

By: Chism, Harrison, Nicholson, Smith (39th) To: Appropriations

HOUSE BILL NO. 757

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

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

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

19 25-11-126. (1) (a) Any person who is receiving a
 20 retirement allowance under this article and who is elected to a
 21 municipal office after retirement, and (b) any elected official in
 22 a municipal office who becomes eligible to receive a retirement
 23 allowance under this article while holding that office, may choose
 24 to receive or continue to receive a retirement allowance under
 25 this article while holding the office in addition to receiving the
 26 regular compensation for the office in the manner provided in this
 27 section.

28 (2) Any person who is receiving a retirement allowance and
29 who is elected to a municipal office after retirement shall notify
30 the executive director of the system before taking office about
31 his choice on continuing to receive the retirement allowance while
32 holding the office. If the person chooses not to continue
33 receiving the retirement allowance while holding the office, the
34 retirement allowance shall cease on the day that he begins serving
35 in the office. After leaving the office, in order to begin
36 receiving a retirement allowance under this article again, the
37 person shall make application to the executive director of the
38 system, and the retirement allowance shall begin on the first of
39 the month following the date that the application is received by
40 the executive director.

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

50 (4) Any person who receives or continues to receive a
51 retirement allowance under this article while holding a municipal
52 office as authorized by this section shall not be a contributing
53 member of the retirement system or receive any creditable service
54 for the period during which he receives a retirement allowance
55 while holding the office. Any such person who chooses not to
56 receive a retirement allowance while holding the office shall be a
57 contributing member of the retirement system and shall receive
58 creditable service for the period during which he holds the office

59 without receiving a retirement allowance. If the person has
60 previously received a retirement allowance under this article and
61 he holds the office for more than six (6) months without receiving
62 a retirement allowance, he shall have his allowance recomputed
63 when he retires again, which shall include the service after he
64 again became a contributing member of the retirement system.

65 SECTION 2. Section 25-11-103, Mississippi Code of 1972, is
66 amended as follows:[RF1]

67 25-11-103. The following words and phrases as used in
68 Articles 1 and 3, unless a different meaning is plainly required
69 by the context, shall have the following meanings:

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

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

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

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

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

89 (f) "Average compensation" shall mean the average of
90 the four (4) highest years of earned compensation reported for an
91 employee in a fiscal or calendar year period, or combination
92 thereof which do not overlap, or the last forty-eight (48)
93 consecutive months of earned compensation reported for an
94 employee. The four (4) years need not be successive or joined
95 years of service. In no case shall the average compensation so
96 determined be in excess of One Hundred Twenty-five Thousand
97 Dollars (\$125,000.00). In computing the average compensation, any
98 amount paid in a lump sum for personal leave shall be included in
99 the calculation to the extent that such amount does not exceed an
100 amount which is equal to thirty (30) days of earned compensation
101 and to the extent that it does not cause the employees' earned
102 compensation to exceed the maximum reportable amount specified in
103 Section 25-11-103(k); provided, however, that such thirty-day
104 limitation shall not prevent the inclusion in the calculation of
105 leave earned under federal regulations prior to July 1, 1976, and
106 frozen as of that date as referred to in Section 25-3-99. Only
107 the amount of lump sum pay for personal leave due and paid upon
108 the death of a member attributable for up to one hundred fifty
109 (150) days shall be used in the deceased member's average
110 compensation calculation in determining the beneficiary's
111 benefits. In computing the average compensation, no amounts shall
112 be used which are in excess of the amount on which contributions
113 were required and paid. If any member who is or has been granted
114 any increase in annual salary or compensation of more than eight

115 percent (8%) retires within twenty-four (24) months from the date
116 that such increase becomes effective, then the board shall exclude
117 that part of the increase in salary or compensation that exceeds
118 eight percent (8%) in calculating that member's average
119 compensation for retirement purposes. The board may enforce this
120 provision by rule or regulation. However, increases in
121 compensation in excess of eight percent (8%) per year granted
122 within twenty-four (24) months of the date of retirement may be
123 included in such calculation of average compensation if
124 satisfactory proof is presented to the board showing that the
125 increase in compensation was the result of an actual change in the
126 position held or services rendered, or that such compensation
127 increase was authorized by the State Personnel Board or was
128 increased as a result of statutory enactment, and the employer
129 furnishes an affidavit stating that such increase granted within
130 the last twenty-four (24) months was not contingent on a promise
131 or agreement of the employee to retire. Nothing in Section
132 25-3-31 shall affect the calculation of the average compensation
133 of any member for the purposes of this article. The average
134 compensation of any member who retires before July 1, 1992, shall
135 not exceed the annual salary of the Governor.

