

By: Pierce, Maples

To: Appropriations

HOUSE BILL NO. 1243

1 AN ACT TO CREATE NEW SECTION 25-11-126, MISSISSIPPI CODE OF
2 1972, TO AUTHORIZE PERSONS WHO ARE RECEIVING A RETIREMENT
3 ALLOWANCE FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO BE
4 EMPLOYED AS BUS DRIVERS IN PUBLIC SCHOOL DISTRICTS AFTER
5 RETIREMENT AND TO CONTINUE TO RECEIVE THE RETIREMENT ALLOWANCE
6 DURING THEIR EMPLOYMENT AS BUS DRIVERS IN ADDITION TO RECEIVING
7 THE REGULAR COMPENSATION FOR BUS DRIVERS; TO PROVIDE THAT THOSE
8 PERSONS SHALL NOT BE CONTRIBUTING MEMBERS OF THE RETIREMENT SYSTEM
9 OR RECEIVE ANY CREDITABLE SERVICE FOR THE PERIOD DURING WHICH THEY
10 RECEIVE A RETIREMENT ALLOWANCE DURING THEIR EMPLOYMENT AS BUS
11 DRIVERS; TO AMEND SECTION 25-11-103, MISSISSIPPI CODE OF 1972, TO
12 PROVIDE THAT PUBLIC SCHOOL BUS DRIVERS SHALL BE ELIGIBLE TO BECOME
13 OR REMAIN MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM
14 REGARDLESS OF THE WEEKLY OR MONTHLY NUMBER OF HOURS WORKED; TO
15 AMEND SECTIONS 25-11-105 AND 25-11-127, MISSISSIPPI CODE OF 1972,
16 TO CONFORM TO THE PREVIOUS PROVISIONS; TO AMEND SECTION 25-15-3,
17 MISSISSIPPI CODE OF 1972, TO CLARIFY THAT BUS DRIVERS EMPLOYED
18 AFTER RETIREMENT UNDER THE AUTHORITY OF THIS ACT ARE FULL-TIME
19 EMPLOYEES FOR THE PURPOSES OF THE STATE AND SCHOOL EMPLOYEES LIFE
20 AND HEALTH INSURANCE PLAN EVEN THOUGH THEY ARE NOT CONTRIBUTING
21 MEMBERS OF THE RETIREMENT SYSTEM; TO AMEND SECTION 25-11-13,
22 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT BUS DRIVERS EMPLOYED
23 AFTER RETIREMENT UNDER THE AUTHORITY OF THIS ACT SHALL BE ELIGIBLE
24 TO CONTINUE HEALTH INSURANCE AND LIFE INSURANCE COVERAGE UNDER THE
25 PLAN UPON TERMINATION OF EMPLOYMENT AS A BUS DRIVER, IN THE SAME
26 MANNER AND SUBJECT TO THE SAME LIMITATIONS AS ANY OTHER RETIRED
27 EMPLOYEE; AND FOR RELATED PURPOSES.

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

29 SECTION 1. The following shall be codified as Section
30 25-11-126, Mississippi Code of 1972:

31 25-11-126. (1) Any person who is receiving a retirement
32 allowance under this article may be employed as a bus driver in
33 any public school district in the state, without having to wait
34 any period of time before beginning employment as a bus driver.
35 Any person employed as a bus driver after retirement under the
36 authority of this section shall continue to receive the retirement
37 allowance under this article during his employment as a bus driver
38 after retirement, in addition to receiving the regular

39 compensation for a bus driver.

40 (2) Any person employed as a bus driver after retirement
41 under the authority of this section shall not be a contributing
42 member of the retirement system or receive any creditable service
43 for the period during which he receives a retirement allowance
44 during his employment as a bus driver.

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

47 25-11-103. The following words and phrases as used in
48 Articles 1 and 3, unless a different meaning is plainly required
49 by the context, shall have the following meanings:

50 (a) "Accumulated contributions" shall mean the sum of
51 all the amounts deducted from the compensation of a member and
52 credited to his individual account in the annuity savings account,
53 together with regular interest thereon as provided in Section
54 25-11-123.

55 (b) "Actuarial cost" shall mean the amount of funds
56 presently required to provide future benefits as determined by the
57 board based on applicable tables and formulas provided by the
58 actuary.

59 (c) "Actuarial equivalent" shall mean a benefit of
60 equal value to the accumulated contributions, annuity or benefit,
61 as the case may be, when computed upon the basis of such mortality
62 tables as shall be adopted by the board of trustees, and regular
63 interest.

