

By: Johnson (19th)

To: Finance

SENATE BILL NO. 2452

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 TO
4 PUBLIC OFFICE IN A POLITICAL SUBDIVISION OR INSTRUMENTALITY
5 THEREOF AFTER RETIREMENT, AND ELECTED OFFICIALS IN A POLITICAL
6 SUBDIVISION OR INSTRUMENTALITY THEREOF WHO BECOME ELIGIBLE TO
7 RECEIVE A RETIREMENT ALLOWANCE FROM THE PUBLIC EMPLOYEES'
8 RETIREMENT SYSTEM WHILE HOLDING OFFICE, MAY RECEIVE A RETIREMENT
9 ALLOWANCE FROM THE SYSTEM WHILE HOLDING OFFICE IN ADDITION TO
10 RECEIVING THE REGULAR COMPENSATION FOR SUCH OFFICE; TO PROVIDE
11 THAT SUCH PERSONS SHALL NOT BE CONTRIBUTING MEMBERS OF THE
12 RETIREMENT SYSTEM NOR RECEIVE ANY CREDITABLE SERVICE FOR THE
13 PERIOD DURING WHICH THEY RECEIVE A RETIREMENT ALLOWANCE WHILE
14 HOLDING OFFICE; TO AMEND SECTIONS 25-11-103, 25-11-105 AND
15 25-11-127, MISSISSIPPI CODE OF 1972, IN CONFORMITY WITH THE
16 PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

18 SECTION 1. The following shall be codified as Section
19 25-11-126, Mississippi Code of 1972:

20 25-11-126. (1) Any person who is receiving a retirement
21 allowance under this article and who is elected after retirement
22 to an office in a political subdivision or instrumentality
23 thereof, and any elected official in a political subdivision or
24 instrumentality thereof who becomes eligible to receive a
25 retirement allowance under this article while holding such office,
26 may choose to receive or continue to receive a retirement
27 allowance under this article while holding such office in addition
28 to receiving the regular compensation for such office in the

29 manner provided in this section.

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

44 (3) Any elected official of a political subdivision or
45 instrumentality thereof who becomes eligible to receive a
46 retirement allowance while holding office and who chooses to
47 receive a retirement allowance while holding office, shall make
48 application to the executive director of the system and the
49 retirement allowance shall begin on the first of the month
50 following the date that the application is received by the
51 executive director. Such elected officials shall not be required
52 to withdraw from service in order to receive the retirement
53 allowance.

54 (4) Any person who receives or continues to receive a
55 retirement allowance under this article while holding office in a
56 political subdivision or instrumentality thereof as authorized by
57 this section shall not be a contributing member of the retirement
58 system nor receive any creditable service for the period during
59 which he receives a retirement allowance while holding office.

60 Any such person who chooses not to receive a retirement allowance
61 while holding office shall be a contributing member of the
62 retirement system and shall receive creditable service for the
63 period during which he holds office without receiving a retirement
64 allowance. If such person has previously received a retirement
65 allowance under this article and he holds office for more than six
66 (6) months without receiving a retirement allowance, he shall have
67 his allowance recomputed when he retires again, which shall
68 include the service after he again became a contributing member of
69 the retirement system.

70 (5) This section shall apply to officials who are elected to
71 office in a political subdivision or instrumentality thereof for a
72 specified term, but shall not apply to persons in other positions
73 of employment in the state service.

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

76 25-11-103. The following words and phrases as used in
77 Articles 1 and 3, unless a different meaning is plainly required
78 by the context, shall have the following meanings:

79 (a) "Accumulated contributions" shall mean the sum of
80 all the amounts deducted from the compensation of a member and
81 credited to his individual account in the annuity savings account,
82 together with regular interest thereon as provided in Section
83 25-11-123.

84 (b) "Actuarial cost" shall mean the amount of funds
85 presently required to provide future benefits as determined by the
86 board based on applicable tables and formulas provided by the
87 actuary.