136 (g) "Beneficiary" shall mean any person entitled to
137 receive a retirement allowance, an annuity or other benefit as
138 provided by Articles 1 and 3. In the event of the death prior to
139 retirement of any member whose spouse and/or children are not
140 entitled to a retirement allowance, the lawful spouse of a member
141 at the time of the death of such member shall be the beneficiary
142 of such member unless the member has designated another

143 beneficiary subsequent to the date of marriage in writing, and
144 filed such writing in the office of the executive director of the
145 board of trustees. No designation or change of beneficiary shall
146 be made in any other manner.

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

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

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

168 (k) "Earned compensation" shall mean the full amount
169 earned by an employee for a given pay period including any
170 maintenance furnished up to a maximum of One Hundred Twenty-five

171 Thousand Dollars (\$125,000.00) per year, and proportionately for
172 less than one (1) year of service. The value of such maintenance
173 when not paid in money shall be fixed by the employing state
174 agency, and, in case of doubt, by the board of trustees as defined
175 in Section 25-11-15. In any case, earned compensation shall be
176 limited to the regular periodic compensation paid, exclusive of
177 litigation fees, bond fees, and other similar extraordinary
178 nonrecurring payments. In addition, any member in a covered
179 position, as defined by Public Employees' Retirement System laws
180 and regulations, who is also employed by another covered agency or
181 political subdivision shall have the earnings of that additional
182 employment reported to the Public Employees' Retirement System
183 regardless of whether the additional employment is sufficient in
184 itself to be a covered position. In the case of fee officials,
185 the net earnings from their office after deduction of expenses
186 shall apply, except that in no case shall earned compensation be
187 less than the total direct payments made by the state or
188 governmental subdivisions to the official, and employer and
189 employee contributions shall be paid thereon. In the case of
190 members of the state Legislature, all remuneration or amounts
191 paid, except mileage allowance, shall apply. The amount by which
192 an eligible employee's salary is reduced pursuant to a salary
193 reduction agreement authorized under Section 25-17-5 shall be
194 included as earned compensation under this paragraph, provided
195 this inclusion does not conflict with federal law, including
196 federal regulations and federal administrative interpretations
197 thereunder, pertaining to the Federal Insurance Contributions Act
198 or to Internal Revenue Code Section 125 cafeteria plans.

199 Compensation in addition to an employee's base salary that is paid
200 to the employee pursuant to the vacation and sick leave policies
201 of a municipality or other political subdivision of the state that
202 employs him which exceeds the maximums authorized by Section
203 25-3-91 et seq., shall be excluded from the calculation of earned
204 compensation under this article. The maximum salary applicable
205 for retirement purposes before July 1, 1992, shall be the salary
206 of the Governor. Nothing in Section 25-3-31 shall affect the
207 determination of the earned compensation of any member for the
208 purposes of this article.

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

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

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

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

226 (p) "Medical board" shall mean the board of physicians

227 or any governmental or nongovernmental disability determination
228 service designated by the board of trustees that is qualified to
229 make disability determinations as provided for in Section
230 25-11-119.

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

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

235 (s) "Position" means any office or any employment in
236 the state service, or two (2) or more of them, the duties of which
237 call for services to be rendered by one (1) person, including
238 positions jointly employed by federal and state agencies
239 administering federal and state funds. The employer shall
240 determine upon initial employment and during the course of
241 employment of an employee who does not meet the criteria for
242 coverage in the Public Employees' Retirement System based on the
243 position held, whether the employee is or becomes eligible for
244 coverage in the Public Employees' Retirement System based upon any
245 other employment in a covered agency or political subdivision. If
246 or when the employee meets the eligibility criteria for coverage
247 in such other position, then the employer must withhold
248 contributions and report wages from the noncovered position in
249 accordance with the provisions for reporting of earned
250 compensation. Failure to deduct and report those contributions
251 shall not relieve the employee or employer of liability thereof.
252 The board shall adopt such rules and regulations as necessary to
253 implement and enforce this provision.

254 (t) "Prior service" shall mean service rendered before

255 February 1, 1953, for which credit is allowable under Sections
256 25-11-105 and 25-11-109, and which shall allow prior service for
257 any person who is now or becomes a member of the Public Employees'
258 Retirement System and who does contribute to the system for a
259 minimum period of four (4) years.