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

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

69 (f) "Average compensation" shall mean the average of
70 the four (4) highest years of earned compensation reported for an
71 employee in a fiscal or calendar year period, or combination
72 thereof which do not overlap, or the last forty-eight (48)
73 consecutive months of earned compensation reported for an
74 employee. The four (4) years need not be successive or joined
75 years of service. In no case shall the average compensation so

76 determined be in excess of One Hundred Twenty-five Thousand
77 Dollars (\$125,000.00). In computing the average compensation, any
78 amount paid in a lump sum for personal leave shall be included in
79 the calculation to the extent that such amount does not exceed an
80 amount which is equal to thirty (30) days of earned compensation
81 and to the extent that it does not cause the employees' earned
82 compensation to exceed the maximum reportable amount specified in
83 Section 25-11-103(k); provided, however, that such thirty-day
84 limitation shall not prevent the inclusion in the calculation of
85 leave earned under federal regulations prior to July 1, 1976, and
86 frozen as of that date as referred to in Section 25-3-99. Only
87 the amount of lump sum pay for personal leave due and paid upon
88 the death of a member attributable for up to one hundred fifty
89 (150) days shall be used in the deceased member's average
90 compensation calculation in determining the beneficiary's
91 benefits. In computing the average compensation, no amounts shall
92 be used which are in excess of the amount on which contributions
93 were required and paid. If any member who is or has been granted
94 any increase in annual salary or compensation of more than eight
95 percent (8%) retires within twenty-four (24) months from the date
96 that such increase becomes effective, then the board shall exclude
97 that part of the increase in salary or compensation that exceeds
98 eight percent (8%) in calculating that member's average
99 compensation for retirement purposes. The board may enforce this
100 provision by rule or regulation. However, increases in
101 compensation in excess of eight percent (8%) per year granted
102 within twenty-four (24) months of the date of retirement may be
103 included in such calculation of average compensation if
104 satisfactory proof is presented to the board showing that the
105 increase in compensation was the result of an actual change in the
106 position held or services rendered, or that such compensation
107 increase was authorized by the State Personnel Board or was
108 increased as a result of statutory enactment, and the employer

109 furnishes an affidavit stating that such increase granted within
110 the last twenty-four (24) months was not contingent on a promise
111 or agreement of the employee to retire. Nothing in Section
112 25-3-31 shall affect the calculation of the average compensation
113 of any member for the purposes of this article. The average
114 compensation of any member who retires before July 1, 1992, shall
115 not exceed the annual salary of the Governor.

116 (g) "Beneficiary" shall mean any person entitled to
117 receive a retirement allowance, an annuity or other benefit as
118 provided by Articles 1 and 3. In the event of the death prior to
119 retirement of any member whose spouse and/or children are not
120 entitled to a retirement allowance, the lawful spouse of a member
121 at the time of the death of such member shall be the beneficiary
122 of such member unless the member has designated another
123 beneficiary subsequent to the date of marriage in writing, and
124 filed such writing in the office of the executive director of the
125 board of trustees. No designation or change of beneficiary shall
126 be made in any other manner.

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

130 (i) "Creditable service" shall mean "prior service,"
131 "retroactive service" and all lawfully credited unused leave not
132 exceeding the accrual rates and limitations provided in Section
133 25-3-91 et seq., as of the date of withdrawal from service plus
134 "membership service" for which credit is allowable as provided in
135 Section 25-11-109. Except to limit creditable service reported to
136 the system for the purpose of computing an employee's retirement
137 allowance or annuity or benefits provided in this article, nothing
138 in this paragraph shall limit or otherwise restrict the power of
139 the governing authority of a municipality or other political
140 subdivision of the state to adopt such vacation and sick leave
141 policies as it deems necessary.

142 (j) "Child" means either a natural child of the member,
143 a child that has been made a child of the member by applicable
144 court action before the death of the member, or a child under the
145 permanent care of the member at the time of the latter's death,
146 which permanent care status shall be determined by evidence
147 satisfactory to the board.

