

By: Jordan

To: Finance

SENATE BILL NO. 2035

1 AN ACT TO AMEND SECTION 25-11-127, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE RETIREES WHO HAD AT LEAST 30 YEARS OF CREDITABLE  
3 SERVICE AT THE TIME OF THEIR RETIREMENT TO BE EMPLOYED IN STATE  
4 SERVICE AND DRAW A RETIREMENT ALLOWANCE FOR A PERIOD OF TIME NOT  
5 TO EXCEED 185 DAYS IN ANY FISCAL YEAR; TO PROVIDE THAT ANY PERSON  
6 EMPLOYED PURSUANT TO THIS PROVISION SHALL NOT BE AN ACTIVE MEMBER  
7 OF THE RETIREMENT SYSTEM AND SHALL NOT RECEIVE ANY CREDITABLE  
8 SERVICE FOR THE PERIOD DURING WHICH HE IS EMPLOYED PURSUANT TO  
9 THIS PROVISION; TO PROVIDE THAT THE EMPLOYER OF A PERSON EMPLOYED  
10 PURSUANT TO SUCH PROVISION SHALL DEDUCT EMPLOYEE CONTRIBUTIONS AND  
11 MAKE EMPLOYER CONTRIBUTIONS ON BEHALF OF SUCH PERSON; TO PROVIDE  
12 THAT THE RETIREMENT ALLOWANCE OF SUCH PERSON SHALL NOT BE ENHANCED  
13 OR DIMINISHED AS A RESULT OF SUCH EMPLOYMENT; TO AMEND SECTION  
14 25-11-117, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A MEMBER  
15 EMPLOYED UNDER THE ABOVE PROVISION MAY NOT RECEIVE A REFUND OF THE  
16 AMOUNT OF EMPLOYEE CONTRIBUTIONS, OR INTEREST EARNED ON THOSE  
17 CONTRIBUTIONS THAT WERE MADE DURING ANY PERIOD WHEN HE WAS SO  
18 EMPLOYED; AND FOR RELATED PURPOSES.

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

20 SECTION 1. Section 25-11-127, Mississippi Code of 1972, is  
21 amended as follows:[JU1]

22 25-11-127. (1) No person who is being paid a retirement  
23 allowance, or a pension after retirement under this article shall  
24 be employed or paid for any service by the State of Mississippi,  
25 except as provided in this section. This section shall not apply  
26 to any pensioner who has been elected to public office after  
27 retirement, nor to any person employed because of special  
28 knowledge or experience. This section shall not be construed to  
29 mean that any person employed or elected under the above

30 exceptions shall become a member under Article 3 of the retirement  
31 system, nor shall any retirant of this retirement system who is  
32 reemployed or is reelected to office, after retirement continue to  
33 draw retirement benefits while so reemployed. Any person who has  
34 been retired under the provisions of Articles 1 and 3 and who is  
35 later reemployed in service covered by this article shall cease to  
36 receive benefits hereunder and shall again become a contributing  
37 member of the retirement system; and upon again retiring, if his  
38 reemployment exceeds six (6) months, shall have his benefit  
39 recomputed, including service after again becoming a member.  
40 Provided, further, that the total retirement allowance paid to the  
41 retired member in his previous retirement shall be deducted from  
42 his retirement reserve and taken into consideration in  
43 recalculating the retirement allowance under a new option  
44 selected. Nothing contained in this section shall be construed as  
45 prohibiting any county or city not a member of the Public  
46 Employees' Retirement System from employing persons up to the age  
47 of seventy-three (73); and provided further that, through June 30,  
48 1988, nothing contained in this section shall be construed as  
49 prohibiting any governmental unit which is a member from employing  
50 persons up to the age of seventy-three (73) who are not eligible  
51 for membership at the time of employment under Article 3.

52 The board of trustees of the retirement system shall have the  
53 right to prescribe rules and regulations for the carrying out of  
54 this provision.

55 (2) The provisions of this section shall not be construed to  
56 prohibit any retirant regardless of age from being employed and  
57 from drawing retirement allowance either (a) for a period of time  
58 not to exceed one hundred twenty (120) days in any fiscal year,  
59 but less than one-half (1/2) of the normal working days for the  
60 position in any fiscal year, or (b) for a period of time in any

61 fiscal year sufficient in length to permit a retirant to earn not  
62 in excess of twenty-five percent (25%) of retirant's average  
63 compensation or the current rate of the salary in effect for the  
64 regular position filled. Notice shall be given in writing to the  
65 executive director of the system, setting forth the facts upon  
66 which the emergency employment is being made, and such notice  
67 shall be given within five (5) days from the date of employment  
68 and also from the date of termination of said employment.

