

By: Furniss

To: Finance

SENATE BILL NO. 2252

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 OR
4 APPOINTED TO PUBLIC OFFICE IN A POLITICAL SUBDIVISION OR
5 INSTRUMENTALITY THEREOF AFTER RETIREMENT, AND ELECTED OR APPOINTED
6 OFFICIALS IN A POLITICAL SUBDIVISION OR INSTRUMENTALITY THEREOF
7 WHO BECOME ELIGIBLE TO RECEIVE A RETIREMENT ALLOWANCE FROM THE
8 PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHILE HOLDING OFFICE, MAY
9 RECEIVE A RETIREMENT ALLOWANCE FROM THE SYSTEM WHILE HOLDING
10 OFFICE IN ADDITION TO RECEIVING THE REGULAR COMPENSATION FOR SUCH
11 OFFICE; TO PROVIDE THAT THOSE PERSONS SHALL NOT BE ACTIVE MEMBERS
12 OF THE RETIREMENT SYSTEM AND SHALL NOT RECEIVE ANY CREDITABLE
13 SERVICE FOR THE PERIOD DURING WHICH THEY RECEIVE A RETIREMENT
14 ALLOWANCE WHILE HOLDING OFFICE; TO PROVIDE THAT EMPLOYEE
15 CONTRIBUTIONS SHALL BE DEDUCTED AND EMPLOYER CONTRIBUTIONS SHALL
16 BE MADE FOR THOSE PERSONS FOR THE PERIOD DURING WHICH THEY RECEIVE
17 A RETIREMENT ALLOWANCE WHILE HOLDING OFFICE; TO AMEND SECTIONS
18 25-11-103, 25-11-105 AND 25-11-127, MISSISSIPPI CODE OF 1972, IN
19 CONFORMITY WITH THE PROVISIONS OF THIS ACT; TO AMEND SECTION
20 25-11-117, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY PERSON
21 WHO RECEIVED A RETIREMENT ALLOWANCE WHILE HOLDING OFFICE IN A
22 POLITICAL SUBDIVISION OR INSTRUMENTALITY THEREOF MAY NOT RECEIVE A
23 REFUND OF EMPLOYEE CONTRIBUTIONS THAT WERE MADE DURING THAT PERIOD
24 OF SERVICE; AND FOR RELATED PURPOSES.

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

26 SECTION 1. The following shall be codified as Section
27 25-11-126, Mississippi Code of 1972:

28 25-11-126. (1) Any person who is receiving a retirement
29 allowance under this article and who is elected or appointed after
30 retirement to an office in a political subdivision or
31 instrumentality thereof, and any elected or appointed official in
32 a political subdivision or instrumentality thereof who becomes

33 eligible to receive a retirement allowance under this article
34 while holding such office, may choose to receive or continue to
35 receive a retirement allowance under this article while holding
36 such office in addition to receiving the regular compensation for
37 such office in the manner provided in this section.

38 (2) Any person who is receiving a retirement allowance and
39 who is elected or appointed to office in a political subdivision
40 or instrumentality thereof after retirement shall notify the
41 executive director of the system before taking office of his
42 choice about continuing to receive the retirement allowance while
43 holding such office. If the person chooses not to continue
44 receiving the retirement allowance while holding such office, the
45 retirement allowance shall cease on the day that he begins serving
46 in the office. After leaving the office, in order to begin
47 receiving a retirement allowance under this article again, such
48 person shall make application to the executive director of the
49 system, and the retirement allowance shall begin on the first of
50 the month following the date that the application is received by
51 the executive director.

52 (3) Any elected or appointed official of a political
53 subdivision or instrumentality thereof who becomes eligible to
54 receive a retirement allowance while holding office and who
55 chooses to receive a retirement allowance while holding office,
56 shall make application to the executive director of the system and
57 the retirement allowance shall begin on the first of the month
58 following the date that the application is received by the
59 executive director. Such elected or appointed officials shall not
60 be required to withdraw from service in order to receive the
61 retirement allowance.

62 (4) Any person to whom this section applies who receives or
63 continues to receive a retirement allowance under this article

64 while holding office in a political subdivision or instrumentality
65 thereof shall not be an active member of the retirement system and
66 shall not receive any creditable service for the period during
67 which he receives a retirement allowance while holding office in a
68 political subdivision or instrumentality thereof. However, the
69 employer shall deduct employee contributions for the person and
70 shall make employer contributions on behalf of the person in the
71 same manner as provided in Section 25-11-123 for active members,
72 for the period during which he receives a retirement allowance
73 while holding office in a political subdivision or instrumentality
74 thereof, and the employer shall pay the contributions to the
75 retirement system.

