

By: Blackmon

To: Finance

SENATE BILL NO. 2335

1 AN ACT TO CREATE A NEW CODE SECTION TO BE CODIFIED AS SECTION
2 25-11-126, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CERTAIN
3 PERSONS RECEIVING A RETIREMENT ALLOWANCE FROM THE PUBLIC
4 EMPLOYEES' RETIREMENT SYSTEM WHO ARE EMPLOYED AS TEACHERS IN THE
5 PUBLIC SCHOOL SYSTEM AFTER THEIR RETIREMENT, AND CERTAIN PERSONS
6 EMPLOYED AS TEACHERS IN THE PUBLIC SCHOOL SYSTEM WHO ARE ELIGIBLE
7 TO RECEIVE A RETIREMENT ALLOWANCE FROM THE PUBLIC EMPLOYEES'
8 RETIREMENT SYSTEM, MAY RECEIVE A RETIREMENT ALLOWANCE DURING THEIR
9 EMPLOYMENT AS TEACHERS IN ADDITION TO RECEIVING A TEACHER'S
10 SALARY; TO PROVIDE THAT THOSE PERSONS SHALL NOT BE CONTRIBUTING
11 MEMBERS OF THE RETIREMENT SYSTEM NOR RECEIVE ANY CREDITABLE
12 SERVICE FOR THE PERIOD DURING WHICH THEY RECEIVE A RETIREMENT
13 ALLOWANCE DURING THEIR EMPLOYMENT AS TEACHERS; TO CREATE A NEW
14 CODE SECTION TO BE CODIFIED AS SECTION 25-11-128, MISSISSIPPI CODE
15 OF 1972, TO PROVIDE THAT PERSONS RECEIVING A RETIREMENT ALLOWANCE
16 FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO ARE ELECTED TO
17 PUBLIC OFFICE AFTER RETIREMENT AND ELECTED OFFICIALS WHO BECOME
18 ELIGIBLE TO RECEIVE A RETIREMENT ALLOWANCE FROM THE PUBLIC
19 EMPLOYEES' RETIREMENT SYSTEM WHILE HOLDING OFFICE MAY RECEIVE A
20 RETIREMENT ALLOWANCE FROM THE SYSTEM WHILE HOLDING SUCH OFFICE IN
21 ADDITION TO RECEIVING A SALARY AND OTHER COMPENSATION FOR SUCH
22 OFFICE; TO PROVIDE THAT SUCH PERSONS SHALL NOT BE CONTRIBUTING
23 MEMBERS OF THE RETIREMENT SYSTEM NOR RECEIVE ANY CREDITABLE
24 SERVICE FOR THE PERIOD DURING WHICH THEY RECEIVE A RETIREMENT
25 ALLOWANCE WHILE HOLDING OFFICE; TO AMEND SECTIONS 25-11-103,
26 25-11-105 AND 25-11-127, MISSISSIPPI CODE OF 1972, IN CONFORMITY
27 WITH THE PROVISIONS OF THIS ACT; 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) (a) Any person who has completed
32 twenty-five (25) or more years of creditable service and is
33 receiving a retirement allowance under this article, who was

34 employed as a teacher in the public school system at the time of
35 his retirement and who is employed as a teacher in the public
36 school system after his retirement, may choose to continue
37 receiving the retirement allowance under this article during his
38 employment as a teacher after his retirement in addition to
39 receiving the salary authorized under Section 37-19-7, in the
40 manner provided in this section.

41 (b) Any person who is employed as a teacher in the
42 public school system who completes twenty-five (25) or more years
43 of creditable service during his employment as a teacher, may
44 choose to receive a retirement allowance under this article during
45 his employment as a teacher in the public school system in
46 addition to receiving the salary authorized under Section
47 37-19-7(3), in the manner provided in this section.

48 (2) Any person described in subsection (1)(a) of this
49 section shall notify the executive director of the retirement
50 system, before being employed as a teacher in the public school
51 system after his retirement, about his choice on continuing to
52 receive the retirement allowance during his employment as a
53 teacher. If the person chooses not to continue receiving the
54 retirement allowance during his employment as a teacher, the
55 retirement allowance shall cease on the day that he begins
56 employment as a teacher after his retirement. After the person
57 leaves employment as a teacher that he began after his retirement,
58 in order to begin receiving a retirement allowance under this
59 article again, the person shall make application to the executive
60 director of the retirement system, and the retirement allowance
61 shall begin on the first of the month following the date that the
62 application is received by the executive director.