88 (c) "Actuarial equivalent" shall mean a benefit of
89 equal value to the accumulated contributions, annuity or benefit,
90 as the case may be, when computed upon the basis of such mortality
91 tables as shall be adopted by the board of trustees, and regular
92 interest.

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

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

98 (f) "Average compensation" shall mean the average of
99 the four (4) highest years of earned compensation reported for an
100 employee in a fiscal or calendar year period, or combination
101 thereof which do not overlap, or the last forty-eight (48)
102 consecutive months of earned compensation reported for an
103 employee. The four (4) years need not be successive or joined
104 years of service. In no case shall the average compensation so
105 determined be in excess of One Hundred Twenty-five Thousand
106 Dollars (\$125,000.00). In computing the average compensation, any
107 amount paid in a lump sum for personal leave shall be included in
108 the calculation to the extent that such amount does not exceed an
109 amount which is equal to thirty (30) days of earned compensation
110 and to the extent that it does not cause the employees' earned
111 compensation to exceed the maximum reportable amount specified in
112 Section 25-11-103(k); provided, however, that such thirty-day
113 limitation shall not prevent the inclusion in the calculation of
114 leave earned under federal regulations prior to July 1, 1976, and
115 frozen as of that date as referred to in Section 25-3-99. Only

116 the amount of lump sum pay for personal leave due and paid upon
117 the death of a member attributable for up to one hundred fifty
118 (150) days shall be used in the deceased member's average
119 compensation calculation in determining the beneficiary's
120 benefits. In computing the average compensation, no amounts shall
121 be used which are in excess of the amount on which contributions
122 were required and paid. If any member who is or has been granted
123 any increase in annual salary or compensation of more than eight
124 percent (8%) retires within twenty-four (24) months from the date
125 that such increase becomes effective, then the board shall exclude
126 that part of the increase in salary or compensation that exceeds
127 eight percent (8%) in calculating that member's average
128 compensation for retirement purposes. The board may enforce this
129 provision by rule or regulation. However, increases in
130 compensation in excess of eight percent (8%) per year granted
131 within twenty-four (24) months of the date of retirement may be
132 included in such calculation of average compensation if
133 satisfactory proof is presented to the board showing that the
134 increase in compensation was the result of an actual change in the
135 position held or services rendered, or that such compensation
136 increase was authorized by the State Personnel Board or was
137 increased as a result of statutory enactment, and the employer
138 furnishes an affidavit stating that such increase granted within
139 the last twenty-four (24) months was not contingent on a promise
140 or agreement of the employee to retire. Nothing in Section
141 25-3-31 shall affect the calculation of the average compensation
142 of any member for the purposes of this article. The average
143 compensation of any member who retires before July 1, 1992, shall

144 not exceed the annual salary of the Governor.

145 (g) "Beneficiary" shall mean any person entitled to
146 receive a retirement allowance, an annuity or other benefit as
147 provided by Articles 1 and 3. In the event of the death prior to
148 retirement of any member whose spouse and/or children are not
149 entitled to a retirement allowance, the lawful spouse of a member
150 at the time of the death of such member shall be the beneficiary
151 of such member unless the member has designated another
152 beneficiary subsequent to the date of marriage in writing, and
153 filed such writing in the office of the executive director of the
154 board of trustees. No designation or change of beneficiary shall
155 be made in any other manner.

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

159 (i) "Creditable service" shall mean "prior service,"
160 "retroactive service" and all lawfully credited unused leave not
161 exceeding the accrual rates and limitations provided in Section
162 25-3-91 et seq., as of the date of withdrawal from service plus
163 "membership service" for which credit is allowable as provided in
164 Section 25-11-109. Except to limit creditable service reported to
165 the system for the purpose of computing an employee's retirement
166 allowance or annuity or benefits provided in this article, nothing
167 in this paragraph shall limit or otherwise restrict the power of
168 the governing authority of a municipality or other political
169 subdivision of the state to adopt such vacation and sick leave
170 policies as it deems necessary.