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

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

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

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

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

282 (z) "State service" shall mean all offices and

283 positions of trust or employment in the employ of the state, or
284 any political subdivision or instrumentality thereof, which elect
285 to participate as provided by Section 25-11-105(f), including the
286 position of elected or fee officials of the counties and their
287 deputies and employees performing public services or any
288 department, independent agency, board or commission thereof, and
289 shall also include all offices and positions of trust or
290 employment in the employ of joint state and federal agencies
291 administering state and federal funds and service rendered by
292 employees of the public schools. Effective July 1, 1973, all
293 nonprofessional public school employees, such as bus drivers,
294 janitors, maids, maintenance workers and cafeteria employees,
295 shall have the option to become members in accordance with Section
296 25-11-105(b), and shall be eligible to receive credit for services
297 prior to July 1, 1973, provided the contributions and interest are
298 paid by the employee in accordance with said section; provided,
299 further, that the county or municipal separate school district may
300 pay the employer contribution and pro rata share of interest of
301 the retroactive service from available funds. From and after July
302 1, 1998, retroactive service credit shall be purchased at the
303 actuarial cost in accordance with Section 25-11-105(b).

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

311 (bb) The masculine pronoun, wherever used, shall
312 include the feminine pronoun.

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

315 25-11-105. I. **THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

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

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

327 (b) All persons who shall become employees in the state
328 service after January 31, 1953, except those specifically excluded
329 or as to whom election is provided in Articles 1 and 3, unless
330 they shall file with the board prior to the lapse of sixty (60)
331 days of employment or sixty (60) days after the effective date of
332 the cited articles, whichever is later, on a form prescribed by
333 the board, a notice of election not to be covered by the
334 membership of the retirement system and a duly executed waiver of
335 all present and prospective benefits which would otherwise inure
336 to them on account of their participation in the system, shall
337 become members of the retirement system; provided, however, that
338 no credit for prior service will be granted to members until they

339 have contributed to Article 3 of the retirement system for a
340 minimum period of at least four (4) years. Such members shall
341 receive credit for services performed prior to January 1, 1953, in
342 employment now covered by Article 3, but no credit shall be
343 granted for retroactive services between January 1, 1953, and the
344 date of their entry into the retirement system unless the employee
345 pays into the retirement system both the employer's and the
346 employee's contributions on wages paid him during the period from
347 January 31, 1953, to the date of his becoming a contributing
348 member, together with interest at the rate determined by the board
349 of trustees. Members reentering after withdrawal from service
350 shall qualify for prior service under the provisions of Section
351 25-11-117. From and after July 1, 1998, upon eligibility as noted
352 above, the member may receive credit for such retroactive service
353 provided:

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

357 (2) The member shall pay to the retirement system
358 on the date he or she is eligible for such credit or at any time
359 thereafter prior to the date of retirement the actuarial cost for
360 each year of such creditable service. The provisions of this
361 subparagraph (2) shall be subject to the limitations of Section
362 415 of the Internal Revenue Code and regulations promulgated
363 thereunder.

364 Nothing contained in this paragraph (b) shall be construed to
365 limit the authority of the board to allow the correction of
366 reporting errors or omissions based on the payment of the employee

367 and employer contributions plus applicable interest.

368 (c) All persons who shall become employees in the state
369 service after January 31, 1953, and who are eligible for
370 membership in any other retirement system shall become members of
371 this retirement system as a condition of their employment unless
372 they elect at the time of their employment to become a member of
373 such other system.

374 (d) All persons who are employees in the state service
375 on January 31, 1953, and who are members of any nonfunded
376 retirement system operated by the State of Mississippi, or any of
377 its departments or agencies, shall become members of this system
378 with prior service credit unless, before February 1, 1953, they
379 shall file a written notice with the board of trustees that they
380 do not elect to become members.

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

391 (f) Each political subdivision of the state and each
392 instrumentality of the state or a political subdivision, or both,
393 is hereby authorized to submit, for approval by the board of
394 trustees, a plan for extending the benefits of this article to

395 employees of any such political subdivision or instrumentality.
396 Each such plan or any amendment to the plan for extending benefits
397 thereof shall be approved by the board of trustees if it finds
398 that such plan, or such plan as amended, is in conformity with
399 such requirements as are provided in Articles 1 and 3; however,
400 upon approval of such plan or any such plan heretofore approved by
401 the board of trustees, the approved plan shall not be subject to
402 cancellation or termination by the political subdivision or
403 instrumentality. No such plan shall be approved unless:

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

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

416 (3) It provides for such methods of administration
417 of the plan by the political subdivision or instrumentality as are
418 found by the board of trustees to be necessary for the proper and
419 efficient administration thereof;

420 (4) It provides that the political subdivision or
421 instrumentality will make such reports, in such form and
422 containing such information, as the board of trustees may from

423 time to time require;

424 (5) It authorizes the board of trustees to
425 terminate the plan in its entirety in the discretion of the board
426 if it finds that there has been a failure to comply substantially
427 with any provision contained in such plan, such termination to
428 take effect at the expiration of such notice and on such
429 conditions as may be provided by regulations of the board and as
430 may be consistent with applicable federal law.