63 (3) Any person described in subsection (1)(b) who chooses to
64 receive a retirement allowance during his employment as a teacher

65 in the public school system shall make application to the
66 executive director of the retirement system, and the retirement
67 allowance shall begin on the first of the month following the date
68 that the application is received by the executive director. Those
69 persons shall not be required to withdraw from service in order to
70 receive the retirement allowance.

71 (4) Any person to whom this section applies who receives or
72 continues to receive a retirement allowance under this article
73 during his employment as a teacher shall not be a contributing
74 member of the retirement system nor receive any creditable service
75 for the period during which he receives a retirement allowance
76 during his employment as a teacher. Any person to whom this
77 section applies who chooses not to receive a retirement allowance
78 during his employment as a teacher shall be a contributing member
79 of the retirement system and shall receive creditable service for
80 the period during which he is employed as a teacher without
81 receiving a retirement allowance. If the person has previously
82 received a retirement allowance under this article and he is
83 employed as a teacher for more than six (6) months without
84 receiving a retirement allowance, he shall have his allowance
85 recomputed when he retires again, which shall include the service
86 after he again became a contributing member of the retirement
87 system.

88 SECTION 2. The following shall be codified as Section
89 25-11-128, Mississippi Code of 1972:

90 25-11-128. (1) Any person who is receiving a retirement
91 allowance under this article and who is elected to an office in
92 the state service after retirement, and any elected official in

93 the state service who becomes eligible to receive a retirement
94 allowance under this article while holding office, may choose to
95 receive or continue to receive a retirement allowance under this
96 article while holding office in addition to receiving the salary
97 and other compensation for such office.

98 (2) Any person who is receiving a retirement allowance and
99 who is elected to office after retirement shall notify the
100 executive director of the system before taking office of his
101 choice about continuing to receive the retirement allowance while
102 holding office. If the person chooses not to continue receiving
103 the retirement allowance while holding office, the retirement
104 allowance shall cease on the day that he begins serving in the
105 office. After leaving office, in order to begin receiving a
106 retirement allowance under this article again, such person shall
107 make application to the executive director of the system, and the
108 retirement allowance shall begin on the first of the month
109 following the date that the application is received by the
110 executive director.

111 (3) Any elected official who becomes eligible to receive a
112 retirement allowance while holding office or who is in office on
113 the effective date of this section and is eligible to receive a
114 retirement allowance and who chooses to receive a retirement
115 allowance while holding office shall make application to the
116 executive director of the system, and the retirement allowance
117 shall begin on the first of the month following the date that the
118 application is received by the executive director. Such elected
119 officials shall not be required to withdraw from service in order
120 to receive the retirement allowance.

121 (4) Any person to whom this section applies who receives or
122 continues to receive a retirement allowance under this article
123 while holding office as authorized by this section shall not be a
124 contributing member of the retirement system nor receive any
125 creditable service for the period during which he receives a
126 retirement allowance while holding office.

127 (5) Any person to whom this section applies who chooses not
128 to receive a retirement allowance while holding office shall be a
129 contributing member of the retirement system and shall receive
130 creditable service for the period during which he holds office
131 without receiving a retirement allowance. If such person has
132 previously received a retirement allowance under this article and
133 he holds office for more than six (6) months without receiving a
134 retirement allowance, he shall have his allowance recomputed when
135 he retires again, which shall include the service after he again
136 became a contributing member of the retirement system.

137 (6) This section shall apply to officials who are elected to
138 office, but shall not apply to persons in other positions of
139 employment in the state service.

140 SECTION 3. Section 25-11-103, Mississippi Code of 1972, is
141 amended as follows:

142 25-11-103. The following words and phrases as used in
143 Articles 1 and 3, unless a different meaning is plainly required
144 by the context, shall have the following meanings:

145 (a) "Accumulated contributions" shall mean the sum of
146 all the amounts deducted from the compensation of a member and
147 credited to his individual account in the annuity savings account,
148 together with regular interest thereon as provided in Section

149 25-11-123.