171 (j) "Child" means either a natural child of the member,

172 a child that has been made a child of the member by applicable
173 court action before the death of the member, or a child under the
174 permanent care of the member at the time of the latter's death,
175 which permanent care status shall be determined by evidence
176 satisfactory to the board.

177 (k) "Earned compensation" shall mean the full amount
178 earned by an employee for a given pay period including any
179 maintenance furnished up to a maximum of One Hundred Twenty-five
180 Thousand Dollars (\$125,000.00) per year, and proportionately for
181 less than one (1) year of service. The value of such maintenance
182 when not paid in money shall be fixed by the employing state
183 agency, and, in case of doubt, by the board of trustees as defined
184 in Section 25-11-15. In any case, earned compensation shall be
185 limited to the regular periodic compensation paid, exclusive of
186 litigation fees, bond fees, and other similar extraordinary
187 nonrecurring payments. In addition, any member in a covered
188 position, as defined by Public Employees' Retirement System laws
189 and regulations, who is also employed by another covered agency or
190 political subdivision shall have the earnings of that additional
191 employment reported to the Public Employees' Retirement System
192 regardless of whether the additional employment is sufficient in
193 itself to be a covered position. In the case of fee officials,
194 the net earnings from their office after deduction of expenses
195 shall apply, except that in no case shall earned compensation be
196 less than the total direct payments made by the state or
197 governmental subdivisions to the official, and employer and
198 employee contributions shall be paid thereon. In the case of
199 members of the state Legislature, all remuneration or amounts

200 paid, except mileage allowance, shall apply. The amount by which
201 an eligible employee's salary is reduced pursuant to a salary
202 reduction agreement authorized under Section 25-17-5 shall be
203 included as earned compensation under this paragraph, provided
204 this inclusion does not conflict with federal law, including
205 federal regulations and federal administrative interpretations
206 thereunder, pertaining to the Federal Insurance Contributions Act
207 or to Internal Revenue Code Section 125 cafeteria plans.

208 Compensation in addition to an employee's base salary that is paid
209 to the employee pursuant to the vacation and sick leave policies
210 of a municipality or other political subdivision of the state that
211 employs him which exceeds the maximums authorized by Section
212 25-3-91 et seq., shall be excluded from the calculation of earned
213 compensation under this article. The maximum salary applicable
214 for retirement purposes before July 1, 1992, shall be the salary
215 of the Governor. Nothing in Section 25-3-31 shall affect the
216 determination of the earned compensation of any member for the
217 purposes of this article.

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

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

224 (n) "Executive director" shall mean the secretary to
225 the board of trustees, as provided in Section 25-11-15(9), and the
226 administrator of the Public Employees' Retirement System and all
227 systems under the management of the board of trustees. Wherever

228 the term "Executive Secretary of the Public Employees' Retirement
229 System" or "executive secretary" appears in this article or in any
230 other provision of law, it shall be construed to mean the
231 Executive Director of the Public Employees' Retirement System.

232 (o) "Fiscal year" shall mean the period beginning on
233 July 1 of any year and ending on June 30 of the next succeeding
234 year.

235 (p) "Medical board" shall mean the board of physicians
236 or any governmental or nongovernmental disability determination
237 service designated by the board of trustees that is qualified to
238 make disability determinations as provided for in Section
239 25-11-119.

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

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

244 (s) "Position" means any office or any employment in
245 the state service, or two (2) or more of them, the duties of which
246 call for services to be rendered by one (1) person, including
247 positions jointly employed by federal and state agencies
248 administering federal and state funds. The employer shall
249 determine upon initial employment and during the course of
250 employment of an employee who does not meet the criteria for
251 coverage in the Public Employees' Retirement System based on the
252 position held, whether the employee is or becomes eligible for
253 coverage in the Public Employees' Retirement System based upon any
254 other employment in a covered agency or political subdivision. If
255 or when the employee meets the eligibility criteria for coverage

256 in such other position, then the employer must withhold
257 contributions and report wages from the noncovered position in
258 accordance with the provisions for reporting of earned
259 compensation. Failure to deduct and report those contributions
260 shall not relieve the employee or employer of liability thereof.
261 The board shall adopt such rules and regulations as necessary to
262 implement and enforce this provision.