148 (k) "Earned compensation" shall mean the full amount
149 earned by an employee for a given pay period including any
150 maintenance furnished up to a maximum of One Hundred Twenty-five
151 Thousand Dollars (\$125,000.00) per year, and proportionately for
152 less than one (1) year of service. The value of such maintenance
153 when not paid in money shall be fixed by the employing state
154 agency, and, in case of doubt, by the board of trustees as defined
155 in Section 25-11-15. In any case, earned compensation shall be
156 limited to the regular periodic compensation paid, exclusive of
157 litigation fees, bond fees, and other similar extraordinary
158 nonrecurring payments. In addition, any member in a covered
159 position, as defined by Public Employees' Retirement System laws
160 and regulations, who is also employed by another covered agency or
161 political subdivision shall have the earnings of that additional
162 employment reported to the Public Employees' Retirement System
163 regardless of whether the additional employment is sufficient in
164 itself to be a covered position. In the case of fee officials,
165 the net earnings from their office after deduction of expenses
166 shall apply, except that in no case shall earned compensation be
167 less than the total direct payments made by the state or
168 governmental subdivisions to the official, and employer and
169 employee contributions shall be paid thereon. In the case of
170 members of the state Legislature, all remuneration or amounts
171 paid, except mileage allowance, shall apply. The amount by which
172 an eligible employee's salary is reduced pursuant to a salary
173 reduction agreement authorized under Section 25-17-5 shall be
174 included as earned compensation under this paragraph, provided

175 this inclusion does not conflict with federal law, including
176 federal regulations and federal administrative interpretations
177 thereunder, pertaining to the Federal Insurance Contributions Act
178 or to Internal Revenue Code Section 125 cafeteria plans.
179 Compensation in addition to an employee's base salary that is paid
180 to the employee pursuant to the vacation and sick leave policies
181 of a municipality or other political subdivision of the state that
182 employs him which exceeds the maximums authorized by Section
183 25-3-91 et seq., shall be excluded from the calculation of earned
184 compensation under this article. The maximum salary applicable
185 for retirement purposes before July 1, 1992, shall be the salary
186 of the Governor. Nothing in Section 25-3-31 shall affect the
187 determination of the earned compensation of any member for the
188 purposes of this article.

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

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

195 (n) "Executive director" shall mean the secretary to
196 the board of trustees, as provided in Section 25-11-15(9), and the
197 administrator of the Public Employees' Retirement System and all
198 systems under the management of the board of trustees. Wherever
199 the term "Executive Secretary of the Public Employees' Retirement
200 System" or "executive secretary" appears in this article or in any
201 other provision of law, it shall be construed to mean the
202 Executive Director of the Public Employees' Retirement System.

203 (o) "Fiscal year" shall mean the period beginning on
204 July 1 of any year and ending on June 30 of the next succeeding
205 year.

206 (p) "Medical board" shall mean the board of physicians
207 or any governmental or nongovernmental disability determination

208 service designated by the board of trustees that is qualified to
209 make disability determinations as provided for in Section
210 25-11-119.

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

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

215 (s) "Position" means any office or any employment in
216 the state service, or two (2) or more of them, the duties of which
217 call for services to be rendered by one (1) person, including
218 positions jointly employed by federal and state agencies
219 administering federal and state funds. The employer shall
220 determine upon initial employment and during the course of
221 employment of an employee who does not meet the criteria for
222 coverage in the Public Employees' Retirement System based on the
223 position held, whether the employee is or becomes eligible for
224 coverage in the Public Employees' Retirement System based upon any
225 other employment in a covered agency or political subdivision. If
226 or when the employee meets the eligibility criteria for coverage
227 in such other position, then the employer must withhold
228 contributions and report wages from the noncovered position in
229 accordance with the provisions for reporting of earned
230 compensation. Failure to deduct and report those contributions
231 shall not relieve the employee or employer of liability thereof.
232 The board shall adopt such rules and regulations as necessary to
233 implement and enforce this provision.

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

240 (u) "Regular interest" shall mean interest compounded

241 annually at such a rate as shall be determined by the board in
242 accordance with Section 25-11-121.

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

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

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

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

262 (z) "State service" shall mean all offices and
263 positions of trust or employment in the employ of the state, or
264 any political subdivision or instrumentality thereof, which elect
265 to participate as provided by Section 25-11-105(f), including the
266 position of elected or fee officials of the counties and their
267 deputies and employees performing public services or any
268 department, independent agency, board or commission thereof, and
269 shall also include all offices and positions of trust or
270 employment in the employ of joint state and federal agencies
271 administering state and federal funds and service rendered by
272 employees of the public schools. Effective July 1, 1973, all
273 nonprofessional public school employees, such as bus drivers,

274 janitors, maids, maintenance workers and cafeteria employees,
275 shall have the option to become members in accordance with Section
276 25-11-105(b), and shall be eligible to receive credit for services
277 prior to July 1, 1973, provided the contributions and interest are
278 paid by the employee in accordance with that section; provided,
279 further, that the county or municipal separate school district may
280 pay the employer contribution and pro rata share of interest of
281 the retroactive service from available funds. From and after July
282 1, 1998, retroactive service credit shall be purchased at the
283 actuarial cost in accordance with Section 25-11-105(b). Public
284 school bus drivers shall be eligible to become or remain members
285 of the retirement system regardless of the number of hours per
286 week or per month for which they receive compensation.