150 (b) "Actuarial cost" shall mean the amount of funds
151 presently required to provide future benefits as determined by the
152 board based on applicable tables and formulas provided by the
153 actuary.

154 (c) "Actuarial equivalent" shall mean a benefit of
155 equal value to the accumulated contributions, annuity or benefit,
156 as the case may be, when computed upon the basis of such mortality
157 tables as shall be adopted by the board of trustees, and regular
158 interest.

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

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

164 (f) "Average compensation" shall mean the average of
165 the four (4) highest years of earned compensation reported for an
166 employee in a fiscal or calendar year period, or combination
167 thereof which do not overlap, or the last forty-eight (48)
168 consecutive months of earned compensation reported for an
169 employee. The four (4) years need not be successive or joined
170 years of service. In no case shall the average compensation so
171 determined be in excess of One Hundred Twenty-five Thousand
172 Dollars (\$125,000.00). In computing the average compensation, any
173 amount paid in a lump sum for personal leave shall be included in
174 the calculation to the extent that such amount does not exceed an
175 amount which is equal to thirty (30) days of earned compensation
176 and to the extent that it does not cause the employees' earned

177 compensation to exceed the maximum reportable amount specified in
178 Section 25-11-103(k); provided, however, that such thirty-day
179 limitation shall not prevent the inclusion in the calculation of
180 leave earned under federal regulations prior to July 1, 1976, and
181 frozen as of that date as referred to in Section 25-3-99. Only
182 the amount of lump sum pay for personal leave due and paid upon
183 the death of a member attributable for up to one hundred fifty
184 (150) days shall be used in the deceased member's average
185 compensation calculation in determining the beneficiary's
186 benefits. In computing the average compensation, no amounts shall
187 be used which are in excess of the amount on which contributions
188 were required and paid. If any member who is or has been granted
189 any increase in annual salary or compensation of more than eight
190 percent (8%) retires within twenty-four (24) months from the date
191 that such increase becomes effective, then the board shall exclude
192 that part of the increase in salary or compensation that exceeds
193 eight percent (8%) in calculating that member's average
194 compensation for retirement purposes. The board may enforce this
195 provision by rule or regulation. However, increases in
196 compensation in excess of eight percent (8%) per year granted
197 within twenty-four (24) months of the date of retirement may be
198 included in such calculation of average compensation if
199 satisfactory proof is presented to the board showing that the
200 increase in compensation was the result of an actual change in the
201 position held or services rendered, or that such compensation
202 increase was authorized by the State Personnel Board or was
203 increased as a result of statutory enactment, and the employer
204 furnishes an affidavit stating that such increase granted within

205 the last twenty-four (24) months was not contingent on a promise
206 or agreement of the employee to retire. Nothing in Section
207 25-3-31 shall affect the calculation of the average compensation
208 of any member for the purposes of this article. The average
209 compensation of any member who retires before July 1, 1992, shall
210 not exceed the annual salary of the Governor.

211 (g) "Beneficiary" shall mean any person entitled to
212 receive a retirement allowance, an annuity or other benefit as
213 provided by Articles 1 and 3. In the event of the death prior to
214 retirement of any member whose spouse and/or children are not
215 entitled to a retirement allowance, the lawful spouse of a member
216 at the time of the death of such member shall be the beneficiary
217 of such member unless the member has designated another
218 beneficiary subsequent to the date of marriage in writing, and
219 filed such writing in the office of the executive director of the
220 board of trustees. No designation or change of beneficiary shall
221 be made in any other manner.

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

225 (i) "Creditable service" shall mean "prior service,"
226 "retroactive service" and all lawfully credited unused leave not
227 exceeding the accrual rates and limitations provided in Section
228 25-3-91 et seq., as of the date of withdrawal from service plus
229 "membership service" for which credit is allowable as provided in
230 Section 25-11-109. Except to limit creditable service reported to
231 the system for the purpose of computing an employee's retirement
232 allowance or annuity or benefits provided in this article, nothing

233 in this paragraph shall limit or otherwise restrict the power of
234 the governing authority of a municipality or other political
235 subdivision of the state to adopt such vacation and sick leave
236 policies as it deems necessary.