263 (t) "Prior service" shall mean service rendered before
264 February 1, 1953, for which credit is allowable under Sections
265 25-11-105 and 25-11-109, and which shall allow prior service for
266 any person who is now or becomes a member of the Public Employees'
267 Retirement System and who does contribute to the system for a
268 minimum period of four (4) years.

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

272 (v) "Retirement allowance" shall mean an annuity for
273 life as provided in this article, payable each year in twelve (12)
274 equal monthly installments beginning as of the date fixed by the
275 board. The retirement allowance shall be calculated in accordance
276 with Section 25-11-111. Provided, any spouse who received a
277 spouse retirement benefit in accordance with Section 25-11-111(d)
278 prior to March 31, 1971, and said benefits were terminated because
279 of eligibility for a social security benefit, may again receive
280 his spouse retirement benefit from and after making application
281 with the board of trustees to reinstate such spouse retirement
282 benefit.

283 (w) "Retroactive service" shall mean service rendered

284 after February 1, 1953, for which credit is allowable under
285 Section 25-11-105(b) and Section 25-11-105(k).

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

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

291 (z) "State service" shall mean all offices and
292 positions of trust or employment in the employ of the state, or
293 any political subdivision or instrumentality thereof, which elect
294 to participate as provided by Section 25-11-105 (f), including the
295 position of elected or fee officials of the counties and their
296 deputies and employees performing public services or any
297 department, independent agency, board or commission thereof, and
298 shall also include all offices and positions of trust or
299 employment in the employ of joint state and federal agencies
300 administering state and federal funds and service rendered by
301 employees of the public schools. Effective July 1, 1973, all
302 nonprofessional public school employees, such as bus drivers,
303 janitors, maids, maintenance workers and cafeteria employees,
304 shall have the option to become members in accordance with Section
305 25-11-105(b), and shall be eligible to receive credit for services
306 prior to July 1, 1973, provided the contributions and interest are
307 paid by the employee in accordance with said section; provided,
308 further, that the county or municipal separate school district may
309 pay the employer contribution and pro rata share of interest of
310 the retroactive service from available funds. From and after July
311 1, 1998, retroactive service credit shall be purchased at the

312 actuarial cost in accordance with Section 25-11-105(b).

313 (aa) "Withdrawal from service" shall mean complete
314 severance of employment in the state service of any member by
315 resignation, dismissal or discharge, except in the case of elected
316 officials who become eligible to receive a retirement allowance
317 under this article while holding office and who choose to receive
318 the retirement allowance while holding office as authorized by
319 Section 25-11-126.

320 (bb) The masculine pronoun, wherever used, shall
321 include the feminine pronoun.

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

324 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

325 The membership of this retirement system shall be composed as
326 follows:

327 (a) All persons who shall become employees in the state
328 service after January 31, 1953, and whose wages are subject to
329 payroll taxes and are lawfully reported on IRS Form W-2, except
330 those specifically excluded, those to whom election is provided in
331 Articles 1 and 3, and those elected officials who choose to
332 receive or continue to receive a retirement allowance while
333 holding office as authorized by Section 25-11-126, shall become
334 members of the retirement system as a condition of their
335 employment.

