378 (i) those persons who are specifically excluded, (ii) those
379 persons to whom election is provided in Articles 1 and 3, (iii)
380 those persons who choose to receive or continue receiving a
381 retirement allowance during their employment as teachers as
382 authorized by Section 25-11-126, and (iv) those elected officials
383 who choose to receive or continue to receive a retirement
384 allowance while holding office as authorized by Section 25-11-128,
385 shall become members of the retirement system as a condition of
386 their employment.

387 (b) All persons who shall become employees in the state
388 service after January 31, 1953, except those specifically excluded
389 or as to whom election is provided in Articles 1 and 3, unless
390 they shall file with the board prior to the lapse of sixty (60)
391 days of employment or sixty (60) days after the effective date of
392 the cited articles, whichever is later, on a form prescribed by
393 the board, a notice of election not to be covered by the
394 membership of the retirement system and a duly executed waiver of
395 all present and prospective benefits which would otherwise inure
396 to them on account of their participation in the system, shall
397 become members of the retirement system; provided, however, that
398 no credit for prior service will be granted to members until they
399 have contributed to Article 3 of the retirement system for a
400 minimum period of at least four (4) years. Such members shall
401 receive credit for services performed prior to January 1, 1953, in
402 employment now covered by Article 3, but no credit shall be
403 granted for retroactive services between January 1, 1953, and the
404 date of their entry into the retirement system unless the employee
405 pays into the retirement system both the employer's and the

406 employee's contributions on wages paid him during the period from
407 January 31, 1953, to the date of his becoming a contributing
408 member, together with interest at the rate determined by the board
409 of trustees. Members reentering after withdrawal from service
410 shall qualify for prior service under the provisions of Section
411 25-11-117. From and after July 1, 1998, upon eligibility as noted
412 above, the member may receive credit for such retroactive service
413 provided:

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

417 (2) The member shall pay to the retirement system
418 on the date he or she is eligible for such credit or at any time
419 thereafter prior to the date of retirement the actuarial cost for
420 each year of such creditable service. The provisions of this
421 subparagraph (2) shall be subject to the limitations of Section
422 415 of the Internal Revenue Code and regulations promulgated
423 thereunder.

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

428 (c) All persons who shall become employees in the state
429 service after January 31, 1953, and who are eligible for
430 membership in any other retirement system shall become members of
431 this retirement system as a condition of their employment unless
432 they elect at the time of their employment to become a member of
433 such other system.

434 (d) All persons who are employees in the state service
435 on January 31, 1953, and who are members of any nonfunded
436 retirement system operated by the State of Mississippi, or any of
437 its departments or agencies, shall become members of this system
438 with prior service credit unless, before February 1, 1953, they

439 shall file a written notice with the board of trustees that they
440 do not elect to become members.

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

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

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

471 (2) It specifies the source or sources from which

472 the funds necessary to make the payments required by subsection
473 (d) of Section 25-11-123 and of subsections (f)(5)b and c of this
474 section are expected to be derived and contains reasonable
475 assurance that such sources will be adequate for such purpose;

476 (3) It provides for such methods of administration
477 of the plan by the political subdivision or instrumentality as are
478 found by the board of trustees to be necessary for the proper and
479 efficient administration thereof;

480 (4) It provides that the political subdivision or
481 instrumentality will make such reports, in such form and
482 containing such information, as the board of trustees may from
483 time to time require;

484 (5) It authorizes the board of trustees to
485 terminate the plan in its entirety in the discretion of the board
486 if it finds that there has been a failure to comply substantially
487 with any provision contained in such plan, such termination to
488 take effect at the expiration of such notice and on such
489 conditions as may be provided by regulations of the board and as
490 may be consistent with applicable federal law.

491 A. The board of trustees shall not finally
492 refuse to approve a plan submitted under subsection (f), and shall
493 not terminate an approved plan without reasonable notice and
494 opportunity for hearing to each political subdivision or
495 instrumentality affected thereby. The board's decision in any
496 such case shall be final, conclusive and binding unless an appeal
497 be taken by the political subdivision or instrumentality aggrieved
498 thereby to the Circuit Court of Hinds County, Mississippi, in
499 accordance with the provisions of law with respect to civil causes
500 by certiorari.

501 B. Each political subdivision or
502 instrumentality as to which a plan has been approved under this
503 section shall pay into the contribution fund, with respect to
504 wages (as defined in Section 25-11-5), at such time or times as

505 the board of trustees may by regulation prescribe, contributions
506 in the amounts and at the rates specified in the applicable
507 agreement entered into by the board.

