

By: Senator(s) Johnson (19th)

To: Finance

SENATE BILL NO. 2329

1 AN ACT TO CREATE NEW SECTION 25-11-126, MISSISSIPPI CODE OF
2 1972, TO PROVIDE THAT PERSONS RECEIVING A RETIREMENT ALLOWANCE
3 FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO ARE ELECTED TO
4 PUBLIC OFFICE IN A POLITICAL SUBDIVISION OR INSTRUMENTALITY
5 THEREOF AFTER RETIREMENT, AND ELECTED OFFICIALS IN A POLITICAL
6 SUBDIVISION OR INSTRUMENTALITY THEREOF WHO BECOME ELIGIBLE TO
7 RECEIVE A RETIREMENT ALLOWANCE FROM THE PUBLIC EMPLOYEES'
8 RETIREMENT SYSTEM WHILE HOLDING OFFICE, MAY RECEIVE A RETIREMENT
9 ALLOWANCE FROM THE SYSTEM WHILE HOLDING OFFICE IN ADDITION TO
10 RECEIVING THE REGULAR COMPENSATION FOR SUCH OFFICE; TO PROVIDE
11 THAT SUCH PERSONS SHALL NOT BE CONTRIBUTING MEMBERS OF THE
12 RETIREMENT SYSTEM NOR RECEIVE ANY CREDITABLE SERVICE FOR THE
13 PERIOD DURING WHICH THEY RECEIVE A RETIREMENT ALLOWANCE WHILE
14 HOLDING OFFICE; TO AMEND SECTIONS 25-11-103, 25-11-105 AND
15 25-11-127, MISSISSIPPI CODE OF 1972, IN CONFORMITY WITH THE
16 PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

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

20 25-11-126. (1) Any person who is receiving a retirement
21 allowance under this article and who is elected after retirement
22 to an office in a political subdivision or instrumentality
23 thereof, and any elected official in a political subdivision or
24 instrumentality thereof who becomes eligible to receive a
25 retirement allowance under this article while holding such office,
26 may choose to receive or continue to receive a retirement
27 allowance under this article while holding such office in addition
28 to receiving the regular compensation for such office in the
29 manner provided in this section.

30 (2) Any person who is receiving a retirement allowance and
31 who is elected to office in a political subdivision or
32 instrumentality thereof after retirement shall notify the
33 executive director of the system before taking office of his

34 choice about continuing to receive the retirement allowance while
35 holding such office. If the person chooses not to continue
36 receiving the retirement allowance while holding such office, the
37 retirement allowance shall cease on the day that he begins serving
38 in the office. After leaving the office, in order to begin
39 receiving a retirement allowance under this article again, such
40 person shall make application to the executive director of the
41 system, and the retirement allowance shall begin on the first of
42 the month following the date that the application is received by
43 the executive director.

44 (3) Any elected official of a political subdivision or
45 instrumentality thereof who becomes eligible to receive a
46 retirement allowance while holding office and who chooses to
47 receive a retirement allowance while holding office, shall make
48 application to the executive director of the system and the
49 retirement allowance shall begin on the first of the month
50 following the date that the application is received by the
51 executive director. Such elected officials shall not be required
52 to withdraw from service in order to receive the retirement
53 allowance.

54 (4) Any person who receives or continues to receive a
55 retirement allowance under this article while holding office in a
56 political subdivision or instrumentality thereof as authorized by
57 this section shall not be a contributing member of the retirement
58 system nor receive any creditable service for the period during
59 which he receives a retirement allowance while holding office.
60 Any such person who chooses not to receive a retirement allowance
61 while holding office shall be a contributing member of the
62 retirement system and shall receive creditable service for the
63 period during which he holds office without receiving a retirement
64 allowance. If such person has previously received a retirement
65 allowance under this article and he holds office for more than six
66 (6) months without receiving a retirement allowance, he shall have
67 his allowance recomputed when he retires again, which shall
68 include the service after he again became a contributing member of
69 the retirement system.

70 (5) This section shall apply to officials who are elected to

71 office in a political subdivision or instrumentality thereof for a
72 specified term, but shall not apply to persons in other positions
73 of employment in the state service.