336 (b) All persons who shall become employees in the state
337 service after January 31, 1953, except those specifically excluded
338 or as to whom election is provided in Articles 1 and 3, unless
339 they shall file with the board prior to the lapse of sixty (60)

340 days of employment or sixty (60) days after the effective date of
341 the cited articles, whichever is later, on a form prescribed by
342 the board, a notice of election not to be covered by the
343 membership of the retirement system and a duly executed waiver of
344 all present and prospective benefits which would otherwise inure
345 to them on account of their participation in the system, shall
346 become members of the retirement system; provided, however, that
347 no credit for prior service will be granted to members until they
348 have contributed to Article 3 of the retirement system for a
349 minimum period of at least four (4) years. Such members shall
350 receive credit for services performed prior to January 1, 1953, in
351 employment now covered by Article 3, but no credit shall be
352 granted for retroactive services between January 1, 1953, and the
353 date of their entry into the retirement system unless the employee
354 pays into the retirement system both the employer's and the
355 employee's contributions on wages paid him during the period from
356 January 31, 1953, to the date of his becoming a contributing
357 member, together with interest at the rate determined by the board
358 of trustees. Members reentering after withdrawal from service
359 shall qualify for prior service under the provisions of Section
360 25-11-117. From and after July 1, 1998, upon eligibility as noted
361 above, the member may receive credit for such retroactive service
362 provided:

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

366 (2) The member shall pay to the retirement system
367 on the date he or she is eligible for such credit or at any time

368 thereafter prior to the date of retirement the actuarial cost for
369 each year of such creditable service. The provisions of this
370 subparagraph (2) shall be subject to the limitations of Section
371 415 of the Internal Revenue Code and regulations promulgated
372 thereunder.

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

377 (c) All persons who shall become employees in the state
378 service after January 31, 1953, and who are eligible for
379 membership in any other retirement system shall become members of
380 this retirement system as a condition of their employment unless
381 they elect at the time of their employment to become a member of
382 such other system.

383 (d) All persons who are employees in the state service
384 on January 31, 1953, and who are members of any nonfunded
385 retirement system operated by the State of Mississippi, or any of
386 its departments or agencies, shall become members of this system
387 with prior service credit unless, before February 1, 1953, they
388 shall file a written notice with the board of trustees that they
389 do not elect to become members.

390 (e) All persons who are employees in the state service
391 on January 31, 1953, and who under existing laws are members of
392 any fund operated for the retirement of employees by the State of
393 Mississippi, or any of its departments or agencies, shall not be
394 entitled to membership in this retirement system unless, before
395 February 1, 1953, any such person shall indicate by a notice filed

396 with the board, on a form prescribed by the board, his individual
397 election and choice to participate in this system, but no such
398 person shall receive prior service credit unless he becomes a
399 member on or before February 1, 1953.

400 (f) Each political subdivision of the state and each
401 instrumentality of the state or a political subdivision, or both,
402 is hereby authorized to submit, for approval by the board of
403 trustees, a plan for extending the benefits of this article to
404 employees of any such political subdivision or instrumentality.
405 Each such plan or any amendment to the plan for extending benefits
406 thereof shall be approved by the board of trustees if it finds
407 that such plan, or such plan as amended, is in conformity with
408 such requirements as are provided in Articles 1 and 3; however,
409 upon approval of such plan or any such plan heretofore approved by
410 the board of trustees, the approved plan shall not be subject to
411 cancellation or termination by the political subdivision or
412 instrumentality. No such plan shall be approved unless:

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

420 (2) It specifies the source or sources from which
421 the funds necessary to make the payments required by subsection
422 (d) of Section 25-11-123 and of subsections (f)(5)B and C of this
423 section are expected to be derived and contains reasonable

424 assurance that such sources will be adequate for such purpose;

425 (3) It provides for such methods of administration
426 of the plan by the political subdivision or instrumentality as are
427 found by the board of trustees to be necessary for the proper and
428 efficient administration thereof;

429 (4) It provides that the political subdivision or
430 instrumentality will make such reports, in such form and
431 containing such information, as the board of trustees may from
432 time to time require;

433 (5) It authorizes the board of trustees to
434 terminate the plan in its entirety in the discretion of the board
435 if it finds that there has been a failure to comply substantially
436 with any provision contained in such plan, such termination to
437 take effect at the expiration of such notice and on such
438 conditions as may be provided by regulations of the board and as
439 may be consistent with applicable federal law.