76 (5) Any person to whom this section applies who chooses not
77 to receive a retirement allowance while holding office in a
78 political subdivision or instrumentality thereof shall be an
79 active and contributing member of the retirement system and shall
80 receive creditable service for the period during which he holds
81 office in a political subdivision or instrumentality thereof
82 without receiving a retirement allowance. If the person has
83 previously received a retirement allowance under this article and
84 holds office for more than six (6) months without receiving a
85 retirement allowance, he shall have his allowance recomputed when
86 he retires again, which shall include the service after he again
87 became a contributing member of the retirement system.

88 (6) This section shall apply to officials who are elected to
89 office and officials who are appointed to office in a political
90 subdivision or instrumentality thereof for a specified term or for
91 the will and pleasure of the appointing authority, but shall not

92 apply to persons in other positions of employment in the state
93 service.

94 SECTION 2. Section 25-11-103, Mississippi Code of 1972, is
95 amended as follows:[JU1]

96 25-11-103. The following words and phrases as used in
97 Articles 1 and 3, unless a different meaning is plainly required
98 by the context, shall have the following meanings:

99 (a) "Accumulated contributions" shall mean the sum of
100 all the amounts deducted from the compensation of a member and
101 credited to his individual account in the annuity savings account,
102 together with regular interest thereon as provided in Section
103 25-11-123.

104 (b) "Actuarial cost" shall mean the amount of funds
105 presently required to provide future benefits as determined by the
106 board based on applicable tables and formulas provided by the
107 actuary.

108 (c) "Actuarial equivalent" shall mean a benefit of
109 equal value to the accumulated contributions, annuity or benefit,
110 as the case may be, when computed upon the basis of such mortality
111 tables as shall be adopted by the board of trustees, and regular
112 interest.

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

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

118 (f) "Average compensation" shall mean the average of
119 the four (4) highest years of earned compensation reported for an

120 employee in a fiscal or calendar year period, or combination
121 thereof which do not overlap, or the last forty-eight (48)
122 consecutive months of earned compensation reported for an
123 employee. The four (4) years need not be successive or joined
124 years of service. In no case shall the average compensation so
125 determined be in excess of One Hundred Twenty-five Thousand
126 Dollars (\$125,000.00). In computing the average compensation, any
127 amount paid in a lump sum for personal leave shall be included in
128 the calculation to the extent that such amount does not exceed an
129 amount which is equal to thirty (30) days of earned compensation
130 and to the extent that it does not cause the employees' earned
131 compensation to exceed the maximum reportable amount specified in
132 Section 25-11-103(k); provided, however, that such thirty-day
133 limitation shall not prevent the inclusion in the calculation of
134 leave earned under federal regulations prior to July 1, 1976, and
135 frozen as of that date as referred to in Section 25-3-99. Only
136 the amount of lump sum pay for personal leave due and paid upon
137 the death of a member attributable for up to one hundred fifty
138 (150) days shall be used in the deceased member's average
139 compensation calculation in determining the beneficiary's
140 benefits. In computing the average compensation, no amounts shall
141 be used which are in excess of the amount on which contributions
142 were required and paid. If any member who is or has been granted
143 any increase in annual salary or compensation of more than eight
144 percent (8%) retires within twenty-four (24) months from the date
145 that such increase becomes effective, then the board shall exclude
146 that part of the increase in salary or compensation that exceeds
147 eight percent (8%) in calculating that member's average

148 compensation for retirement purposes. The board may enforce this
149 provision by rule or regulation. However, increases in
150 compensation in excess of eight percent (8%) per year granted
151 within twenty-four (24) months of the date of retirement may be
152 included in such calculation of average compensation if
153 satisfactory proof is presented to the board showing that the
154 increase in compensation was the result of an actual change in the
155 position held or services rendered, or that such compensation
156 increase was authorized by the State Personnel Board or was
157 increased as a result of statutory enactment, and the employer
158 furnishes an affidavit stating that such increase granted within
159 the last twenty-four (24) months was not contingent on a promise
160 or agreement of the employee to retire. Nothing in Section
161 25-3-31 shall affect the calculation of the average compensation
162 of any member for the purposes of this article. The average
163 compensation of any member who retires before July 1, 1992, shall
164 not exceed the annual salary of the Governor.