69 (3) The provisions of this section shall not be construed to  
70 prohibit any retirant, regardless of age, who had at least thirty  
71 (30) years of creditable service at the time of his retirement  
72 from being employed and from drawing a retirement allowance for a  
73 period of time not to exceed one hundred eighty-five (185) days in  
74 any fiscal year. Such employment may begin at any time following  
75 the date of retirement. Notice shall be given in writing to the  
76 executive director of the system, setting forth the facts upon  
77 which the emergency employment is being made, and such notice  
78 shall be given within five (5) days from the date of employment  
79 and also from the date of termination of said employment. Any  
80 person employed pursuant to this subsection shall not be an active  
81 member of the retirement system and shall not receive any  
82 creditable service for the period during which he is employed.  
83 The employer shall deduct employee contributions for any person  
84 employed pursuant to this subsection and shall make employer  
85 contributions on behalf of the person in the same manner as  
86 provided in Section 25-1-123 for active members for the period  
87 during which such person is employed, and the employer shall pay  
88 the contributions to the retirement system. The retirement

89 allowance of any person employed pursuant to this subsection shall  
90 not be enhanced or diminished as a result of such employment.

91       (4) \* \* \* Any member who has attained seventy (70) years of  
92 age and who has forty (40) or more years of creditable service may  
93 continue in office or employment or be reemployed or elected  
94 provided such person files annually, in writing, in the office of  
95 the employer and the office of the executive director of the  
96 system prior to such services, a waiver of all salary or  
97 compensation and elects to receive in lieu of such salary or  
98 compensation a retirement allowance as provided in this section,  
99 in which event no salary or compensation shall thereafter be due  
100 or payable for such services and provided, further, that any such  
101 officer or employee may receive in addition to such retirement  
102 allowance any per diem, office expense allowance, mileage or  
103 travel expense authorized by any statute of the State of  
104 Mississippi.

105       (5) Any \* \* \* member may continue in municipal or county  
106 office or employment or be reemployed or elected in a municipality  
107 or county provided such person files annually, in writing, in the  
108 office of the employer and the office of the executive director of  
109 the system prior to such services, a waiver of all salary or  
110 compensation and elects to receive in lieu of such salary or  
111 compensation a retirement allowance as provided in this section,  
112 in which event no salary or compensation shall thereafter be due  
113 or payable for such services and provided, further, that any such  
114 officer or employee may receive in addition to such retirement  
115 allowance any per diem, office expense allowance, mileage or  
116 travel expense authorized by any statute of the State of

117 Mississippi.

118 SECTION 2. Section 25-11-117, Mississippi Code of 1972, is  
119 amended as follows:[JU2]

120 25-11-117. (1) A member may be paid a refund of the amount  
121 of accumulated contributions to the credit of the member in the  
122 annuity savings account provided the member has withdrawn from  
123 state service and further provided the member has not returned to  
124 state service on the date the refund of the accumulated  
125 contributions would be paid. However, a member may not receive a  
126 refund of the amount of employee contributions, or interest earned  
127 on those contributions, that were made during any period when he  
128 was employed under the provisions of Section 25-11-127(3). Such  
129 refund of the contributions to the credit of the member in the  
130 annuity savings account shall be paid within ninety (90) days from  
131 receipt in the office of the retirement system of the properly  
132 completed form requesting such payment. In the event of death  
133 prior to retirement of any member whose spouse and/or children are  
134 not entitled to a retirement allowance, the accumulated  
135 contributions to the credit of the deceased member in the annuity  
136 savings account shall be paid to the designated beneficiary on  
137 file in writing in the office of executive director of the board  
138 of trustees within ninety (90) days from receipt of a properly  
139 completed form requesting such payment. If there is no such  
140 designated beneficiary on file for such deceased member in the  
141 office of the system, upon the filing of a proper request with the  
142 board, the contributions to the credit of the deceased member in  
143 the annuity savings account shall be refunded to the estate of the  
144 deceased member. The payment of the refund shall discharge all

145 obligations of the retirement system to the member on account of  
146 any creditable service rendered by the member prior to the receipt  
147 of the refund. By the acceptance of the refund, the member shall  
148 waive and relinquish all accrued rights in the system.

149 (2) Pursuant to the Unemployment Compensation Amendments of  
150 1992 (P.L. 102-318 (UCA)), a member or eligible beneficiary  
151 eligible for a refund under this section may elect on a form  
152 prescribed by the board under rules and regulations established by  
153 the board, to have an eligible roll over distribution of  
154 accumulated contributions payable under this section paid directly  
155 to an eligible retirement plan or individual retirement account.  
156 If the member or eligible beneficiary makes such election and  
157 specifies the eligible retirement plan or individual retirement  
158 account to which such distribution is to be paid, the distribution  
159 will be made in the form of a direct trustee-to-trustee transfer  
160 to the specified eligible retirement plan. Flexible roll overs  
161 under this subsection shall not be considered assignments under  
162 Section 25-11-129.

163 (3) If any person who has received a refund reenters the  
164 state service and again becomes a member of the system, the member  
165 may repay all or part of the amounts previously received as a  
166 refund, together with regular interest covering the period from  
167 the date of refund to the date of repayment; provided, however,  
168 that the amounts that are repaid by the member and the creditable  
169 service related thereto shall not be used in any benefit  
170 calculation or determination until the member has remained a  
171 contributor to the system for a period of at least four (4) years  
172 subsequent to such member's reentry into state service. Repayment

173 for such time shall be made in increments of not less than  
174 one-quarter (1/4) year of creditable service beginning with the  
175 most recent service for which refund has been made. Upon the  
176 repayment of all or part of such refund and interest, the member  
177 shall again receive credit for the period of creditable service  
178 for which full repayment has been made to the system.

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