237 (j) "Child" means either a natural child of the member,
238 a child that has been made a child of the member by applicable
239 court action before the death of the member, or a child under the
240 permanent care of the member at the time of the latter's death,
241 which permanent care status shall be determined by evidence
242 satisfactory to the board.

243 (k) "Earned compensation" shall mean the full amount
244 earned by an employee for a given pay period including any
245 maintenance furnished up to a maximum of One Hundred Twenty-five
246 Thousand Dollars (\$125,000.00) per year, and proportionately for
247 less than one (1) year of service. The value of such maintenance
248 when not paid in money shall be fixed by the employing state
249 agency, and, in case of doubt, by the board of trustees as defined
250 in Section 25-11-15. In any case, earned compensation shall be
251 limited to the regular periodic compensation paid, exclusive of
252 litigation fees, bond fees, and other similar extraordinary
253 nonrecurring payments. In addition, any member in a covered
254 position, as defined by Public Employees' Retirement System laws
255 and regulations, who is also employed by another covered agency or
256 political subdivision shall have the earnings of that additional
257 employment reported to the Public Employees' Retirement System
258 regardless of whether the additional employment is sufficient in
259 itself to be a covered position. In the case of fee officials,
260 the net earnings from their office after deduction of expenses

261 shall apply, except that in no case shall earned compensation be
262 less than the total direct payments made by the state or
263 governmental subdivisions to the official, and employer and
264 employee contributions shall be paid thereon. In the case of
265 members of the state Legislature, all remuneration or amounts
266 paid, except mileage allowance, shall apply. The amount by which
267 an eligible employee's salary is reduced pursuant to a salary
268 reduction agreement authorized under Section 25-17-5 shall be
269 included as earned compensation under this paragraph, provided
270 this inclusion does not conflict with federal law, including
271 federal regulations and federal administrative interpretations
272 thereunder, pertaining to the Federal Insurance Contributions Act
273 or to Internal Revenue Code Section 125 cafeteria plans.
274 Compensation in addition to an employee's base salary that is paid
275 to the employee pursuant to the vacation and sick leave policies
276 of a municipality or other political subdivision of the state that
277 employs him which exceeds the maximums authorized by Section
278 25-3-91 et seq., shall be excluded from the calculation of earned
279 compensation under this article. The maximum salary applicable
280 for retirement purposes before July 1, 1992, shall be the salary
281 of the Governor. Nothing in Section 25-3-31 shall affect the
282 determination of the earned compensation of any member for the
283 purposes of this article.

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

287 (m) "Employer" shall mean the State of Mississippi or
288 any of its departments, agencies or subdivisions from which any

289 employee receives his compensation.

290 (n) "Executive director" shall mean the secretary to
291 the board of trustees, as provided in Section 25-11-15(9), and the
292 administrator of the Public Employees' Retirement System and all
293 systems under the management of the board of trustees. Wherever
294 the term "Executive Secretary of the Public Employees' Retirement
295 System" or "executive secretary" appears in this article or in any
296 other provision of law, it shall be construed to mean the
297 Executive Director of the Public Employees' Retirement System.

298 (o) "Fiscal year" shall mean the period beginning on
299 July 1 of any year and ending on June 30 of the next succeeding
300 year.

301 (p) "Medical board" shall mean the board of physicians
302 or any governmental or nongovernmental disability determination
303 service designated by the board of trustees that is qualified to
304 make disability determinations as provided for in Section
305 25-11-119.

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

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

310 (s) "Position" means any office or any employment in
311 the state service, or two (2) or more of them, the duties of which
312 call for services to be rendered by one (1) person, including
313 positions jointly employed by federal and state agencies
314 administering federal and state funds. The employer shall
315 determine upon initial employment and during the course of
316 employment of an employee who does not meet the criteria for

317 coverage in the Public Employees' Retirement System based on the
318 position held, whether the employee is or becomes eligible for
319 coverage in the Public Employees' Retirement System based upon any
320 other employment in a covered agency or political subdivision. If
321 or when the employee meets the eligibility criteria for coverage
322 in such other position, then the employer must withhold
323 contributions and report wages from the noncovered position in
324 accordance with the provisions for reporting of earned
325 compensation. Failure to deduct and report those contributions
326 shall not relieve the employee or employer of liability thereof.
327 The board shall adopt such rules and regulations as necessary to
328 implement and enforce this provision.