165 (g) "Beneficiary" shall mean any person entitled to
166 receive a retirement allowance, an annuity or other benefit as
167 provided by Articles 1 and 3. In the event of the death prior to
168 retirement of any member whose spouse and/or children are not
169 entitled to a retirement allowance, the lawful spouse of a member
170 at the time of the death of such member shall be the beneficiary
171 of such member unless the member has designated another
172 beneficiary subsequent to the date of marriage in writing, and
173 filed such writing in the office of the executive director of the
174 board of trustees. No designation or change of beneficiary shall
175 be made in any other manner.

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

179 (i) "Creditable service" shall mean "prior service,"
180 "retroactive service" and all lawfully credited unused leave not
181 exceeding the accrual rates and limitations provided in Section
182 25-3-91 et seq., as of the date of withdrawal from service plus
183 "membership service" for which credit is allowable as provided in
184 Section 25-11-109. Except to limit creditable service reported to
185 the system for the purpose of computing an employee's retirement
186 allowance or annuity or benefits provided in this article, nothing
187 in this paragraph shall limit or otherwise restrict the power of
188 the governing authority of a municipality or other political
189 subdivision of the state to adopt such vacation and sick leave
190 policies as it deems necessary.

191 (j) "Child" means either a natural child of the member,
192 a child that has been made a child of the member by applicable
193 court action before the death of the member, or a child under the
194 permanent care of the member at the time of the latter's death,
195 which permanent care status shall be determined by evidence
196 satisfactory to the board.

197 (k) "Earned compensation" shall mean the full amount
198 earned by an employee for a given pay period including any
199 maintenance furnished up to a maximum of One Hundred Twenty-five
200 Thousand Dollars (\$125,000.00) per year, and proportionately for
201 less than one (1) year of service. The value of such maintenance
202 when not paid in money shall be fixed by the employing state
203 agency, and, in case of doubt, by the board of trustees as defined

204 in Section 25-11-15. In any case, earned compensation shall be
205 limited to the regular periodic compensation paid, exclusive of
206 litigation fees, bond fees, and other similar extraordinary
207 nonrecurring payments. In addition, any member in a covered
208 position, as defined by Public Employees' Retirement System laws
209 and regulations, who is also employed by another covered agency or
210 political subdivision shall have the earnings of that additional
211 employment reported to the Public Employees' Retirement System
212 regardless of whether the additional employment is sufficient in
213 itself to be a covered position. In the case of fee officials,
214 the net earnings from their office after deduction of expenses
215 shall apply, except that in no case shall earned compensation be
216 less than the total direct payments made by the state or
217 governmental subdivisions to the official, and employer and
218 employee contributions shall be paid thereon. In the case of
219 members of the state Legislature, all remuneration or amounts
220 paid, except mileage allowance, shall apply. The amount by which
221 an eligible employee's salary is reduced pursuant to a salary
222 reduction agreement authorized under Section 25-17-5 shall be
223 included as earned compensation under this paragraph, provided
224 this inclusion does not conflict with federal law, including
225 federal regulations and federal administrative interpretations
226 thereunder, pertaining to the Federal Insurance Contributions Act
227 or to Internal Revenue Code Section 125 cafeteria plans.
228 Compensation in addition to an employee's base salary that is paid
229 to the employee pursuant to the vacation and sick leave policies
230 of a municipality or other political subdivision of the state that
231 employs him which exceeds the maximums authorized by Section

232 25-3-91 et seq., shall be excluded from the calculation of earned
233 compensation under this article. The maximum salary applicable
234 for retirement purposes before July 1, 1992, shall be the salary
235 of the Governor. Nothing in Section 25-3-31 shall affect the
236 determination of the earned compensation of any member for the
237 purposes of this article.

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

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

244 (n) "Executive director" shall mean the secretary to
245 the board of trustees, as provided in Section 25-11-15(9), and the
246 administrator of the Public Employees' Retirement System and all
247 systems under the management of the board of trustees. Wherever
248 the term "Executive Secretary of the Public Employees' Retirement
249 System" or "executive secretary" appears in this article or in any
250 other provision of law, it shall be construed to mean the
251 Executive Director of the Public Employees' Retirement System.

252 (o) "Fiscal year" shall mean the period beginning on
253 July 1 of any year and ending on June 30 of the next succeeding
254 year.

255 (p) "Medical board" shall mean the board of physicians
256 or any governmental or nongovernmental disability determination
257 service designated by the board of trustees that is qualified to
258 make disability determinations as provided for in Section
259 25-11-119.

