

By: Stringer

To: Appropriations

HOUSE BILL NO. 1505  
(As Passed the House)

1 AN ACT TO AMEND SECTION 25-11-15, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE THE BOARD OF TRUSTEES OF THE PUBLIC EMPLOYEES'  
3 RETIREMENT SYSTEM TO SET THE ANNUAL SALARIES FOR ALL NONSTATE  
4 SERVICE EMPLOYEES OF THE RETIREMENT SYSTEM; TO AMEND SECTION  
5 25-9-107, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING  
6 PROVISION; AND FOR RELATED PURPOSES.

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

8 SECTION 1. Section 25-11-15, Mississippi Code of 1972, is  
9 amended as follows:[RF1]

10 25-11-15. (1) Board of trustees: The general  
11 administration and responsibility for the proper operation of the  
12 Public Employees' Retirement System and the federal-state  
13 agreement and for making effective the provisions of Articles 1  
14 and 3 are hereby vested in a board of trustees.

15 (2) The board shall consist of ten (10) trustees, as  
16 follows:

17 (a) The State Treasurer;

18 (b) One (1) member who shall be appointed by the  
19 Governor for a term of four (4) years, who shall be a member of  
20 the system;

21 (c) Two (2) members of the system having at least ten  
22 (10) years of creditable service who shall be state employees who  
23 shall not be employees of the institutions of higher learning, who  
24 shall be elected by members of the system who are employees of  
25 state agencies and by members of the Mississippi Highway Safety  
26 Patrol Retirement System, but not including the employees of the  
27 institutions of higher learning;

28 (d) Two (2) members of the system having at least ten

29 (10) years of creditable service who shall not hold office in the  
30 legislative or judicial departments of municipal or county  
31 government, one (1) of whom shall be an employee of a  
32 municipality, instrumentality or juristic entity thereof who shall  
33 be elected by members of the system who are employees of the  
34 municipalities, instrumentalities or juristic entities thereof and  
35 by members of the municipal systems and the firemen's and  
36 policemen's disability and relief funds administered by the board  
37 of trustees, and one (1) of whom shall be an employee of a county,  
38 instrumentality or juristic entity thereof who shall be elected by  
39 members of the system who are employees of the counties,  
40 instrumentalities or juristic entities thereof;

41 (e) One (1) member of the system having at least ten  
42 (10) years of creditable service who shall be an employee of an  
43 institution of higher learning who shall be elected by members of  
44 the system who are employees of the state institutions of higher  
45 learning as included in Section 37-101-1. Any member of the board  
46 on July 1, 1984, who is an employee of an institution of higher  
47 learning shall serve as the member trustee representing the  
48 institutions of higher learning until the end of the term for  
49 which he was elected;

50 (f) Two (2) retired members who are receiving a  
51 retirement allowance from the system who shall be elected by the  
52 retired members or beneficiaries receiving a retirement allowance  
53 from the system and by the retired members or beneficiaries of the  
54 municipal systems, the firemen's and policemen's disability and  
55 relief funds and the Mississippi Highway Safety Patrol Retirement  
56 System administered by the board of trustees, to serve for a term  
57 of six (6) years under rules and regulations adopted by the board  
58 to govern such election; however, any retired member of the board  
59 in office on April 19, 1993, shall serve as a retired trustee  
60 until the end of the term for which he was elected;

61 (g) One (1) member of the system having at least ten

62 (10) years of creditable service who shall be an employee of any  
63 public school district or junior college or community college  
64 district that participates in the system, who shall be elected by  
65 the members of the system who are employees of any public school  
66 district or junior college or community college district; however,  
67 any member of the board on June 30, 1989, who is a certified  
68 classroom teacher shall serve as the member representing a  
69 classroom teacher until the end of the term for which the member  
70 was appointed;

71 (h) In the first election to be held for trustees one  
72 (1) member shall be elected for a term of two (2) years, and one  
73 (1) member for a term of four (4) years, and one (1) member for a  
74 term of six (6) years. Thereafter, their successors shall be  
75 elected for terms of six (6) years. All elections shall be held  
76 in accordance with rules and regulations adopted by the board to  
77 govern such elections and the board shall be the sole judge of all  
78 questions arising incident to or connected with the elections.

79 (i) Any person eligible to vote for the election of a  
80 member of the board of trustees and who meets the qualifications  
81 for the office may seek election to such office and serve if  
82 elected. For purposes of determining eligibility to seek office  
83 as a member of the board of trustees, the required creditable  
84 service in "the system" shall include each system administered by  
85 the board of trustees in which such person is a member.

86 The members described above and serving on the board on June  
87 30, 1989, shall continue to serve on the board until the  
88 expiration of their terms.