329 (t) "Prior service" shall mean service rendered before
330 February 1, 1953, for which credit is allowable under Sections
331 25-11-105 and 25-11-109, and which shall allow prior service for
332 any person who is now or becomes a member of the Public Employees'
333 Retirement System and who does contribute to the system for a
334 minimum period of four (4) years.

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

338 (v) "Retirement allowance" shall mean an annuity for
339 life as provided in this article, payable each year in twelve (12)
340 equal monthly installments beginning as of the date fixed by the
341 board. The retirement allowance shall be calculated in accordance
342 with Section 25-11-111. Provided, any spouse who received a
343 spouse retirement benefit in accordance with Section 25-11-111(d)
344 prior to March 31, 1971, and said benefits were terminated because

345 of eligibility for a social security benefit, may again receive
346 his spouse retirement benefit from and after making application
347 with the board of trustees to reinstate such spouse retirement
348 benefit.

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

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

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

357 (z) "State service" shall mean all offices and
358 positions of trust or employment in the employ of the state, or
359 any political subdivision or instrumentality thereof, which elect
360 to participate as provided by Section 25-11-105 (f), including the
361 position of elected or fee officials of the counties and their
362 deputies and employees performing public services or any
363 department, independent agency, board or commission thereof, and
364 shall also include all offices and positions of trust or
365 employment in the employ of joint state and federal agencies
366 administering state and federal funds and service rendered by
367 employees of the public schools. Effective July 1, 1973, all
368 nonprofessional public school employees, such as bus drivers,
369 janitors, maids, maintenance workers and cafeteria employees,
370 shall have the option to become members in accordance with Section
371 25-11-105(b), and shall be eligible to receive credit for services
372 prior to July 1, 1973, provided the contributions and interest are

373 paid by the employee in accordance with said section; provided,
374 further, that the county or municipal separate school district may
375 pay the employer contribution and pro rata share of interest of
376 the retroactive service from available funds. From and after July
377 1, 1998, retroactive service credit shall be purchased at the
378 actuarial cost in accordance with Section 25-11-105(b).

379 (aa) "Withdrawal from service" shall mean complete
380 severance of employment in the state service of any member by
381 resignation, dismissal or discharge, except in the case of (i)
382 persons who become eligible to receive a retirement allowance
383 under this article during their employment as teachers and who
384 choose to receive the retirement allowance during their employment
385 as teachers as authorized by Section 25-11-126, and (ii) elected
386 officials who become eligible to receive a retirement allowance
387 under this article while holding office and who choose to receive
388 the retirement allowance while holding office as authorized by
389 Section 25-11-128.

390 (bb) The masculine pronoun, wherever used, shall
391 include the feminine pronoun.

392 SECTION 4. Section 25-11-105, Mississippi Code of 1972, is
393 amended as follows:

394 25-11-105. I. **THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

395 The membership of this retirement system shall be composed as
396 follows:

397 (a) All persons who shall become employees in the state
398 service after January 31, 1953, and whose wages are subject to
399 payroll taxes and are lawfully reported on IRS Form W-2, except
400 (i) those persons who are specifically excluded, (ii) those

401 persons to whom election is provided in Articles 1 and 3, (iii)
402 those persons who choose to receive or continue receiving a
403 retirement allowance during their employment as teachers as
404 authorized by Section 25-11-126, and (iv) those elected officials
405 who choose to receive or continue to receive a retirement
406 allowance while holding office as authorized by Section 25-11-128,
407 shall become members of the retirement system as a condition of
408 their employment.