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

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

264 (s) "Position" means any office or any employment in
265 the state service, or two (2) or more of them, the duties of which
266 call for services to be rendered by one (1) person, including
267 positions jointly employed by federal and state agencies
268 administering federal and state funds. The employer shall
269 determine upon initial employment and during the course of
270 employment of an employee who does not meet the criteria for
271 coverage in the Public Employees' Retirement System based on the
272 position held, whether the employee is or becomes eligible for
273 coverage in the Public Employees' Retirement System based upon any
274 other employment in a covered agency or political subdivision. If
275 or when the employee meets the eligibility criteria for coverage
276 in such other position, then the employer must withhold
277 contributions and report wages from the noncovered position in
278 accordance with the provisions for reporting of earned
279 compensation. Failure to deduct and report those contributions
280 shall not relieve the employee or employer of liability thereof.
281 The board shall adopt such rules and regulations as necessary to
282 implement and enforce this provision.

283 (t) "Prior service" shall mean service rendered before
284 February 1, 1953, for which credit is allowable under Sections
285 25-11-105 and 25-11-109, and which shall allow prior service for
286 any person who is now or becomes a member of the Public Employees'
287 Retirement System and who does contribute to the system for a

288 minimum period of four (4) years.

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

292 (v) "Retirement allowance" shall mean an annuity for
293 life as provided in this article, payable each year in twelve (12)
294 equal monthly installments beginning as of the date fixed by the
295 board. The retirement allowance shall be calculated in accordance
296 with Section 25-11-111. Provided, any spouse who received a
297 spouse retirement benefit in accordance with Section 25-11-111(d)
298 prior to March 31, 1971, and said benefits were terminated because
299 of eligibility for a social security benefit, may again receive
300 his spouse retirement benefit from and after making application
301 with the board of trustees to reinstate such spouse retirement
302 benefit.

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

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

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

311 (z) "State service" shall mean all offices and
312 positions of trust or employment in the employ of the state, or
313 any political subdivision or instrumentality thereof, which elect
314 to participate as provided by Section 25-11-105 (f), including the
315 position of elected or fee officials of the counties and their

316 deputies and employees performing public services or any
317 department, independent agency, board or commission thereof, and
318 shall also include all offices and positions of trust or
319 employment in the employ of joint state and federal agencies
320 administering state and federal funds and service rendered by
321 employees of the public schools. Effective July 1, 1973, all
322 nonprofessional public school employees, such as bus drivers,
323 janitors, maids, maintenance workers and cafeteria employees,
324 shall have the option to become members in accordance with Section
325 25-11-105(b), and shall be eligible to receive credit for services
326 prior to July 1, 1973, provided the contributions and interest are
327 paid by the employee in accordance with said section; provided,
328 further, that the county or municipal separate school district may
329 pay the employer contribution and pro rata share of interest of
330 the retroactive service from available funds. From and after July
331 1, 1998, retroactive service credit shall be purchased at the
332 actuarial cost in accordance with Section 25-11-105(b).

333 (aa) "Withdrawal from service" shall mean complete
334 severance of employment in the state service of any member by
335 resignation, dismissal or discharge, except in the case of elected
336 or appointed officials who become eligible to receive a
337 retirement allowance under this article while holding office and
338 who choose to receive the retirement allowance while holding
339 office as authorized by Section 25-11-126.

340 (bb) The masculine pronoun, wherever used, shall
341 include the feminine pronoun.

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

344 25-11-105. I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP

345 The membership of this retirement system shall be composed as
346 follows:

347 (a) All persons who shall become employees in the state
348 service after January 31, 1953, and whose wages are subject to
349 payroll taxes and are lawfully reported on IRS Form W-2, except
350 those specifically excluded, those to whom election is provided in
351 Articles 1 and 3, and those elected officials who choose to
352 receive or continue to receive a retirement allowance while
353 holding office as authorized by Section 25-11-126, shall become
354 members of the retirement system as a condition of their
355 employment.