89 (3) If a vacancy occurs in the office of a trustee, the  
90 vacancy shall be filled for the unexpired term in the same manner  
91 as the office was previously filled. However, if the unexpired  
92 term is six (6) months or less, an election shall be held to fill  
93 the office vacated for the next succeeding full term of office,  
94 and the person so elected to fill the next full term shall be

95 appointed by the board to fill the remainder of the unexpired  
96 term. Whenever any member who is elected to a position to  
97 represent a class of members ceases to be a member of that class,  
98 that board member is no longer eligible for membership on the  
99 board. The position shall be declared vacant, and the unexpired  
100 term shall be filled in the same manner as the office was  
101 previously filled.

102 (4) Each trustee shall, within ten (10) days after his  
103 appointment or election, take an oath of office as provided by law  
104 and, in addition, shall take an oath that he will diligently and  
105 honestly administer the affairs of the said board, and that he  
106 will not knowingly violate or willingly permit to be violated any  
107 of the provisions of law applicable to Articles 1 and 3. Such  
108 oath shall be signed by the member making it, certified by the  
109 officer before whom it is taken, and immediately filed in the  
110 office of the Secretary of State.

111 (5) Each trustee shall be entitled to one (1) vote. Six (6)  
112 members shall constitute a quorum at any meeting of said board,  
113 and a majority of those present shall be necessary for a decision.

114 (6) Subject to the limitations of Articles 1 and 3, the  
115 board shall establish rules and regulations for the administration  
116 of the system created by said articles and for the transaction of  
117 its business, and to give force and effect to the provisions of  
118 said articles wherever necessary to carry out the intent and  
119 purposes of the Legislature. The cited articles are remedial law  
120 and shall be liberally construed to accomplish their purposes.

121 (7) Notwithstanding any other law to the contrary, in the  
122 event of a natural disaster or other occurrence that results in  
123 the failure of the retirement system's computer system or a  
124 significant disruption of the normal activities of the retirement  
125 system, the executive director of the board, or his deputy, shall  
126 be authorized to contract with another entity, governmental or  
127 private, during the period of such failure or disruption, for

128 services, commodities, work space and supplies as necessary to  
129 carry out the administration of all systems and programs  
130 administered by the board. The board shall be authorized to pay  
131 the reasonable cost of such services, commodities, work space and  
132 supplies. At the meeting of the board next following the  
133 execution of a contract authorized pursuant to this subsection,  
134 documentation of the contract, including a description of the  
135 services, commodities, work space or supplies, the price thereof  
136 and the nature of the disaster or occurrence, shall be presented  
137 to the board and placed on the minutes of the board. Because of  
138 their emergency nature, purchases made pursuant to this subsection  
139 shall not be required to comply with the provisions of Section  
140 31-7-13 or any other law governing public purchases.

141 (8) Except as otherwise provided in subsection (7) of this  
142 section, in its acquisition of computer equipment, services and  
143 software, the board shall submit to the Central Data Processing  
144 Authority for review and comment all proposals over Fifteen  
145 Thousand Dollars (\$15,000.00), but less than Fifty Thousand  
146 Dollars (\$50,000.00), for the acquisition of computer equipment,  
147 services and software. The Central Data Processing Authority  
148 shall furnish its written recommendations to the board within  
149 thirty (30) days of its receipt of the proposal. In the event  
150 that the Central Data Processing Authority finds that alternatives  
151 should be considered with respect to a proposed acquisition and if  
152 the board elects by two-thirds (2/3) vote to deviate from these  
153 recommendations, the board shall spread upon its minutes the  
154 reasons for its decision not to act on such recommendations. From  
155 and after April 15, 1990, any acquisition of computer equipment,  
156 services and software by the board in the amount of Fifty Thousand  
157 Dollars (\$50,000.00) or more is subject to approval by the Central  
158 Data Processing Authority; and, in responding to a request of  
159 approval therefor, the Central Data Processing Authority shall  
160 reply within thirty (30) days of its receipt of such request from

161 the board. The computer equipment and software owned by the  
162 Public Employees' Retirement System are assets of the Trust Fund  
163 by virtue of the Constitution, Section 272-A and acquisition and  
164 operation thereof shall be under the jurisdiction of the Public  
165 Employees' Retirement System.

166 (9) The board shall elect a chairman and shall by a majority  
167 vote of all of its members appoint a secretary whose title shall  
168 be executive director, who shall serve at the will and pleasure of  
169 the board, who shall not be a member of the board of trustees, who  
170 shall be entitled to membership in the system, and who shall act  
171 as secretary of the board. The board of trustees shall employ  
172 such actuarial, clerical and other employees as shall be required  
173 to transact the business of the system, and shall fix the  
174 compensation of all employees, subject to the rules and  
175 regulations of the State Personnel Board; however, the board may  
176 set the annual salaries for all nonstate service employees of the  
177 system.

