

By: Representative Pierce

To: Appropriations

HOUSE BILL NO. 27

1 AN ACT TO CREATE NEW SECTION 25-11-126, MISSISSIPPI CODE OF  
2 1972, TO AUTHORIZE PERSONS WHO ARE RECEIVING A RETIREMENT  
3 ALLOWANCE FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO BE  
4 EMPLOYED AS BUS DRIVERS IN PUBLIC SCHOOL DISTRICTS AFTER  
5 RETIREMENT AND TO CONTINUE TO RECEIVE THE RETIREMENT ALLOWANCE  
6 DURING THEIR EMPLOYMENT AS BUS DRIVERS IN ADDITION TO RECEIVING  
7 THE REGULAR COMPENSATION FOR BUS DRIVERS; TO PROVIDE THAT THOSE  
8 PERSONS SHALL NOT BE CONTRIBUTING MEMBERS OF THE RETIREMENT SYSTEM  
9 OR RECEIVE ANY CREDITABLE SERVICE FOR THE PERIOD DURING WHICH THEY  
10 RECEIVE A RETIREMENT ALLOWANCE DURING THEIR EMPLOYMENT AS BUS  
11 DRIVERS; TO AMEND SECTION 25-11-103, MISSISSIPPI CODE OF 1972, TO  
12 PROVIDE THAT PUBLIC SCHOOL BUS DRIVERS SHALL BE ELIGIBLE TO BECOME  
13 OR REMAIN MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
14 REGARDLESS OF THE WEEKLY OR MONTHLY NUMBER OF HOURS WORKED; TO  
15 AMEND SECTIONS 25-11-105 AND 25-11-127, MISSISSIPPI CODE OF 1972,  
16 TO CONFORM TO THE PREVIOUS PROVISIONS; TO AMEND SECTION 25-15-3,  
17 MISSISSIPPI CODE OF 1972, TO CLARIFY THAT BUS DRIVERS EMPLOYED  
18 AFTER RETIREMENT UNDER THE AUTHORITY OF THIS ACT ARE FULL-TIME  
19 EMPLOYEES FOR THE PURPOSES OF THE STATE AND SCHOOL EMPLOYEES LIFE  
20 AND HEALTH INSURANCE PLAN EVEN THOUGH THEY ARE NOT CONTRIBUTING  
21 MEMBERS OF THE RETIREMENT SYSTEM; TO AMEND SECTION 25-15-13,  
22 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT BUS DRIVERS EMPLOYED  
23 AFTER RETIREMENT UNDER THE AUTHORITY OF THIS ACT SHALL BE ELIGIBLE  
24 TO CONTINUE HEALTH INSURANCE AND LIFE INSURANCE COVERAGE UNDER THE  
25 PLAN UPON TERMINATION OF EMPLOYMENT AS A BUS DRIVER, IN THE SAME  
26 MANNER AND SUBJECT TO THE SAME LIMITATIONS AS ANY OTHER RETIRED  
27 EMPLOYEE; 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) Any person who is receiving a retirement  
32 allowance under this article may be employed as a bus driver in  
33 any public school district in the state, without any waiting  
34 period before beginning employment as a bus driver. Any person  
35 employed as a bus driver after retirement under the authority of  
36 this section shall continue to receive the retirement allowance  
37 under this article during his employment as a bus driver after  
38 retirement, in addition to receiving the regular compensation for  
39 a bus driver.



40           (2) Any person employed as a bus driver after retirement  
41 under the authority of this section shall not be a contributing  
42 member of the retirement system or receive any creditable service  
43 for the period during which he receives a retirement allowance  
44 during his employment as a bus driver.

45           SECTION 2. Section 25-11-103, Mississippi Code of 1972, is  
46 amended as follows:

47           25-11-103. The following words and phrases as used in  
48 Articles 1 and 3, unless a different meaning is plainly required  
49 by the context, shall have the following meanings:

50           (a) "Accumulated contributions" shall mean the sum of  
51 all the amounts deducted from the compensation of a member and  
52 credited to his individual account in the annuity savings account,  
53 together with regular interest thereon as provided in Section  
54 25-11-123.

55           (b) "Actuarial cost" shall mean the amount of funds  
56 presently required to provide future benefits as determined by the  
57 board based on applicable tables and formulas provided by the  
58 actuary.

59           (c) "Actuarial equivalent" shall mean a benefit of  
60 equal value to the accumulated contributions, annuity or benefit,  
61 as the case may be, when computed upon the basis of such mortality  
62 tables as shall be adopted by the board of trustees, and regular  
63 interest.