356 (b) All persons who shall become employees in the state
357 service after January 31, 1953, except those specifically excluded
358 or as to whom election is provided in Articles 1 and 3, unless
359 they shall file with the board prior to the lapse of sixty (60)
360 days of employment or sixty (60) days after the effective date of
361 the cited articles, whichever is later, on a form prescribed by
362 the board, a notice of election not to be covered by the
363 membership of the retirement system and a duly executed waiver of
364 all present and prospective benefits which would otherwise inure
365 to them on account of their participation in the system, shall
366 become members of the retirement system; provided, however, that
367 no credit for prior service will be granted to members until they
368 have contributed to Article 3 of the retirement system for a
369 minimum period of at least four (4) years. Such members shall
370 receive credit for services performed prior to January 1, 1953, in
371 employment now covered by Article 3, but no credit shall be

372 granted for retroactive services between January 1, 1953, and the
373 date of their entry into the retirement system unless the employee
374 pays into the retirement system both the employer's and the
375 employee's contributions on wages paid him during the period from
376 January 31, 1953, to the date of his becoming a contributing
377 member, together with interest at the rate determined by the board
378 of trustees. Members reentering after withdrawal from service
379 shall qualify for prior service under the provisions of Section
380 25-11-117. From and after July 1, 1998, upon eligibility as noted
381 above, the member may receive credit for such retroactive service
382 provided:

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

386 (2) The member shall pay to the retirement system
387 on the date he or she is eligible for such credit or at any time
388 thereafter prior to the date of retirement the actuarial cost for
389 each year of such creditable service. The provisions of this
390 subparagraph (2) shall be subject to the limitations of Section
391 415 of the Internal Revenue Code and regulations promulgated
392 thereunder.

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

397 (c) All persons who shall become employees in the state
398 service after January 31, 1953, and who are eligible for
399 membership in any other retirement system shall become members of

400 this retirement system as a condition of their employment unless
401 they elect at the time of their employment to become a member of
402 such other system.

403 (d) All persons who are employees in the state service
404 on January 31, 1953, and who are members of any nonfunded
405 retirement system operated by the State of Mississippi, or any of
406 its departments or agencies, shall become members of this system
407 with prior service credit unless, before February 1, 1953, they
408 shall file a written notice with the board of trustees that they
409 do not elect to become members.

410 (e) All persons who are employees in the state service
411 on January 31, 1953, and who under existing laws are members of
412 any fund operated for the retirement of employees by the State of
413 Mississippi, or any of its departments or agencies, shall not be
414 entitled to membership in this retirement system unless, before
415 February 1, 1953, any such person shall indicate by a notice filed
416 with the board, on a form prescribed by the board, his individual
417 election and choice to participate in this system, but no such
418 person shall receive prior service credit unless he becomes a
419 member on or before February 1, 1953.

420 (f) Each political subdivision of the state and each
421 instrumentality of the state or a political subdivision, or both,
422 is hereby authorized to submit, for approval by the board of
423 trustees, a plan for extending the benefits of this article to
424 employees of any such political subdivision or instrumentality.
425 Each such plan or any amendment to the plan for extending benefits
426 thereof shall be approved by the board of trustees if it finds
427 that such plan, or such plan as amended, is in conformity with

428 such requirements as are provided in Articles 1 and 3; however,
429 upon approval of such plan or any such plan heretofore approved by
430 the board of trustees, the approved plan shall not be subject to
431 cancellation or termination by the political subdivision or
432 instrumentality. No such plan shall be approved unless:

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

440 (2) It specifies the source or sources from which
441 the funds necessary to make the payments required by subsection
442 (d) of Section 25-11-123 and of subsections (f)(5)B and C of this
443 section are expected to be derived and contains reasonable
444 assurance that such sources will be adequate for such purpose;

445 (3) It provides for such methods of administration
446 of the plan by the political subdivision or instrumentality as are
447 found by the board of trustees to be necessary for the proper and
448 efficient administration thereof;

449 (4) It provides that the political subdivision or
450 instrumentality will make such reports, in such form and
451 containing such information, as the board of trustees may from
452 time to time require;

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

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

460 A. The board of trustees shall not finally
461 refuse to approve a plan submitted under subsection (f), and shall
462 not terminate an approved plan without reasonable notice and
463 opportunity for hearing to each political subdivision or
464 instrumentality affected thereby. The board's decision in any
465 such case shall be final, conclusive and binding unless an appeal
466 be taken by the political subdivision or instrumentality aggrieved
467 thereby to the Circuit Court of Hinds County, Mississippi, in
468 accordance with the provisions of law with respect to civil causes
469 by certiorari.

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

477 C. Every political subdivision or
478 instrumentality required to make payments under subsection (f)(5)B
479 hereof is authorized, in consideration of the employees' retention
480 in or entry upon employment after enactment of Articles 1 and 3,
481 to impose upon its employees, as to services which are covered by
482 an approved plan, a contribution with respect to wages (as defined
483 in Section 25-11-5) not exceeding the amount provided in Section

484 25-11-123(d) if such services constituted employment within the
485 meaning of Articles 1 and 3, and to deduct the amount of such
486 contribution from the wages as and when paid. Contributions so
487 collected shall be paid into the contribution fund as partial
488 discharge of the liability of such political subdivisions or
489 instrumentality under subsection (f)(5)B hereof. Failure to
490 deduct such contribution shall not relieve the employee or
491 employer of liability thereof.