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

290 (bb) The masculine pronoun, wherever used, shall
291 include the feminine pronoun.

292 SECTION 3. Section 25-11-105, Mississippi Code of 1972, is
293 amended as follows:[RF2]

294 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

295 The membership of this retirement system shall be composed as
296 follows:

297 (a) All persons who shall become employees in the state
298 service after January 31, 1953, and whose wages are subject to
299 payroll taxes and are lawfully reported on IRS Form W-2, except
300 (i) those persons who are specifically excluded, (ii) those
301 persons to whom election is provided in Articles 1 and 3, or (iii)
302 those persons who continue to receive a retirement allowance
303 during their employment as bus drivers under the authority of
304 Section 25-11-126, shall become members of the retirement system
305 as a condition of their employment.

306 (b) All persons who shall become employees in the state

307 service after January 31, 1953, except those specifically excluded
308 or as to whom election is provided in Articles 1 and 3, unless
309 they shall file with the board prior to the lapse of sixty (60)
310 days of employment or sixty (60) days after the effective date of
311 the cited articles, whichever is later, on a form prescribed by
312 the board, a notice of election not to be covered by the
313 membership of the retirement system and a duly executed waiver of
314 all present and prospective benefits which would otherwise inure
315 to them on account of their participation in the system, shall
316 become members of the retirement system; provided, however, that
317 no credit for prior service will be granted to members until they
318 have contributed to Article 3 of the retirement system for a
319 minimum period of at least four (4) years. Such members shall
320 receive credit for services performed prior to January 1, 1953, in
321 employment now covered by Article 3, but no credit shall be
322 granted for retroactive services between January 1, 1953, and the
323 date of their entry into the retirement system unless the employee
324 pays into the retirement system both the employer's and the
325 employee's contributions on wages paid him during the period from
326 January 31, 1953, to the date of his becoming a contributing
327 member, together with interest at the rate determined by the board
328 of trustees. Members reentering after withdrawal from service
329 shall qualify for prior service under the provisions of Section
330 25-11-117. From and after July 1, 1998, upon eligibility as noted
331 above, the member may receive credit for such retroactive service
332 provided:

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

336 (2) The member shall pay to the retirement system
337 on the date he or she is eligible for such credit or at any time
338 thereafter prior to the date of retirement the actuarial cost for
339 each year of such creditable service. The provisions of this

340 subparagraph (2) shall be subject to the limitations of Section
341 415 of the Internal Revenue Code and regulations promulgated
342 thereunder.

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

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

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

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

370 (f) Each political subdivision of the state and each
371 instrumentality of the state or a political subdivision, or both,
372 is hereby authorized to submit, for approval by the board of

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

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

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

395 (3) It provides for such methods of administration
396 of the plan by the political subdivision or instrumentality as are
397 found by the board of trustees to be necessary for the proper and
398 efficient administration thereof;

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

403 (5) It authorizes the board of trustees to
404 terminate the plan in its entirety in the discretion of the board
405 if it finds that there has been a failure to comply substantially

406 with any provision contained in such plan, such termination to
407 take effect at the expiration of such notice and on such
408 conditions as may be provided by regulations of the board and as
409 may be consistent with applicable federal law.

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

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

427 C. Every political subdivision or
428 instrumentality required to make payments under subsection (f)(5)b
429 hereof is authorized, in consideration of the employees' retention
430 in or entry upon employment after enactment of Articles 1 and 3,
431 to impose upon its employees, as to services which are covered by
432 an approved plan, a contribution with respect to wages (as defined
433 in Section 25-11-5) not exceeding the amount provided in Section
434 25-11-123(d) if such services constituted employment within the
435 meaning of Articles 1 and 3, and to deduct the amount of such
436 contribution from the wages as and when paid. Contributions so
437 collected shall be paid into the contribution fund as partial
438 discharge of the liability of such political subdivisions or

439 instrumentality under subsection (f)(5)b hereof. Failure to
440 deduct such contribution shall not relieve the employee or
441 employer of liability thereof.