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

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

69           (f) "Average compensation" shall mean the average of  
70 the four (4) highest years of earned compensation reported for an  
71 employee in a fiscal or calendar year period, or combination  
72 thereof which do not overlap, or the last forty-eight (48)



73 consecutive months of earned compensation reported for an  
74 employee. The four (4) years need not be successive or joined  
75 years of service. In no case shall the average compensation so  
76 determined be in excess of One Hundred Twenty-five Thousand  
77 Dollars (\$125,000.00). In computing the average compensation, any  
78 amount paid in a lump sum for personal leave shall be included in  
79 the calculation to the extent that such amount does not exceed an  
80 amount which is equal to thirty (30) days of earned compensation  
81 and to the extent that it does not cause the employees' earned  
82 compensation to exceed the maximum reportable amount specified in  
83 Section 25-11-103(k); provided, however, that such thirty-day  
84 limitation shall not prevent the inclusion in the calculation of  
85 leave earned under federal regulations prior to July 1, 1976, and  
86 frozen as of that date as referred to in Section 25-3-99. Only  
87 the amount of lump sum pay for personal leave due and paid upon  
88 the death of a member attributable for up to one hundred fifty  
89 (150) days shall be used in the deceased member's average  
90 compensation calculation in determining the beneficiary's  
91 benefits. In computing the average compensation, no amounts shall  
92 be used which are in excess of the amount on which contributions  
93 were required and paid. If any member who is or has been granted  
94 any increase in annual salary or compensation of more than eight  
95 percent (8%) retires within twenty-four (24) months from the date  
96 that such increase becomes effective, then the board shall exclude  
97 that part of the increase in salary or compensation that exceeds  
98 eight percent (8%) in calculating that member's average  
99 compensation for retirement purposes. The board may enforce this  
100 provision by rule or regulation. However, increases in  
101 compensation in excess of eight percent (8%) per year granted  
102 within twenty-four (24) months of the date of retirement may be  
103 included in such calculation of average compensation if  
104 satisfactory proof is presented to the board showing that the  
105 increase in compensation was the result of an actual change in the



106 position held or services rendered, or that such compensation  
107 increase was authorized by the State Personnel Board or was  
108 increased as a result of statutory enactment, and the employer  
109 furnishes an affidavit stating that such increase granted within  
110 the last twenty-four (24) months was not contingent on a promise  
111 or agreement of the employee to retire. Nothing in Section  
112 25-3-31 shall affect the calculation of the average compensation  
113 of any member for the purposes of this article. The average  
114 compensation of any member who retires before July 1, 1992, shall  
115 not exceed the annual salary of the Governor.

116 (g) "Beneficiary" shall mean any person entitled to  
117 receive a retirement allowance, an annuity or other benefit as  
118 provided by Articles 1 and 3. In the event of the death prior to  
119 retirement of any member whose spouse and/or children are not  
120 entitled to a retirement allowance on the basis that the member  
121 has less than four (4) years of service credit and/or has not been  
122 married for a minimum of one (1) year or the spouse has waived his  
123 or her entitlement to a retirement allowance pursuant to Section  
124 25-11-114, the lawful spouse of a member at the time of the death  
125 of such member shall be the beneficiary of such member unless the  
126 member has designated another beneficiary subsequent to the date  
127 of marriage in writing, and filed such writing in the office of  
128 the executive director of the board of trustees. No designation  
129 or change of beneficiary shall be made in any other manner.

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

133 (i) "Creditable service" shall mean "prior service,"  
134 "retroactive service" and all lawfully credited unused leave not  
135 exceeding the accrual rates and limitations provided in Section  
136 25-3-91 et seq., as of the date of withdrawal from service plus  
137 "membership service" for which credit is allowable as provided in  
138 Section 25-11-109. Except to limit creditable service reported to



139 the system for the purpose of computing an employee's retirement  
140 allowance or annuity or benefits provided in this article, nothing  
141 in this paragraph shall limit or otherwise restrict the power of  
142 the governing authority of a municipality or other political  
143 subdivision of the state to adopt such vacation and sick leave  
144 policies as it deems necessary.

145 (j) "Child" means either a natural child of the member,  
146 a child that has been made a child of the member by applicable  
147 court action before the death of the member, or a child under the  
148 permanent care of the member at the time of the latter's death,  
149 which permanent care status shall be determined by evidence  
150 satisfactory to the board.