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

76 25-11-103. The following words and phrases as used in
77 Articles 1 and 3, unless a different meaning is plainly required
78 by the context, shall have the following meanings:

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

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

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

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

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

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

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

137 increased as a result of statutory enactment, and the employer
138 furnishes an affidavit stating that such increase granted within
139 the last twenty-four (24) months was not contingent on a promise
140 or agreement of the employee to retire. Nothing in Section
141 25-3-31 shall affect the calculation of the average compensation
142 of any member for the purposes of this article. The average
143 compensation of any member who retires before July 1, 1992, shall
144 not exceed the annual salary of the Governor.

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

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

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

170 policies as it deems necessary.

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

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

203 the vacation and sick leave policies of a municipality or other
204 political subdivision of the state that employs him which exceeds
205 the maximums authorized by Section 25-3-91 et seq. shall be
206 excluded from the calculation of earned compensation under this
207 article. The maximum salary applicable for retirement purposes
208 before July 1, 1992, shall be the salary of the Governor. Nothing
209 in Section 25-3-31 shall affect the determination of the earned
210 compensation of any member for the purposes of this article.

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

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

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

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

228 (p) "Medical board" shall mean the board of physicians
229 or any governmental or non-governmental disability determination
230 service designated by the board of trustees that is qualified to
231 make disability determinations as provided for in Section
232 25-11-119.

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

235 (r) "Membership service" shall mean service as an

236 employee rendered while a member of the retirement system.

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

242 (t) "Prior service" shall mean service rendered before
243 February 1, 1953, for which credit is allowable under Sections
244 25-11-105 and 25-11-109, and which shall allow prior service for
245 any person who is now or becomes a member of the Public Employees'
246 Retirement System and who does contribute to the system for a
247 minimum period of four (4) years.

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

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

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

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

268 (y) "State" shall mean the State of Mississippi or any

269 political subdivision thereof or instrumentality thereof.

270 (z) "State service" shall mean all offices and
271 positions of trust or employment in the employ of the state, or
272 any political subdivision or instrumentality thereof, which elect
273 to participate as provided by Section 25-11-105(f), including the
274 position of elected or fee officials of the counties and their
275 deputies and employees performing public services or any
276 department, independent agency, board or commission thereof, and
277 shall also include all offices and positions of trust or
278 employment in the employ of joint state and federal agencies
279 administering state and federal funds and service rendered by
280 employees of the public schools. Effective July 1, 1973, all
281 nonprofessional public school employees, such as bus drivers,
282 janitors, maids, maintenance workers and cafeteria employees,
283 shall have the option to become members in accordance with Section
284 25-11-105(b), and shall be eligible to receive credit for services
285 prior to July 1, 1973, provided the contributions and interest are
286 paid by the employee in accordance with said section; provided,
287 further, that the county or municipal separate school district may
288 pay the employer contribution and pro rata share of interest of
289 the retroactive service from available funds. From and after July
290 1, 1998, retroactive service credit shall be purchased at the
291 actuarial cost in accordance with Section 25-11-105(b).

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

299 (bb) The masculine pronoun, wherever used, shall
300 include the feminine pronoun.

301 SECTION 3. Section 25-11-105, Mississippi Code of 1972, is

302 amended as follows:

303 25-11-105. I. **THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

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

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

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

335 January 31, 1953, to the date of his becoming a contributing
336 member, together with interest at the rate determined by the board
337 of trustees. Members reentering after withdrawal from service
338 shall qualify for prior service under the provisions of Section
339 25-11-117. From and after July 1, 1998, upon eligibility as noted
340 above, the member may receive credit for such retroactive service
341 provided:

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

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

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

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

362 (d) All persons who are employees in the state service
363 on January 31, 1953, and who are members of any nonfunded
364 retirement system operated by the State of Mississippi, or any of
365 its departments or agencies, shall become members of this system
366 with prior service credit unless, before February 1, 1953, they
367 shall file a written notice with the board of trustees that they

368 do not elect to become members.