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

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

460 (g) The board may, in its discretion, deny the right of
461 membership in this system to any class of employees whose
462 compensation is only partly paid by the state or who are occupying
463 positions on a part-time or intermittent basis. The board may, in
464 its discretion, make optional with employees in any such classes
465 their individual entrance into this system. However, the board
466 may not deny the right of membership in the system to public
467 school bus drivers.

468 (h) An employee whose membership in this system is
469 contingent on his own election, and who elects not to become a
470 member, may thereafter apply for and be admitted to membership;
471 but no such employee shall receive prior service credit unless he

472 becomes a member prior to July 1, 1953, except as provided in
473 subsection (b).

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

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

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

497 (k) Employees of a political subdivision or
498 instrumentality who were employed by such political subdivision or
499 instrumentality prior to an agreement between such entity and the
500 Public Employees' Retirement System to extend the benefits of this
501 article to its employees, and which agreement provides for the
502 establishment of retroactive service credit, and who have been
503 members of the retirement system and have remained contributors to
504 the retirement system for four (4) years, may receive credit for

505 such retroactive service with such political subdivision or
506 instrumentality, provided the employee and/or employer, as
507 provided under the terms of the modification of the joinder
508 agreement in allowing such coverage, pay into the retirement
509 system the employer's and employee's contributions on wages paid
510 the member during such previous employment, together with interest
511 or actuarial cost as determined by the board covering the period
512 from the date the service was rendered until the payment for the
513 credit for such service was made. Such wages shall be verified by
514 the Social Security Administration or employer payroll records.
515 Effective July 1, 1998, upon eligibility as noted above, a member
516 may receive credit for such retroactive service with such
517 political subdivision or instrumentality provided:

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

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

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

538 above, the member shall receive credit for the period of
539 creditable service for which full payment has been made to the
540 retirement system.

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

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

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

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

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

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

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

566 **III. TERMINATION OF MEMBERSHIP**

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

571 SECTION 4. Section 25-11-127, Mississippi Code of 1972, is
572 amended as follows:[RF3]

573 25-11-127. No person who is being paid a retirement
574 allowance, or a pension after retirement under this article shall
575 be employed or paid for any service by the State of Mississippi,
576 except as provided in this section or in Section 25-11-126. This
577 section shall not apply to any pensioner who has been elected to
578 public office after retirement, nor to any person employed because
579 of special knowledge or experience. This section shall not be
580 construed to mean that any person employed or elected under the
581 above exceptions shall become a member under Article 3 of the
582 retirement system, nor shall any retirant of this retirement
583 system who is reemployed or is reelected to office, after
584 retirement continue to draw retirement benefits while so
585 reemployed or reelected except those persons who continue to
586 receive a retirement allowance during their employment as bus
587 drivers under the authority of Section 25-11-126. Any person who
588 has been retired under the provisions of Articles 1 and 3 and who
589 is later reemployed in service covered by this article shall cease
590 to receive benefits hereunder unless he continues to receive a
591 retirement allowance during his employment as a bus driver under
592 the authority of Section 25-11-126, and the person shall again
593 become a contributing member of the retirement system; and when
594 the member again retires, if he has been a contributing member of
595 the retirement system during his reemployment and his reemployment
596 exceeds six (6) months, he shall have his benefit recomputed,
597 including service after again becoming a member. Provided,
598 further, that the total retirement allowance paid to the retired
599 member in his previous retirement shall be deducted from his
600 retirement reserve and taken into consideration in recalculating
601 the retirement allowance under a new option selected. Nothing
602 contained in this section shall be construed as prohibiting any
603 county or city not a member of the Public Employees' Retirement

604 System from employing persons up to the age of seventy-three (73);
605 and provided further that, through June 30, 1988, nothing
606 contained in this section shall be construed as prohibiting any
607 governmental unit which is a member from employing persons up to
608 the age of seventy-three (73) who are not eligible for membership
609 at the time of employment under Article 3.

610 The board of trustees of the retirement system shall have the
611 right to prescribe rules and regulations for the carrying out of
612 this provision.