409 (b) All persons who shall become employees in the state
410 service after January 31, 1953, except those specifically excluded
411 or as to whom election is provided in Articles 1 and 3, unless
412 they shall file with the board prior to the lapse of sixty (60)
413 days of employment or sixty (60) days after the effective date of
414 the cited articles, whichever is later, on a form prescribed by
415 the board, a notice of election not to be covered by the
416 membership of the retirement system and a duly executed waiver of
417 all present and prospective benefits which would otherwise inure
418 to them on account of their participation in the system, shall
419 become members of the retirement system; provided, however, that
420 no credit for prior service will be granted to members until they
421 have contributed to Article 3 of the retirement system for a
422 minimum period of at least four (4) years. Such members shall
423 receive credit for services performed prior to January 1, 1953, in
424 employment now covered by Article 3, but no credit shall be
425 granted for retroactive services between January 1, 1953, and the
426 date of their entry into the retirement system unless the employee
427 pays into the retirement system both the employer's and the
428 employee's contributions on wages paid him during the period from

429 January 31, 1953, to the date of his becoming a contributing
430 member, together with interest at the rate determined by the board
431 of trustees. Members reentering after withdrawal from service
432 shall qualify for prior service under the provisions of Section
433 25-11-117. From and after July 1, 1998, upon eligibility as noted
434 above, the member may receive credit for such retroactive service
435 provided:

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

439 (2) The member shall pay to the retirement system
440 on the date he or she is eligible for such credit or at any time
441 thereafter prior to the date of retirement the actuarial cost for
442 each year of such creditable service. The provisions of this
443 subparagraph (2) shall be subject to the limitations of Section
444 415 of the Internal Revenue Code and regulations promulgated
445 thereunder.

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

450 (c) All persons who shall become employees in the state
451 service after January 31, 1953, and who are eligible for
452 membership in any other retirement system shall become members of
453 this retirement system as a condition of their employment unless
454 they elect at the time of their employment to become a member of
455 such other system.

456 (d) All persons who are employees in the state service

457 on January 31, 1953, and who are members of any nonfunded
458 retirement system operated by the State of Mississippi, or any of
459 its departments or agencies, shall become members of this system
460 with prior service credit unless, before February 1, 1953, they
461 shall file a written notice with the board of trustees that they
462 do not elect to become members.

463 (e) All persons who are employees in the state service
464 on January 31, 1953, and who under existing laws are members of
465 any fund operated for the retirement of employees by the State of
466 Mississippi, or any of its departments or agencies, shall not be
467 entitled to membership in this retirement system unless, before
468 February 1, 1953, any such person shall indicate by a notice filed
469 with the board, on a form prescribed by the board, his individual
470 election and choice to participate in this system, but no such
471 person shall receive prior service credit unless he becomes a
472 member on or before February 1, 1953.

473 (f) Each political subdivision of the state and each
474 instrumentality of the state or a political subdivision, or both,
475 is hereby authorized to submit, for approval by the board of
476 trustees, a plan for extending the benefits of this article to
477 employees of any such political subdivision or instrumentality.
478 Each such plan or any amendment to the plan for extending benefits
479 thereof shall be approved by the board of trustees if it finds
480 that such plan, or such plan as amended, is in conformity with
481 such requirements as are provided in Articles 1 and 3; however,
482 upon approval of such plan or any such plan heretofore approved by
483 the board of trustees, the approved plan shall not be subject to
484 cancellation or termination by the political subdivision or

485 instrumentality. No such plan shall be approved unless:

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

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

498 (3) It provides for such methods of administration
499 of the plan by the political subdivision or instrumentality as are
500 found by the board of trustees to be necessary for the proper and
501 efficient administration thereof;

502 (4) It provides that the political subdivision or
503 instrumentality will make such reports, in such form and
504 containing such information, as the board of trustees may from
505 time to time require;

506 (5) It authorizes the board of trustees to
507 terminate the plan in its entirety in the discretion of the board
508 if it finds that there has been a failure to comply substantially
509 with any provision contained in such plan, such termination to
510 take effect at the expiration of such notice and on such
511 conditions as may be provided by regulations of the board and as
512 may be consistent with applicable federal law.

513 A. The board of trustees shall not finally
514 refuse to approve a plan submitted under subsection (f), and shall
515 not terminate an approved plan without reasonable notice and
516 opportunity for hearing to each political subdivision or
517 instrumentality affected thereby. The board's decision in any
518 such case shall be final, conclusive and binding unless an appeal
519 be taken by the political subdivision or instrumentality aggrieved
520 thereby to the Circuit Court of Hinds County, Mississippi, in
521 accordance with the provisions of law with respect to civil causes
522 by certiorari.