431 A. The board of trustees shall not finally
432 refuse to approve a plan submitted under subsection (f), and shall
433 not terminate an approved plan without reasonable notice and
434 opportunity for hearing to each political subdivision or
435 instrumentality affected thereby. The board's decision in any
436 such case shall be final, conclusive and binding unless an appeal
437 be taken by the political subdivision or instrumentality aggrieved
438 thereby to the Circuit Court of Hinds County, Mississippi, in
439 accordance with the provisions of law with respect to civil causes
440 by certiorari.

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

448 C. Every political subdivision or
449 instrumentality required to make payments under subsection (f)(5)b
450 hereof is authorized, in consideration of the employees' retention

451 in or entry upon employment after enactment of Articles 1 and 3,
452 to impose upon its employees, as to services which are covered by
453 an approved plan, a contribution with respect to wages (as defined
454 in Section 25-11-5) not exceeding the amount provided in Section
455 25-11-123(d) if such services constituted employment within the
456 meaning of Articles 1 and 3, and to deduct the amount of such
457 contribution from the wages as and when paid. Contributions so
458 collected shall be paid into the contribution fund as partial
459 discharge of the liability of such political subdivisions or
460 instrumentality under subsection (f)(5)b hereof. Failure to
461 deduct such contribution shall not relieve the employee or
462 employer of liability thereof.

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

474 E. Each political subdivision of the state
475 and each instrumentality of the state or a political subdivision
476 or subdivisions which submits a plan for approval of the board, as
477 provided in this section, shall reimburse the board for coverage
478 into the expense account, its pro rate share of the total expense

479 of administering Articles 1 and 3 as provided by regulations of
480 said board.

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

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

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

503 In the event any member of any other actuarially funded
504 system maintained by an agency of the state changes his employment
505 to an agency covered by this system, the board of trustees may
506 authorize the receipt of the transfer of the member's creditable

507 service and of the present value of the member's employer's
508 accumulation account and of the present value of the member's
509 accumulated membership contributions from such other system,
510 provided the employee agrees to the transfer of his accumulated
511 membership contributions to this system and provided the other
512 system is authorized and agrees to make such transfer.

513 (j) Wherever herein state employment is referred to, it
514 shall include joint employment by state and federal agencies of
515 all kinds.

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

535 may receive credit for such retroactive service with such
536 political subdivision or instrumentality provided;

537 (1) The member shall furnish proof satisfactory to
538 the board of trustees of certification of such services from the
539 political subdivision or instrumentality where the services were
540 rendered or verification by the Social Security Administration;
541 and

542 (2) The member shall pay to the retirement system
543 on the date he or she is eligible for such credit or at any time
544 thereafter prior to the date of retirement the actuarial cost for
545 each year of such creditable service. The provisions of this
546 subparagraph (2) shall be subject to the limitations of Section
547 415 of the Internal Revenue Code and regulations promulgated
548 thereunder.

549 Nothing contained in this paragraph (k) shall be construed to
550 limit the authority of the board to allow the correction of
551 reporting errors or omissions based on the payment of employee and
552 employer contributions plus applicable interest. Payment for such
553 time shall be made in increments of not less than one-quarter
554 (1/4) year of creditable service beginning with the most recent
555 service. Upon the payment of all or part of such required
556 contributions, plus interest or the actuarial cost as provided
557 above, the member shall receive credit for the period of
558 creditable service for which full payment has been made to the
559 retirement system.