508 C. Every political subdivision or
509 instrumentality required to make payments under subsection (f)(5)b
510 hereof is authorized, in consideration of the employees' retention
511 in or entry upon employment after enactment of Articles 1 and 3,
512 to impose upon its employees, as to services which are covered by
513 an approved plan, a contribution with respect to wages (as defined
514 in Section 25-11-5) not exceeding the amount provided in Section
515 25-11-123(d) if such services constituted employment within the
516 meaning of Articles 1 and 3, and to deduct the amount of such
517 contribution from the wages as and when paid. Contributions so
518 collected shall be paid into the contribution fund as partial
519 discharge of the liability of such political subdivisions or
520 instrumentality under subsection (f)(5)b hereof. Failure to
521 deduct such contribution shall not relieve the employee or
522 employer of liability thereof.

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

534 E. Each political subdivision of the state
535 and each instrumentality of the state or a political subdivision
536 or subdivisions which submits a plan for approval of the board, as
537 provided in this section, shall reimburse the board for coverage

538 into the expense account, its pro rate share of the total expense
539 of administering Articles 1 and 3 as provided by regulations of
540 said board.

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

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

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

563 In the event any member of any other actuarially funded
564 system maintained by an agency of the state changes his employment
565 to an agency covered by this system, the board of trustees may
566 authorize the receipt of the transfer of the member's creditable
567 service and of the present value of the member's employer's
568 accumulation account and of the present value of the member's
569 accumulated membership contributions from such other system,
570 provided the employee agrees to the transfer of his accumulated

571 membership contributions to this system and provided the other
572 system is authorized and agrees to make such transfer.

573 (j) Wherever herein state employment is referred to, it
574 shall include joint employment by state and federal agencies of
575 all kinds.

576 (k) Employees of a political subdivision or
577 instrumentality who were employed by such political subdivision or
578 instrumentality prior to an agreement between such entity and the
579 Public Employees' Retirement System to extend the benefits of this
580 article to its employees, and which agreement provides for the
581 establishment of retroactive service credit, and who have been
582 members of the retirement system and have remained contributors to
583 the retirement system for four (4) years, may receive credit for
584 such retroactive service with such political subdivision or
585 instrumentality, provided the employee and/or employer, as
586 provided under the terms of the modification of the joinder
587 agreement in allowing such coverage, pay into the retirement
588 system the employer's and employee's contributions on wages paid
589 the member during such previous employment, together with interest
590 or actuarial cost as determined by the board covering the period
591 from the date the service was rendered until the payment for the
592 credit for such service was made. Such wages shall be verified by
593 the Social Security Administration or employer payroll records.
594 Effective July 1, 1998, upon eligibility as noted above, a member
595 may receive credit for such retroactive service with such
596 political subdivision or instrumentality provided;

597 (1) The member shall furnish proof satisfactory to
598 the board of trustees of certification of such services from the
599 political subdivision or instrumentality where the services were
600 rendered or verification by the Social Security Administration;
601 and

602 (2) The member shall pay to the retirement system
603 on the date he or she is eligible for such credit or at any time

604 thereafter prior to the date of retirement the actuarial cost for
605 each year of such creditable service. The provisions of this
606 subparagraph (2) shall be subject to the limitations of Section
607 415 of the Internal Revenue Code and regulations promulgated
608 thereunder.

609 Nothing contained in this paragraph (k) shall be construed to
610 limit the authority of the board to allow the correction of
611 reporting errors or omissions based on the payment of employee and
612 employer contributions plus applicable interest. Payment for such
613 time shall be made in increments of not less than one-quarter
614 (1/4) year of creditable service beginning with the most recent
615 service. Upon the payment of all or part of such required
616 contributions, plus interest or the actuarial cost as provided
617 above, the member shall receive credit for the period of
618 creditable service for which full payment has been made to the
619 retirement system.

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

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

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

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

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

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

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

645 **III. TERMINATION OF MEMBERSHIP**

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

650 SECTION 5. Section 25-11-127, Mississippi Code of 1972, is
651 amended as follows:

652 25-11-127. No person who is being paid a retirement
653 allowance or a pension after retirement under this article shall
654 be employed or paid for any service by the State of Mississippi,
655 except as provided in this section, in Section 25-11-126 or in
656 Section 25-11-128. This section shall not apply to any pensioner
657 who has been elected to public office after retirement, nor to any
658 person employed because of special knowledge or experience. This
659 section shall not be construed to mean that any person employed or
660 elected under the above exceptions shall become a member under
661 Article 3 of the retirement system, nor shall any retirant of this
662 retirement system who is reemployed or is reelected to office
663 after retirement continue to draw retirement benefits while so
664 reemployed or reelected except (i) those persons who choose to
665 continue receiving a retirement allowance during their employment
666 as teachers as authorized by Section 25-11-126, and (ii) those
667 elected officials who choose to continue to receive a retirement
668 allowance while holding office as authorized by Section 25-11-128.