440 A. The board of trustees shall not finally
441 refuse to approve a plan submitted under subsection (f), and shall
442 not terminate an approved plan without reasonable notice and
443 opportunity for hearing to each political subdivision or
444 instrumentality affected thereby. The board's decision in any
445 such case shall be final, conclusive and binding unless an appeal
446 be taken by the political subdivision or instrumentality aggrieved
447 thereby to the Circuit Court of Hinds County, Mississippi, in
448 accordance with the provisions of law with respect to civil causes
449 by certiorari.

450 B. Each political subdivision or
451 instrumentality as to which a plan has been approved under this

452 section shall pay into the contribution fund, with respect to
453 wages (as defined in Section 25-11-5), at such time or times as
454 the board of trustees may by regulation prescribe, contributions
455 in the amounts and at the rates specified in the applicable
456 agreement entered into by the board.

457 C. Every political subdivision or
458 instrumentality required to make payments under subsection (f)(5)B
459 hereof is authorized, in consideration of the employees' retention
460 in or entry upon employment after enactment of Articles 1 and 3,
461 to impose upon its employees, as to services which are covered by
462 an approved plan, a contribution with respect to wages (as defined
463 in Section 25-11-5) not exceeding the amount provided in Section
464 25-11-123(d) if such services constituted employment within the
465 meaning of Articles 1 and 3, and to deduct the amount of such
466 contribution from the wages as and when paid. Contributions so
467 collected shall be paid into the contribution fund as partial
468 discharge of the liability of such political subdivisions or
469 instrumentality under subsection (f)(5)B hereof. Failure to
470 deduct such contribution shall not relieve the employee or
471 employer of liability thereof.

472 D. Any state agency, school, political
473 subdivision, instrumentality or any employer that is required to
474 submit contribution payments or wage reports under any section of
475 this chapter shall be assessed interest on delinquent payments or
476 wage reports as determined by the board of trustees in accordance
477 with rules and regulations adopted by the board and such assessed
478 interest may be recovered by action in a court of competent
479 jurisdiction against such reporting agency liable therefor or may,

480 upon due certification of delinquency and at the request of the
481 board of trustees, be deducted from any other monies payable to
482 such reporting agency by any department or agency of the state.

483 E. Each political subdivision of the state
484 and each instrumentality of the state or a political subdivision
485 or subdivisions which submits a plan for approval of the board, as
486 provided in this section, shall reimburse the board for coverage
487 into the expense account, its pro rata share of the total expense
488 of administering Articles 1 and 3 as provided by regulations of
489 said board.

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

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

502 (i) In the event any member of this system should
503 change his employment to any agency of the state having an
504 actuarially funded retirement system, the board of trustees may
505 authorize the transfer of the member's creditable service and of
506 the present value of the member's employer's accumulation account
507 and of the present value of the member's accumulated membership

508 contributions to such other system, provided the employee agrees
509 to the transfer of his accumulated membership contributions and
510 provided such other system is authorized to receive and agrees to
511 make such transfer.

512 In the event any member of any other actuarially funded
513 system maintained by an agency of the state changes his employment
514 to an agency covered by this system, the board of trustees may
515 authorize the receipt of the transfer of the member's creditable
516 service and of the present value of the member's employer's
517 accumulation account and of the present value of the member's
518 accumulated membership contributions from such other system,
519 provided the employee agrees to the transfer of his accumulated
520 membership contributions to this system and provided the other
521 system is authorized and agrees to make such transfer.

522 (j) Wherever herein state employment is referred to, it
523 shall include joint employment by state and federal agencies of
524 all kinds.