560 (1) Through June 30, 1998, any state service eligible
561 for retroactive service credit, no part of which has ever been
562 reported, and requiring the payment of employee and employer

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

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

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

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

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

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

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

585 **III. TERMINATION OF MEMBERSHIP**

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

590 SECTION 4. Section 25-11-127, Mississippi Code of 1972, is

591 amended as follows:

592 25-11-127. No person who is being paid a retirement
593 allowance or a pension after retirement under this article shall
594 be employed or paid for any service by the State of Mississippi,
595 except as provided in this section or in Section 25-11-126. This
596 section shall not apply to any pensioner who has been elected to
597 public office after retirement, nor to any person employed because
598 of special knowledge or experience. This section shall not be
599 construed to mean that any person employed or elected under the
600 above exceptions shall become a member under Article 3 of the
601 retirement system, nor shall any retirant of this retirement
602 system who is reemployed or is reelected to office after
603 retirement continue to draw retirement benefits while so
604 reemployed or reelected, except those elected officials who choose
605 to continue to receive a retirement allowance while holding the
606 office as authorized by Section 25-11-126. Any person who has
607 been retired under the provisions of Articles 1 and 3 and who is
608 later reemployed in service covered by this article, except for
609 those elected officials who choose to continue to receive a
610 retirement allowance while holding the office as authorized by
611 Section 25-11-126, shall cease to receive benefits under this
612 article and shall again become a contributing member of the
613 retirement system; and when the person again retires, if his
614 reemployment exceeds six (6) months, he shall have his benefit
615 recomputed, including service after again becoming a member,
616 provided * * * that the total retirement allowance paid to the
617 retired member in his previous retirement shall be deducted from
618 his retirement reserve and taken into consideration in

619 recalculating the retirement allowance under a new option
620 selected. Nothing contained in this section shall be construed as
621 prohibiting any county or city not a member of the Public
622 Employees' Retirement System from employing persons up to the age
623 of seventy-three (73); and, in addition, through June 30, 1988,
624 nothing contained in this section shall be construed as
625 prohibiting any governmental unit that is a member from employing
626 persons up to the age of seventy-three (73) who are not eligible
627 for membership at the time of employment under Article 3.

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

631 The provisions of this section shall not be construed to
632 prohibit any retirant regardless of age from being employed and
633 from drawing retirement allowance either (a) for a period of time
634 not to exceed one hundred twenty (120) days in any fiscal year,
635 but less than one-half (1/2) of the normal working days for the
636 position in any fiscal year, or (b) for a period of time in any
637 fiscal year sufficient in length to permit a retirant to earn not
638 in excess of twenty-five percent (25%) of retirant's average
639 compensation or the current rate of the salary in effect for the
640 regular position filled. Notice shall be given in writing to the
641 executive director of the system, setting forth the facts upon
642 which the * * * employment is being made, and the notice shall be
643 given within five (5) days from the date of employment and also
644 from the date of termination of the employment.

645 * * * Any member who is not eligible to exercise the
646 provisions of Section 25-11-126 who has attained seventy (70)

647 years of age and who has forty (40) or more years of creditable
648 service may continue in office or employment or be reemployed or
649 elected, provided the person files annually, in writing, in the
650 office of the employer and the office of the executive director of
651 the system before those services, a waiver of all salary or
652 compensation and elects to receive in lieu of that salary or
653 compensation a retirement allowance as provided in this section,
654 in which event no salary or compensation shall thereafter be due
655 or payable for those services. However, any such officer or
656 employee may receive in addition to the retirement allowance any
657 per diem, office expense allowance, mileage or travel expense
658 authorized by any statute of the State of Mississippi. Any other
659 member may continue in municipal employment or in county office or
660 employment or be reemployed * * * in a municipality or be
661 reemployed or elected in a county, provided the person files
662 annually, in writing, in the office of the employer and the office
663 of the executive director of the system before those services, a
664 waiver of all salary or compensation and elects to receive in lieu
665 of that salary or compensation a retirement allowance as provided
666 in this section, in which event no salary or compensation shall
667 thereafter be due or payable for those services. However, any
668 such officer or employee may receive in addition to the retirement
669 allowance any per diem, office expense allowance, mileage or
670 travel expense authorized by any statute of the State of
671 Mississippi.

672 SECTION 5. The Attorney General of the State of Mississippi
673 shall submit this act, immediately upon approval by the Governor,
674 or upon approval by the Legislature subsequent to a veto, to the

675 Attorney General of the United States or to the United States
676 District Court for the District of Columbia in accordance with the
677 provisions of the Voting Rights Act of 1965, as amended and
678 extended.

679 SECTION 6. This act shall take effect and be in force from
680 and after July 1, 2000, if it is effectuated on or before that
681 date under Section 5 of the Voting Rights Act of 1965, as amended
682 and extended. If it is effectuated under Section 5 of the Voting
683 Rights Act of 1965, as amended and extended, after July 1, 2000,
684 this act shall take effect and be in force from and after the date
685 it is effectuated under Section 5 of the Voting Rights Act of
686 1965, as amended and extended.