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

530 C. Every political subdivision or
531 instrumentality required to make payments under subsection (f)(5)b
532 hereof is authorized, in consideration of the employees' retention
533 in or entry upon employment after enactment of Articles 1 and 3,
534 to impose upon its employees, as to services which are covered by
535 an approved plan, a contribution with respect to wages (as defined
536 in Section 25-11-5) not exceeding the amount provided in Section
537 25-11-123(d) if such services constituted employment within the
538 meaning of Articles 1 and 3, and to deduct the amount of such
539 contribution from the wages as and when paid. Contributions so
540 collected shall be paid into the contribution fund as partial

541 discharge of the liability of such political subdivisions or
542 instrumentality under subsection (f)(5)b hereof. Failure to
543 deduct such contribution shall not relieve the employee or
544 employer of liability thereof.

545 D. Any state agency, school, political
546 subdivision, instrumentality or any employer that is required to
547 submit contribution payments or wage reports under any section of
548 this chapter shall be assessed interest on delinquent payments or
549 wage reports as determined by the board of trustees in accordance
550 with rules and regulations adopted by the board and such assessed
551 interest may be recovered by action in a court of competent
552 jurisdiction against such reporting agency liable therefor or may,
553 upon due certification of delinquency and at the request of the
554 board of trustees, be deducted from any other monies payable to
555 such reporting agency by any department or agency of the state.

556 E. Each political subdivision of the state
557 and each instrumentality of the state or a political subdivision
558 or subdivisions which submits a plan for approval of the board, as
559 provided in this section, shall reimburse the board for coverage
560 into the expense account, its pro rate share of the total expense
561 of administering Articles 1 and 3 as provided by regulations of
562 said board.

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

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

575 (i) In the event any member of this system should
576 change his employment to any agency of the state having an
577 actuarially funded retirement system, the board of trustees may
578 authorize the transfer of the member's creditable service and of
579 the present value of the member's employer's accumulation account
580 and of the present value of the member's accumulated membership
581 contributions to such other system, provided the employee agrees
582 to the transfer of his accumulated membership contributions and
583 provided such other system is authorized to receive and agrees to
584 make such transfer.

585 In the event any member of any other actuarially funded
586 system maintained by an agency of the state changes his employment
587 to an agency covered by this system, the board of trustees may
588 authorize the receipt of the transfer of the member's creditable
589 service and of the present value of the member's employer's
590 accumulation account and of the present value of the member's
591 accumulated membership contributions from such other system,
592 provided the employee agrees to the transfer of his accumulated
593 membership contributions to this system and provided the other
594 system is authorized and agrees to make such transfer.

595 (j) Wherever herein state employment is referred to, it
596 shall include joint employment by state and federal agencies of

597 all kinds.

598 (k) Employees of a political subdivision or
599 instrumentality who were employed by such political subdivision or
600 instrumentality prior to an agreement between such entity and the
601 Public Employees' Retirement System to extend the benefits of this
602 article to its employees, and which agreement provides for the
603 establishment of retroactive service credit, and who have been
604 members of the retirement system and have remained contributors to
605 the retirement system for four (4) years, may receive credit for
606 such retroactive service with such political subdivision or
607 instrumentality, provided the employee and/or employer, as
608 provided under the terms of the modification of the joinder
609 agreement in allowing such coverage, pay into the retirement
610 system the employer's and employee's contributions on wages paid
611 the member during such previous employment, together with interest
612 or actuarial cost as determined by the board covering the period
613 from the date the service was rendered until the payment for the
614 credit for such service was made. Such wages shall be verified by
615 the Social Security Administration or employer payroll records.
616 Effective July 1, 1998, upon eligibility as noted above, a member
617 may receive credit for such retroactive service with such
618 political subdivision or instrumentality provided;

619 (1) The member shall furnish proof satisfactory to
620 the board of trustees of certification of such services from the
621 political subdivision or instrumentality where the services were
622 rendered or verification by the Social Security Administration;
623 and

624 (2) The member shall pay to the retirement system

625 on the date he or she is eligible for such credit or at any time
626 thereafter prior to the date of retirement the actuarial cost for
627 each year of such creditable service. The provisions of this
628 subparagraph (2) shall be subject to the limitations of Section
629 415 of the Internal Revenue Code and regulations promulgated
630 thereunder.