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

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

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

399 (2) It specifies the source or sources from which
400 the funds necessary to make the payments required by subsection

401 (d) of Section 25-11-123 and of subsections (f)(5)B and C of this
402 section are expected to be derived and contains reasonable
403 assurance that such sources will be adequate for such purpose;

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

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

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

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

429 B. Each political subdivision or
430 instrumentality as to which a plan has been approved under this
431 section shall pay into the contribution fund, with respect to
432 wages (as defined in Section 25-11-5), at such time or times as
433 the board of trustees may by regulation prescribe, contributions

434 in the amounts and at the rates specified in the applicable
435 agreement entered into by the board.

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

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

462 E. Each political subdivision of the state
463 and each instrumentality of the state or a political subdivision
464 or subdivisions which submits a plan for approval of the board, as
465 provided in this section, shall reimburse the board for coverage
466 into the expense account, its pro rata share of the total expense

467 of administering Articles 1 and 3 as provided by regulations of
468 said board.

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

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

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

491 In the event any member of any other actuarially funded
492 system maintained by an agency of the state changes his employment
493 to an agency covered by this system, the board of trustees may
494 authorize the receipt of the transfer of the member's creditable
495 service and of the present value of the member's employer's
496 accumulation account and of the present value of the member's
497 accumulated membership contributions from such other system,
498 provided the employee agrees to the transfer of his accumulated
499 membership contributions to this system and provided the other

500 system is authorized and agrees to make such transfer.

501 (j) Wherever herein state employment is referred to, it
502 shall include joint employment by state and federal agencies of
503 all kinds.

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

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

530 (2) The member shall pay to the retirement system
531 on the date he or she is eligible for such credit or at any time
532 thereafter prior to the date of retirement the actuarial cost for

533 each year of such creditable service. The provisions of this
534 subparagraph (2) shall be subject to the limitations of Section
535 415 of the Internal Revenue Code and regulations promulgated
536 thereunder.

537 Nothing contained in this paragraph (k) shall be construed to
538 limit the authority of the board to allow the correction of
539 reporting errors or omissions based on the payment of employee and
540 employer contributions plus applicable interest. Payment for such
541 time shall be made in increments of not less than one-quarter
542 (1/4) year of creditable service beginning with the most recent
543 service. Upon the payment of all or part of such required
544 contributions, plus interest or the actuarial cost as provided
545 above, the member shall receive credit for the period of
546 creditable service for which full payment has been made to the
547 retirement system.

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

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

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

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

565 (a) Patient or inmate help in state charitable, penal

566 or correctional institutions;

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

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

573 **III. TERMINATION OF MEMBERSHIP**

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

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

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

599 reemployment exceeds six (6) months, shall have his benefit
600 recomputed, including service after again becoming a member.
601 Provided, further, that the total retirement allowance paid to the
602 retired member in his previous retirement shall be deducted from
603 his retirement reserve and taken into consideration in
604 recalculating the retirement allowance under a new option
605 selected. Nothing contained in this section shall be construed as
606 prohibiting any county or city not a member of the Public
607 Employees' Retirement System from employing persons up to the age
608 of seventy-three (73); and provided further that, through June 30,
609 1988, nothing contained in this section shall be construed as
610 prohibiting any governmental unit which is a member from employing
611 persons up to the age of seventy-three (73) who are not eligible
612 for membership at the time of employment under Article 3.

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

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

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

656 SECTION 5. The Attorney General of the State of Mississippi
657 is hereby directed to submit this act, immediately upon approval
658 by the Governor, or upon approval by the Legislature subsequent to
659 a veto, to the Attorney General of the United States or to the
660 United States District Court for the District of Columbia in
661 accordance with the provisions of the Voting Rights Act of 1965,
662 as amended and extended.

663 SECTION 6. This act shall take effect and be in force from
664 and after July 1, 1999, if it is effectuated on or before that

665 date under Section 5 of the Voting Rights Act of 1965, as amended
666 and extended. If it is effectuated under Section 5 of the Voting
667 Rights Act of 1965, as amended and extended, after July 1, 1999,
668 this act shall take effect and be in force from and after the date
669 it is effectuated under Section 5 of the Voting Rights Act of
670 1965, as amended and extended.