492 D. Any state agency, school, political
493 subdivision, instrumentality or any employer that is required to
494 submit contribution payments or wage reports under any section of
495 this chapter shall be assessed interest on delinquent payments or
496 wage reports as determined by the board of trustees in accordance
497 with rules and regulations adopted by the board and such assessed
498 interest may be recovered by action in a court of competent
499 jurisdiction against such reporting agency liable therefor or may,
500 upon due certification of delinquency and at the request of the
501 board of trustees, be deducted from any other monies payable to
502 such reporting agency by any department or agency of the state.

503 E. Each political subdivision of the state
504 and each instrumentality of the state or a political subdivision
505 or subdivisions which submits a plan for approval of the board, as
506 provided in this section, shall reimburse the board for coverage
507 into the expense account, its pro rata share of the total expense
508 of administering Articles 1 and 3 as provided by regulations of
509 said board.

510 (g) The board may, in its discretion, deny the right of
511 membership in this system to any class of employees whose

512 compensation is only partly paid by the state or who are occupying
513 positions on a part-time or intermittent basis. The board may, in
514 its discretion, make optional with employees in any such classes
515 their individual entrance into this system.

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

522 (i) In the event any member of this system should
523 change his employment to any agency of the state having an
524 actuarially funded retirement system, the board of trustees may
525 authorize the transfer of the member's creditable service and of
526 the present value of the member's employer's accumulation account
527 and of the present value of the member's accumulated membership
528 contributions to such other system, provided the employee agrees
529 to the transfer of his accumulated membership contributions and
530 provided such other system is authorized to receive and agrees to
531 make such transfer.

532 In the event any member of any other actuarially funded
533 system maintained by an agency of the state changes his employment
534 to an agency covered by this system, the board of trustees may
535 authorize the receipt of the transfer of the member's creditable
536 service and of the present value of the member's employer's
537 accumulation account and of the present value of the member's
538 accumulated membership contributions from such other system,
539 provided the employee agrees to the transfer of his accumulated

540 membership contributions to this system and provided the other
541 system is authorized and agrees to make such transfer.

542 (j) Wherever herein state employment is referred to, it
543 shall include joint employment by state and federal agencies of
544 all kinds.

545 (k) Employees of a political subdivision or
546 instrumentality who were employed by such political subdivision or
547 instrumentality prior to an agreement between such entity and the
548 Public Employees' Retirement System to extend the benefits of this
549 article to its employees, and which agreement provides for the
550 establishment of retroactive service credit, and who have been
551 members of the retirement system and have remained contributors to
552 the retirement system for four (4) years, may receive credit for
553 such retroactive service with such political subdivision or
554 instrumentality, provided the employee and/or employer, as
555 provided under the terms of the modification of the joinder
556 agreement in allowing such coverage, pay into the retirement
557 system the employer's and employee's contributions on wages paid
558 the member during such previous employment, together with interest
559 or actuarial cost as determined by the board covering the period
560 from the date the service was rendered until the payment for the
561 credit for such service was made. Such wages shall be verified by
562 the Social Security Administration or employer payroll records.
563 Effective July 1, 1998, upon eligibility as noted above, a member
564 may receive credit for such retroactive service with such
565 political subdivision or instrumentality provided:

566 (1) The member shall furnish proof satisfactory to
567 the board of trustees of certification of such services from the

568 political subdivision or instrumentality where the services were
569 rendered or verification by the Social Security Administration;
570 and

571 (2) The member shall pay to the retirement system
572 on the date he or she is eligible for such credit or at any time
573 thereafter prior to the date of retirement the actuarial cost for
574 each year of such creditable service. The provisions of this
575 subparagraph (2) shall be subject to the limitations of Section
576 415 of the Internal Revenue Code and regulations promulgated
577 thereunder.

578 Nothing contained in this paragraph (k) shall be construed to
579 limit the authority of the board to allow the correction of
580 reporting errors or omissions based on the payment of employee and
581 employer contributions plus applicable interest. Payment for such
582 time shall be made in increments of not less than one-quarter
583 (1/4) year of creditable service beginning with the most recent
584 service. Upon the payment of all or part of such required
585 contributions, plus interest or the actuarial cost as provided
586 above, the member shall receive credit for the period of
587 creditable service for which full payment has been made to the
588 retirement system.