525 (k) Employees of a political subdivision or
526 instrumentality who were employed by such political subdivision or
527 instrumentality prior to an agreement between such entity and the
528 Public Employees' Retirement System to extend the benefits of this
529 article to its employees, and which agreement provides for the
530 establishment of retroactive service credit, and who have been
531 members of the retirement system and have remained contributors to
532 the retirement system for four (4) years, may receive credit for
533 such retroactive service with such political subdivision or
534 instrumentality, provided the employee and/or employer, as
535 provided under the terms of the modification of the joinder

536 agreement in allowing such coverage, pay into the retirement
537 system the employer's and employee's contributions on wages paid
538 the member during such previous employment, together with interest
539 or actuarial cost as determined by the board covering the period
540 from the date the service was rendered until the payment for the
541 credit for such service was made. Such wages shall be verified by
542 the Social Security Administration or employer payroll records.
543 Effective July 1, 1998, upon eligibility as noted above, a member
544 may receive credit for such retroactive service with such
545 political subdivision or instrumentality provided:

546 (1) The member shall furnish proof satisfactory to
547 the board of trustees of certification of such services from the
548 political subdivision or instrumentality where the services were
549 rendered or verification by the Social Security Administration;
550 and

551 (2) The member shall pay to the retirement system
552 on the date he or she is eligible for such credit or at any time
553 thereafter prior to the date of retirement the actuarial cost for
554 each year of such creditable service. The provisions of this
555 subparagraph (2) shall be subject to the limitations of Section
556 415 of the Internal Revenue Code and regulations promulgated
557 thereunder.

558 Nothing contained in this paragraph (k) shall be construed to
559 limit the authority of the board to allow the correction of
560 reporting errors or omissions based on the payment of employee and
561 employer contributions plus applicable interest. Payment for such
562 time shall be made in increments of not less than one-quarter
563 (1/4) year of creditable service beginning with the most recent

564 service. Upon the payment of all or part of such required
565 contributions, plus interest or the actuarial cost as provided
566 above, the member shall receive credit for the period of
567 creditable service for which full payment has been made to the
568 retirement system.

569 (l) Through June 30, 1998, any state service eligible
570 for retroactive service credit, no part of which has ever been
571 reported, and requiring the payment of employee and employer
572 contributions plus interest, or, from and after July 1, 1998, any
573 state service eligible for retroactive service credit, no part of
574 which has ever been reported to the retirement system, and
575 requiring the payment of the actuarial cost for such creditable
576 service, may, at the member's option, be purchased in quarterly
577 increments as provided above at such time as its purchase is
578 otherwise allowed.

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

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

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

586 (a) Patient or inmate help in state charitable, penal
587 or correctional institutions;

588 (b) Students of any state educational institution
589 employed by any agency of the state for temporary, part-time or
590 intermittent work;

591 (c) Participants of Comprehensive Employment and

592 Training Act of 1973 (CETA) being Public Law 93-203, who enroll on
593 or after July 1, 1979.

594 **III. TERMINATION OF MEMBERSHIP**

595 Membership in this system shall cease by a member withdrawing
596 his accumulated contributions, or by a member withdrawing from
597 active service with a retirement allowance, or by a member's
598 death.

599 SECTION 4. Section 25-11-127, Mississippi Code of 1972, is
600 amended as follows:

601 25-11-127. No person who is being paid a retirement
602 allowance, or a pension after retirement under this article, shall
603 be employed or paid for any service by the State of Mississippi,
604 except as provided in this section or in Section 25-11-126. This
605 section shall not apply to any pensioner who has been elected to
606 public office after retirement, nor to any person employed because
607 of special knowledge or experience. This section shall not be
608 construed to mean that any person employed or elected under the
609 above exceptions shall become a member under Article 3 of the
610 retirement system, nor shall any retirant of this retirement
611 system who is reemployed or is reelected to office, after
612 retirement continue to draw retirement benefits while so
613 reemployed or reelected except those elected officials who choose
614 to continue to receive a retirement allowance while holding office
615 as authorized by Section 25-11-126. Any person who has been
616 retired under the provisions of Articles 1 and 3 and who is later
617 reemployed in service covered by this article shall cease to
618 receive benefits hereunder and shall again become a contributing
619 member of the retirement system; and upon again retiring, if his