631 Nothing contained in this paragraph (k) shall be construed to
632 limit the authority of the board to allow the correction of
633 reporting errors or omissions based on the payment of employee and
634 employer contributions plus applicable interest. Payment for such
635 time shall be made in increments of not less than one-quarter
636 (1/4) year of creditable service beginning with the most recent
637 service. Upon the payment of all or part of such required
638 contributions, plus interest or the actuarial cost as provided
639 above, the member shall receive credit for the period of
640 creditable service for which full payment has been made to the
641 retirement system.

642 (l) Through June 30, 1998, any state service eligible
643 for retroactive service credit, no part of which has ever been
644 reported, and requiring the payment of employee and employer
645 contributions plus interest, or, from and after July 1, 1998, any
646 state service eligible for retroactive service credit, no part of
647 which has ever been reported to the retirement system, and
648 requiring the payment of the actuarial cost for such creditable
649 service, may, at the member's option, be purchased in quarterly
650 increments as provided above at such time as its purchase is
651 otherwise allowed.

652 (m) All rights to purchase retroactive service credit

653 or repay a refund as provided in Section 25-11-101 et seq. shall
654 terminate upon retirement.

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

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

659 (a) Patient or inmate help in state charitable, penal
660 or correctional institutions;

661 (b) Students of any state educational institution
662 employed by any agency of the state for temporary, part-time or
663 intermittent work;

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

667 **III. TERMINATION OF MEMBERSHIP**

668 Membership in this system shall cease by a member withdrawing
669 his accumulated contributions, or by a member withdrawing from
670 active service with a retirement allowance, or by a member's
671 death.

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

674 25-11-127. No person who is being paid a retirement
675 allowance or a pension after retirement under this article shall
676 be employed or paid for any service by the State of Mississippi,
677 except as provided in this section, in Section 25-11-126 or in
678 Section 25-11-128. This section shall not apply to any pensioner
679 who has been elected to public office after retirement, nor to any
680 person employed because of special knowledge or experience. This

681 section shall not be construed to mean that any person employed or
682 elected under the above exceptions shall become a member under
683 Article 3 of the retirement system, nor shall any retirant of this
684 retirement system who is reemployed or is reelected to office
685 after retirement continue to draw retirement benefits while so
686 reemployed or reelected except (i) those persons who choose to
687 continue receiving a retirement allowance during their employment
688 as teachers as authorized by Section 25-11-126, and (ii) those
689 elected officials who choose to continue to receive a retirement
690 allowance while holding office as authorized by Section 25-11-128.

691 Any person who has been retired under the provisions of Articles
692 1 and 3 and who is later reemployed in service covered by this
693 article shall cease to receive benefits hereunder unless he
694 chooses to continue receiving a retirement allowance during his
695 employment as a teacher as authorized by Section 25-11-126, or
696 while holding office as authorized in Section 25-11-128 and the
697 person shall again become a contributing member of the retirement
698 system; and when the person again retires, if he has been a
699 contributing member of the retirement system during his
700 reemployment and his reemployment exceeds six (6) months, he shall
701 have his benefits recomputed, including service after again
702 becoming a member. Provided, further, that the total retirement
703 allowance paid to the retired member in his previous retirement
704 shall be deducted from his retirement reserve and taken into
705 consideration in recalculating the retirement allowance under a
706 new option selected. Nothing contained in this section shall be
707 construed as prohibiting any county or city not a member of the
708 Public Employees' Retirement System from employing persons up to

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

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

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

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

758 SECTION 6. The Attorney General of the State of Mississippi
759 is hereby directed to submit this act, immediately upon approval
760 by the Governor, or upon approval by the Legislature subsequent to
761 a veto, to the Attorney General of the United States or to the
762 United States District Court for the District of Columbia in
763 accordance with the provisions of the Voting Rights Act of 1965,
764 as amended and extended.

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