178 (10) Each member of the board shall receive as compensation  
179 for his services Three Hundred Dollars (\$300.00) per month. All  
180 members of said board shall be reimbursed for their necessary  
181 traveling expenses which shall be paid in accordance with the  
182 requirements of Section 25-3-41 or other applicable statutes with  
183 respect to traveling expenses of state officials and employees on  
184 official business. All members of said board shall be entitled to  
185 be members of the system and shall be entitled to creditable  
186 service for all time served as a member of said board except the  
187 retired member who shall not be entitled to be a member of the  
188 system and who shall be eligible to receive the retirement  
189 allowance and compensation for services from the system while  
190 serving as a member of the board.

191 (11) All expenses of the board incurred in the  
192 administration of Articles 1 and 3 shall be paid from such funds  
193 as may be appropriated by the Legislature for such purpose or from

194 administrative fees collected from political subdivisions or  
195 juristic entities of the state. Each political subdivision of the  
196 state and each instrumentality of the state or of a political  
197 subdivision or subdivisions which submit a plan for approval by  
198 the board as provided in Section 25-11-11 shall reimburse the  
199 board, for coverage into the administrative expense fund, its pro  
200 rata share of the total expense of administering Articles 1 and 3  
201 as provided by regulations of said board.

202 (12) There shall be an investment advisory board to provide  
203 advice and counsel to the board of trustees regarding the  
204 investment of the funds of the system. The advisory board shall  
205 consist of three (3) members, one (1) appointed by the Governor,  
206 one (1) appointed by the Lieutenant Governor, and one (1)  
207 appointed by the Speaker of the House of Representatives. Each  
208 member of the advisory board shall be someone who is not a public  
209 employee who has had at least ten (10) years' experience in  
210 investment banking or commercial banking or who has had at least  
211 ten (10) years' professional experience in managing investments.  
212 Each member of the advisory board shall serve for a term  
213 concurrent with the term of the appointing authority. Any vacancy  
214 on the advisory board shall be filled by appointment of the  
215 original appointing authority for the remainder of the unexpired  
216 term. Members of the advisory board shall receive no compensation  
217 for their services, but shall be reimbursed for their actual and  
218 necessary expenses incurred in the performance of their duties, as  
219 provided in Section 25-3-41 for state officers and employees. The  
220 advisory board shall operate under the rules and regulations of  
221 the board of trustees and shall meet at such times as determined  
222 by the board of trustees.

223 (13) The Lieutenant Governor may designate two (2) Senators  
224 and the Speaker of the House of Representatives may designate two  
225 (2) Representatives to attend any meeting of the Board of Trustees  
226 of the Public Employees' Retirement System. The appointing

227 authorities may designate alternate members from their respective  
228 houses to serve when the regular designees are unable to attend  
229 such meetings of the board. Such legislative designees shall have  
230 no jurisdiction or vote on any matter within the jurisdiction of  
231 the board. For attending meetings of the board, such legislators  
232 shall receive per diem and expenses which shall be paid from the  
233 contingent expense funds of their respective houses in the same  
234 amounts as provided for committee meetings when the Legislature is  
235 not in session; however, no per diem and expenses for attending  
236 meetings of the board will be paid while the Legislature is in  
237 session. No per diem and expenses will be paid except for  
238 attending meetings of the board without prior approval of the  
239 proper committee in their respective houses.

240 SECTION 2. Section 25-9-107, Mississippi Code of 1972, is  
241 amended as follows:[RF2]

242 25-9-107. The following terms, when used in this chapter,  
243 unless a different meaning is plainly required by the context,  
244 shall have the following meanings:

245 (a) "Board" shall mean the State Personnel Board  
246 created under the provisions of this chapter.

247 (b) "State service" shall mean all employees of state  
248 departments, agencies and institutions as defined herein, except  
249 those officers and employees excluded by this chapter.

250 (c) "Nonstate service" shall mean the following  
251 officers and employees excluded from the state service by this  
252 chapter. The following are excluded from the state service:

253 (i) Members of the state Legislature, their staffs  
254 and other employees of the legislative branch;

255 (ii) The Governor and staff members of the  
256 immediate Office of the Governor;

257 (iii) Justices and judges of the judicial branch  
258 or members of appeals boards on a per diem basis;

259 (iv) The Lieutenant Governor, staff members of the

260 immediate Office of the Lieutenant Governor and officers and  
261 employees directly appointed by the Lieutenant Governor;

262 (v) Officers and officials elected by popular vote  
263 and persons appointed to fill vacancies in elective offices;

264 (vi) Members of boards and commissioners appointed  
265 by the Governor, Lieutenant Governor or the state Legislature;

266 (vii) All academic officials, members of the  
267 teaching staffs and employees of the state institutions of higher  
268 learning, the State Board for Community and Junior Colleges, and  
269 community and junior colleges;

270 (viii) Officers and enlisted members of the  
271 National Guard of the state;