620 reemployment exceeds six (6) months, shall have his benefit
621 recomputed, including service after again becoming a member.
622 Provided, further, that the total retirement allowance paid to the
623 retired member in his previous retirement shall be deducted from
624 his retirement reserve and taken into consideration in
625 recalculating the retirement allowance under a new option
626 selected. Nothing contained in this section shall be construed as
627 prohibiting any county or city not a member of the Public
628 Employees' Retirement System from employing persons up to the age
629 of seventy-three (73); and provided further that, through June 30,
630 1988, nothing contained in this section shall be construed as
631 prohibiting any governmental unit which is a member from employing
632 persons up to the age of seventy-three (73) who are not eligible
633 for membership at the time of employment under Article 3.

634 The board of trustees of the retirement system shall have the
635 right to prescribe rules and regulations for the carrying out of
636 this provision.

637 The provisions of this section shall not be construed to
638 prohibit any retirant regardless of age from being employed and
639 from drawing retirement allowance either (a) for a period of time
640 not to exceed one hundred twenty (120) days in any fiscal year,
641 but less than one-half (1/2) of the normal working days for the
642 position in any fiscal year, or (b) for a period of time in any
643 fiscal year sufficient in length to permit a retirant to earn not
644 in excess of twenty-five percent (25%) of retirant's average
645 compensation or the current rate of the salary in effect for the
646 regular position filled. Notice shall be given in writing to the
647 executive secretary of the system, setting forth the facts upon

648 which the emergency employment is being made, and such notice
649 shall be given within five (5) days from the date of employment
650 and also from the date of termination of said employment. It is
651 further provided that any member who has attained seventy (70)
652 years of age and who has forty (40) or more years of creditable
653 service may continue in office or employment or be reemployed or
654 elected provided such person files annually, in writing, in the
655 office of the employer and the office of the executive secretary
656 of the system prior to such services, a waiver of all salary or
657 compensation and elects to receive in lieu of such salary or
658 compensation a retirement allowance as provided in this section,
659 in which event no salary or compensation shall thereafter be due
660 or payable for such services and provided further, that any such
661 officer or employee may receive in addition to such retirement
662 allowance any per diem, office expense allowance, mileage or
663 travel expense authorized by any statute of the State of
664 Mississippi. Any other member may continue in municipal or county
665 office or employment or be reemployed * * * in a municipality or
666 county provided such person files annually, in writing, in the
667 office of the employer and the office of the executive secretary
668 of the system prior to such services, a waiver of all salary or
669 compensation and elects to receive in lieu of such salary or
670 compensation a retirement allowance as provided in this section,
671 in which event no salary or compensation shall thereafter be due
672 or payable for such services and provided, further, that any such
673 officer or employee may receive in addition to such retirement
674 allowance any per diem, office expense allowance, mileage or
675 travel expense authorized by any statute of the State of

676 Mississippi.

677 SECTION 5. The Attorney General of the State of Mississippi
678 is hereby directed to submit this act, immediately upon approval
679 by the Governor, or upon approval by the Legislature subsequent to
680 a veto, to the Attorney General of the United States or to the
681 United States District Court for the District of Columbia in
682 accordance with the provisions of the Voting Rights Act of 1965,
683 as amended and extended.

684 SECTION 6. This act shall take effect and be in force from
685 and after July 1, 2000, if it is effectuated on or before that
686 date under Section 5 of the Voting Rights Act of 1965, as amended
687 and extended. If it is effectuated under Section 5 of the Voting
688 Rights Act of 1965, as amended and extended, after July 1, 2000,
689 this act shall take effect and be in force from and after the date
690 it is effectuated under Section 5 of the Voting Rights Act of
691 1965, as amended and extended.