589 (1) Through June 30, 1998, any state service eligible
590 for retroactive service credit, no part of which has ever been
591 reported, and requiring the payment of employee and employer
592 contributions plus interest, or, from and after July 1, 1998, any
593 state service eligible for retroactive service credit, no part of
594 which has ever been reported to the retirement system, and
595 requiring the payment of the actuarial cost for such creditable

596 service, may, at the member's option, be purchased in quarterly
597 increments as provided above at such time as its purchase is
598 otherwise allowed.

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

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

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

606 (a) Patient or inmate help in state charitable, penal
607 or correctional institutions;

608 (b) Students of any state educational institution
609 employed by any agency of the state for temporary, part-time or
610 intermittent work;

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

614 **III. TERMINATION OF MEMBERSHIP**

615 Membership in this system shall cease by a member withdrawing
616 his accumulated contributions, or by a member withdrawing from
617 active service with a retirement allowance, or by a member's
618 death.

619 SECTION 4. Section 25-11-117, Mississippi Code of 1972, is
620 amended as follows:[WAN2]

621 25-11-117. (1) A member may be paid a refund of the amount
622 of accumulated contributions to the credit of the member in the
623 annuity savings account provided the member has withdrawn from

624 state service and further provided the member has not returned to
625 state service on the date the refund of the accumulated
626 contributions would be paid. However, a member may not receive a
627 refund of the amount of employee contributions, or interest earned
628 on those contributions, that were made during any period when he
629 received a retirement allowance during his employment as
630 authorized by Section 25-11-126. Such refund of the contributions
631 to the credit of the member in the annuity savings account shall
632 be paid within ninety (90) days from receipt in the office of the
633 retirement system of the properly completed form requesting such
634 payment. In the event of death prior to retirement of any member
635 whose spouse and/or children are not entitled to a retirement
636 allowance, the accumulated contributions to the credit of the
637 deceased member in the annuity savings account shall be paid to
638 the designated beneficiary on file in writing in the office of
639 executive director of the board of trustees within ninety (90)
640 days from receipt of a properly completed form requesting such
641 payment. If there is no such designated beneficiary on file for
642 such deceased member in the office of the system, upon the filing
643 of a proper request with the board, the contributions to the
644 credit of the deceased member in the annuity savings account shall
645 be refunded to the estate of the deceased member. The payment of
646 the refund shall discharge all obligations of the retirement
647 system to the member on account of any creditable service rendered
648 by the member prior to the receipt of the refund. By the
649 acceptance of the refund, the member shall waive and relinquish
650 all accrued rights in the system.

651 (2) Pursuant to the Unemployment Compensation Amendments of

652 1992 (P.L. 102-318 (UCA)), a member or eligible beneficiary
653 eligible for a refund under this section may elect on a form
654 prescribed by the board under rules and regulations established by
655 the board, to have an eligible roll over distribution of
656 accumulated contributions payable under this section paid directly
657 to an eligible retirement plan or individual retirement account.
658 If the member or eligible beneficiary makes such election and
659 specifies the eligible retirement plan or individual retirement
660 account to which such distribution is to be paid, the distribution
661 will be made in the form of a direct trustee-to-trustee transfer
662 to the specified eligible retirement plan. Flexible roll overs
663 under this subsection shall not be considered assignments under
664 Section 25-11-129.

665 (3) If any person who has received a refund reenters the
666 state service and again becomes a member of the system, the member
667 may repay all or part of the amounts previously received as a
668 refund, together with regular interest covering the period from
669 the date of refund to the date of repayment; provided, however,
670 that the amounts that are repaid by the member and the creditable
671 service related thereto shall not be used in any benefit
672 calculation or determination until the member has remained a
673 contributor to the system for a period of at least four (4) years
674 subsequent to such member's reentry into state service. Repayment
675 for such time shall be made in increments of not less than
676 one-quarter (1/4) year of creditable service beginning with the
677 most recent service for which refund has been made. Upon the
678 repayment of all or part of such refund and interest, the member
679 shall again receive credit for the period of creditable service

680 for which full repayment has been made to the system.