272 (ix) Prisoners, inmates, student or patient help  
273 working in or about institutions;

274 (x) Contract personnel; provided, that any agency  
275 which employs state service employees may enter into contracts for  
276 personal and professional services only if such contracts are  
277 approved in compliance with the rules and regulations promulgated  
278 by the State Personal Service Contract Review Board under Section  
279 25-9-120(3). Before paying any warrant for such contractual  
280 services in excess of One Hundred Thousand Dollars (\$100,000.00),  
281 the Auditor of Public Accounts, or the successor to those duties,  
282 shall determine whether the contract involved was for personal or  
283 professional services, and, if so, was approved by the State  
284 Personal Service Contract Review Board;

285 (xi) Part-time employees; provided, however,  
286 part-time employees shall only be hired into authorized employment  
287 positions classified by the board, shall meet minimum  
288 qualifications as set by the board, and shall be paid in  
289 accordance with the Variable Compensation Plan as certified by the  
290 board;

291 (xii) Persons appointed on an emergency basis for  
292 the duration of the emergency; the effective date of the emergency

293 appointments shall not be earlier than the date approved by the  
294 State Personnel Director, and shall be limited to thirty (30)  
295 working days. Emergency appointments may be extended to sixty  
296 (60) working days by the State Personnel Board;

297 (xiii) Physicians, dentists, veterinarians, nurse  
298 practitioners and attorneys, while serving in their professional  
299 capacities in authorized employment positions who are required by  
300 statute to be licensed, registered or otherwise certified as such,  
301 provided that the State Personnel Director shall verify that the  
302 statutory qualifications are met prior to issuance of a payroll  
303 warrant by the auditor;

304 (xiv) Personnel who are employed and paid from  
305 funds received from a federal grant program which has been  
306 approved by the Legislature or the Department of Finance and  
307 Administration whose length of employment has been determined to  
308 be time-limited in nature. This subparagraph shall apply to  
309 personnel employed under the provisions of the Comprehensive  
310 Employment and Training Act of 1973, as amended, and other special  
311 federal grant programs which are not a part of regular federally  
312 funded programs wherein appropriations and employment positions  
313 are appropriated by the Legislature. Such employees shall be paid  
314 in accordance with the Variable Compensation Plan and shall meet  
315 all qualifications required by federal statutes or by the  
316 Mississippi Classification Plan;

317 (xv) The administrative head who is in charge of  
318 any state department, agency, institution, board or commission,  
319 in which the statute specifically authorizes the Governor, board,  
320 commission or other authority to appoint the administrative head;  
321 \* \* \* however, \* \* \* the salary of such administrative head shall  
322 be determined by the State Personnel Board in accordance with the  
323 Variable Compensation Plan unless otherwise fixed by statute or  
324 except as otherwise authorized under Section 25-11-15(9);

325 (xvi) The State Personnel Board shall exclude top

326 level positions if the incumbents determine and publicly advocate  
327 substantive program policy and report directly to the agency head,  
328 or the incumbents are required to maintain a direct confidential  
329 working relationship with a key excluded official. \* \* \* A written  
330 job classification shall be approved by the board for each such  
331 position, and positions so excluded shall be paid in conformity  
332 with the Variable Compensation Plan, except as otherwise  
333 authorized under Section 25-11-15(9);

334 (xvii) Employees whose employment is solely in  
335 connection with an agency's contract to produce, store or  
336 transport goods, and whose compensation is derived therefrom;

337 (xviii) Personnel employed by the State Prison  
338 Emergency Construction and Management Board, paid from funds from  
339 the "Correctional Facilities Emergency Construction Fund," or  
340 employed under contracts let or approved by the board for the  
341 construction, acquisition, lease, lease-purchase or operation of  
342 prison facilities. This subparagraph shall stand repealed from  
343 and after July 1, 1996;

344 (xix) The associate director, deputy directors and  
345 bureau directors within the Department of Agriculture and  
346 Commerce;

347 (xx) Personnel employed by the Mississippi  
348 Industries for the Blind; provided, that any agency may enter into  
349 contracts for the personal services of MIB employees without the  
350 prior approval of the State Personnel Board or the State Personal  
351 Service Contract Review Board; however, any agency contracting for  
352 the personal services of an MIB employee shall provide the MIB  
353 employee with not less than the entry level compensation and  
354 benefits that the agency would provide to a full-time employee of  
355 the agency who performs the same services.

356 (d) "Agency" means any state board, commission,  
357 committee, council, department or unit thereof created by the  
358 Constitution or statutes if such board, commission, committee,

359 council, department, unit or the head thereof, is authorized to  
360 appoint subordinate staff by the Constitution or statute, except a  
361 legislative or judicial board, commission, committee, council,  
362 department or unit thereof.

363 SECTION 3. This act shall take effect and be in force from  
364 and after July 1, 2000.