613 The provisions of this section shall not be construed to
614 prohibit any retirant regardless of age from being employed and
615 from drawing retirement allowance either (a) for a period of time
616 not to exceed one hundred twenty (120) days in any fiscal year,
617 but less than one-half (1/2) of the normal working days for the
618 position in any fiscal year, or (b) for a period of time in any
619 fiscal year sufficient in length to permit a retirant to earn not
620 in excess of twenty-five percent (25%) of retirant's average
621 compensation or the current rate of the salary in effect for the
622 regular position filled. Notice shall be given in writing to the
623 executive director of the system, setting forth the facts upon
624 which the * * * employment is being made, and such notice shall be
625 given within five (5) days from the date of employment and also
626 from the date of termination of the employment.

627 It is further provided that any member who has attained
628 seventy (70) years of age and who has forty (40) or more years of
629 creditable service may continue in office or employment or be
630 reemployed or elected provided such person files annually, in
631 writing, in the office of the employer and the office of the
632 executive director of the system prior to such services, a waiver
633 of all salary or compensation and elects to receive in lieu of
634 such salary or compensation a retirement allowance as provided in
635 this section, in which event no salary or compensation shall
636 thereafter be due or payable for such services and provided,

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

653 SECTION 5. Section 25-15-3, Mississippi Code of 1972, is
654 amended as follows:[RF4]

655 25-15-3. For the purposes of this article, the words and
656 phrases used herein shall have the following meanings:

657 (a) "Employee" means any person who works full time for
658 the State of Mississippi and receives his compensation in a direct
659 payment from a department, agency or institution of the state
660 government and any person who works full time for any school
661 district, community/junior college, public library or
662 university-based program authorized under Section 37-23-31 for
663 deaf, aphasic and emotionally disturbed children or any regular
664 nonstudent bus driver. This term includes legislators, employees
665 of the legislative branch and the judicial branch of the state,
666 full-time salaried judges and full-time district attorneys and
667 their staff and full-time compulsory school attendance officers.
668 For the purposes of this article, any "employee" making
669 contributions to the Public Employees' Retirement System or the

670 Mississippi Highway Patrol Retirement System shall be considered a
671 full-time employee; however, any person who is employed as a bus
672 driver under the authority of Section 25-11-126 shall be
673 considered a full-time employee even though the person is not a
674 contributing member of the Public Employees' Retirement System.

675 (b) "Department" means the Department of Finance and
676 Administration.

677 (c) "Plan" means the State and School Employees Life
678 and Health Insurance Plan created under this article.

679 (d) "Fund" means the State and School Employees
680 Insurance Fund set up under this article.

681 (e) "Retiree" or "retired employee" means any employee
682 who is retired under the Public Employees' Retirement System or
683 the Mississippi Highway Patrol Retirement System and is receiving
684 a retirement allowance from either system.

685 (f) "Board" means the State and School Employees Health
686 Insurance Management Board created under Section 25-15-303.

687 SECTION 6. Section 25-15-13, Mississippi Code of 1972, is
688 amended as follows:[RF5]

689 25-15-13. Each eligible employee may participate in the
690 plan by signing up for the plan at the time of employment. Each
691 eligible employee who declines coverage under the plan must sign a
692 waiver of coverage. After acceptance in the plan, the employee
693 may cease his or her participation by filing a specific disclaimer
694 with the board. Forms for this purpose shall be prescribed and
695 issued by the board. All eligible employees will be eligible to
696 participate in the plan on the effective date of the plan or on
697 the date on which they are employed by the state, whichever is
698 later, provided they make the necessary contributions as provided
699 in this article. Spouses of employees, unmarried dependent
700 children from birth to age nineteen (19) years, unmarried
701 dependent children who are full-time students up to age
702 twenty-five (25) years, and physically or mentally handicapped

703 children, regardless of age, are eligible under the plan as of the
704 date the employee becomes eligible. If both spouses are eligible
705 employees who participate in the plan, the benefits shall apply
706 individually to each spouse by virtue of his or her participation
707 in the plan. If those spouses also have one or more eligible
708 dependents participating in the plan, the cost of their dependents
709 shall be calculated at a special family plan rate. The cost for
710 participation by the dependents shall be paid by the spouse who
711 elects to carry such dependents under his or her coverage.

712 Any person who is employed as a bus driver under the
713 authority of Section 25-11-126 shall be eligible to continue
714 health insurance and life insurance coverage under the plan upon
715 termination of employment as a bus driver, in the same manner and
716 subject to the same limitations as any other retired employee.

717 SECTION 7. This act shall take effect and be in force from
718 and after July 1, 2000.