681 SECTION 5. Section 25-11-127, Mississippi Code of 1972, is
682 amended as follows:

683 25-11-127. No person who is being paid a retirement
684 allowance, or a pension after retirement under this article, shall
685 be employed or paid for any service by the State of Mississippi,
686 except as provided in this section or in Section 25-11-126. This
687 section shall not apply to any pensioner who has been elected to
688 public office after retirement, nor to any person employed because
689 of special knowledge or experience. This section shall not be
690 construed to mean that any person employed or elected under the
691 above exceptions shall become a member under Article 3 of the
692 retirement system, nor shall any retirant of this retirement
693 system who is reemployed or is reelected to office, after
694 retirement continue to draw retirement benefits while so
695 reemployed or reelected except those elected or appointed
696 officials who choose to continue to receive a retirement allowance
697 while holding office as authorized by Section 25-11-126. Any
698 person who has been retired under the provisions of Articles 1 and
699 3 and who is later reemployed in service covered by this article
700 shall cease to receive benefits hereunder and shall again become a
701 contributing member of the retirement system; and upon again
702 retiring, if his reemployment exceeds six (6) months, shall have
703 his benefit recomputed, including service after again becoming a
704 member. Provided, further, that the total retirement allowance
705 paid to the retired member in his previous retirement shall be
706 deducted from his retirement reserve and taken into consideration
707 in recalculating the retirement allowance under a new option

708 selected. Nothing contained in this section shall be construed as
709 prohibiting any county or city not a member of the Public
710 Employees' Retirement System from employing persons up to the age
711 of seventy-three (73); and provided further that, through June 30,
712 1988, nothing contained in this section shall be construed as
713 prohibiting any governmental unit which is a member from employing
714 persons up to the age of seventy-three (73) who are not eligible
715 for membership at the time of employment under Article 3.

716 The board of trustees of the retirement system shall have the
717 right to prescribe rules and regulations for the carrying out of
718 this provision.

719 The provisions of this section shall not be construed to
720 prohibit any retirant regardless of age from being employed and
721 from drawing retirement allowance either (a) for a period of time
722 not to exceed one hundred twenty (120) days in any fiscal year,
723 but less than one-half (1/2) of the normal working days for the
724 position in any fiscal year, or (b) for a period of time in any
725 fiscal year sufficient in length to permit a retirant to earn not
726 in excess of twenty-five percent (25%) of retirant's average
727 compensation or the current rate of the salary in effect for the
728 regular position filled. Notice shall be given in writing to the
729 executive secretary of the system, setting forth the facts upon
730 which the emergency employment is being made, and such notice
731 shall be given within five (5) days from the date of employment
732 and also from the date of termination of said employment. It is
733 further provided that any member who has attained seventy (70)
734 years of age and who has forty (40) or more years of creditable
735 service may continue in office or employment or be reemployed or

736 elected provided such person files annually, in writing, in the
737 office of the employer and the office of the executive secretary
738 of the system prior to such services, a waiver of all salary or
739 compensation and elects to receive in lieu of such salary or
740 compensation a retirement allowance as provided in this section,
741 in which event no salary or compensation shall thereafter be due
742 or payable for such services and provided further, that any such
743 officer or employee may receive in addition to such retirement
744 allowance any per diem, office expense allowance, mileage or
745 travel expense authorized by any statute of the State of
746 Mississippi. Any other member may continue in municipal or county
747 office or employment or be reemployed * * * in a municipality or
748 county provided such person files annually, in writing, in the
749 office of the employer and the office of the executive secretary
750 of the system prior to such services, a waiver of all salary or
751 compensation and elects to receive in lieu of such salary or
752 compensation a retirement allowance as provided in this section,
753 in which event no salary or compensation shall thereafter be due
754 or payable for such services and provided, further, that any such
755 officer or employee may receive in addition to such retirement
756 allowance any per diem, office expense allowance, mileage or
757 travel expense authorized by any statute of the State of
758 Mississippi.

759 SECTION 6. The Attorney General of the State of Mississippi
760 is hereby directed to submit this act, immediately upon approval
761 by the Governor, or upon approval by the Legislature subsequent to
762 a veto, to the Attorney General of the United States or to the
763 United States District Court for the District of Columbia in

764 accordance with the provisions of the Voting Rights Act of 1965,
765 as amended and extended.

766 SECTION 7. This act shall take effect and be in force from
767 and after July 1, 2000, if it is effectuated on or before that
768 date under Section 5 of the Voting Rights Act of 1965, as amended
769 and extended. If it is effectuated under Section 5 of the Voting
770 Rights Act of 1965, as amended and extended, after July 1, 2000,
771 this act shall take effect and be in force from and after the date
772 it is effectuated under Section 5 of the Voting Rights Act of
773 1965, as amended and extended.