669 Any person who has been retired under the provisions of Articles

670 1 and 3 and who is later reemployed in service covered by this
671 article shall cease to receive benefits hereunder unless he
672 chooses to continue receiving a retirement allowance during his
673 employment as a teacher as authorized by Section 25-11-126, or
674 while holding office as authorized in Section 25-11-128 and the
675 person shall again become a contributing member of the retirement
676 system; and when the person again retires, if he has been a
677 contributing member of the retirement system during his
678 reemployment and his reemployment exceeds six (6) months, he shall
679 have his benefits recomputed, including service after again
680 becoming a member. Provided, further, that the total retirement
681 allowance paid to the retired member in his previous retirement
682 shall be deducted from his retirement reserve and taken into
683 consideration in recalculating the retirement allowance under a
684 new option selected. Nothing contained in this section shall be
685 construed as prohibiting any county or city not a member of the
686 Public Employees' Retirement System from employing persons up to
687 the age of seventy-three (73); and provided further that, through
688 June 30, 1988, nothing contained in this section shall be
689 construed as prohibiting any governmental unit which is a member
690 from employing persons up to the age of seventy-three (73) who are
691 not eligible for membership at the time of employment under
692 Article 3.

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

696 The provisions of this section shall not be construed to
697 prohibit any retirant regardless of age from being employed and
698 from drawing retirement allowance either (a) for a period of time
699 not to exceed one hundred twenty (120) days in any fiscal year,
700 but less than one-half (1/2) of the normal working days for the
701 position in any fiscal year, or (b) for a period of time in any
702 fiscal year sufficient in length to permit a retirant to earn not

703 in excess of twenty-five percent (25%) of retirant's average
704 compensation or the current rate of the salary in effect for the
705 regular position filled. Notice shall be given in writing to the
706 executive director of the system, setting forth the facts upon
707 which the * * * employment is being made, and such notice shall be
708 given within five (5) days from the date of employment and also
709 from the date of termination of the employment. It is further
710 provided that any member who has attained seventy (70) years of
711 age and who has forty (40) or more years of creditable service may
712 continue in office or employment or be reemployed or elected
713 provided such person files annually, in writing, in the office of
714 the employer and the office of the executive director of the
715 system prior to such services, a waiver of all salary or
716 compensation and elects to receive in lieu of such salary or
717 compensation a retirement allowance as provided in this section,
718 in which event no salary or compensation shall thereafter be due
719 or payable for such services and provided, further, that any such
720 officer or employee may receive in addition to such retirement
721 allowance any per diem, office expense allowance, mileage or
722 travel expense authorized by any statute of the State of
723 Mississippi. Any other member may continue in municipal or county
724 office or employment or be reemployed or elected in a municipality
725 or county provided such person files annually, in writing, in the
726 office of the employer and the office of the executive director of
727 the system prior to such services, a waiver of all salary or
728 compensation and elects to receive in lieu of such salary or
729 compensation a retirement allowance as provided in this section,
730 in which event no salary or compensation shall thereafter be due
731 or payable for such services and provided, further, that any such
732 officer or employee may receive in addition to such retirement
733 allowance any per diem, office expense allowance, mileage or
734 travel expense authorized by any statute of the State of
735 Mississippi.

736 SECTION 6. The Attorney General of the State of Mississippi
737 is hereby directed to submit this act, immediately upon approval
738 by the Governor, or upon approval by the Legislature subsequent to
739 a veto, to the Attorney General of the United States or to the
740 United States District Court for the District of Columbia in
741 accordance with the provisions of the Voting Rights Act of 1965,
742 as amended and extended.

743 SECTION 7. This act shall take effect and be in force from
744 and after July 1, 1999, if it is effectuated on or before that
745 date under Section 5 of the Voting Rights Act of 1965, as amended
746 and extended. If it is effectuated under Section 5 of the Voting
747 Rights Act of 1965, as amended and extended, after July 1, 1999,
748 this act shall take effect and be in force from and after the date
749 it is effectuated under Section 5 of the Voting Rights Act of
750 1965, as amended and extended.