151 (k) "Earned compensation" shall mean the full amount  
152 earned by an employee for a given pay period including any  
153 maintenance furnished up to a maximum of One Hundred Twenty-five  
154 Thousand Dollars (\$125,000.00) per year, and proportionately for  
155 less than one (1) year of service. The value of such maintenance  
156 when not paid in money shall be fixed by the employing state  
157 agency, and, in case of doubt, by the board of trustees as defined  
158 in Section 25-11-15. In any case, earned compensation shall be  
159 limited to the regular periodic compensation paid, exclusive of  
160 litigation fees, bond fees, and other similar extraordinary  
161 nonrecurring payments. In addition, any member in a covered  
162 position, as defined by Public Employees' Retirement System laws  
163 and regulations, who is also employed by another covered agency or  
164 political subdivision shall have the earnings of that additional  
165 employment reported to the Public Employees' Retirement System  
166 regardless of whether the additional employment is sufficient in  
167 itself to be a covered position. In the case of fee officials,  
168 the net earnings from their office after deduction of expenses  
169 shall apply, except that in no case shall earned compensation be  
170 less than the total direct payments made by the state or  
171 governmental subdivisions to the official, and employer and



172 employee contributions shall be paid thereon. In the case of  
173 members of the state Legislature, all remuneration or amounts  
174 paid, except mileage allowance, shall apply. The amount by which  
175 an eligible employee's salary is reduced pursuant to a salary  
176 reduction agreement authorized under Section 25-17-5 shall be  
177 included as earned compensation under this paragraph, provided  
178 this inclusion does not conflict with federal law, including  
179 federal regulations and federal administrative interpretations  
180 thereunder, pertaining to the Federal Insurance Contributions Act  
181 or to Internal Revenue Code Section 125 cafeteria plans.  
182 Compensation in addition to an employee's base salary that is paid  
183 to the employee pursuant to the vacation and sick leave policies  
184 of a municipality or other political subdivision of the state that  
185 employs him which exceeds the maximums authorized by Section  
186 25-3-91 et seq., shall be excluded from the calculation of earned  
187 compensation under this article. The maximum salary applicable  
188 for retirement purposes before July 1, 1992, shall be the salary  
189 of the Governor. Nothing in Section 25-3-31 shall affect the  
190 determination of the earned compensation of any member for the  
191 purposes of this article.

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

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

198 (n) "Executive director" shall mean the secretary to  
199 the board of trustees, as provided in Section 25-11-15(9), and the  
200 administrator of the Public Employees' Retirement System and all  
201 systems under the management of the board of trustees. Wherever  
202 the term "Executive Secretary of the Public Employees' Retirement  
203 System" or "executive secretary" appears in this article or in any



204 other provision of law, it shall be construed to mean the  
205 Executive Director of the Public Employees' Retirement System.

206 (o) "Fiscal year" shall mean the period beginning on  
207 July 1 of any year and ending on June 30 of the next succeeding  
208 year.

209 (p) "Medical board" shall mean the board of physicians  
210 or any governmental or nongovernmental disability determination  
211 service designated by the board of trustees that is qualified to  
212 make disability determinations as provided for in Section  
213 25-11-119.

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

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

218 (s) "Position" means any office or any employment in  
219 the state service, or two (2) or more of them, the duties of which  
220 call for services to be rendered by one (1) person, including  
221 positions jointly employed by federal and state agencies  
222 administering federal and state funds. The employer shall  
223 determine upon initial employment and during the course of  
224 employment of an employee who does not meet the criteria for  
225 coverage in the Public Employees' Retirement System based on the  
226 position held, whether the employee is or becomes eligible for  
227 coverage in the Public Employees' Retirement System based upon any  
228 other employment in a covered agency or political subdivision. If  
229 or when the employee meets the eligibility criteria for coverage  
230 in such other position, then the employer must withhold  
231 contributions and report wages from the noncovered position in  
232 accordance with the provisions for reporting of earned  
233 compensation. Failure to deduct and report those contributions  
234 shall not relieve the employee or employer of liability thereof.  
235 The board shall adopt such rules and regulations as necessary to  
236 implement and enforce this provision.



237           (t) "Prior service" shall mean service rendered before  
238 February 1, 1953, for which credit is allowable under Sections  
239 25-11-105 and 25-11-109, and which shall allow prior service for  
240 any person who is now or becomes a member of the Public Employees'  
241 Retirement System and who does contribute to the system for a  
242 minimum period of four (4) years.

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

246           (v) "Retirement allowance" shall mean an annuity for  
247 life as provided in this article, payable each year in twelve (12)  
248 equal monthly installments beginning as of the date fixed by the  
249 board. The retirement allowance shall be calculated in accordance  
250 with Section 25-11-111. Provided, any spouse who received a  
251 spouse retirement benefit in accordance with Section 25-11-111(d)  
252 prior to March 31, 1971, and said benefits were terminated because  
253 of eligibility for a social security benefit, may again receive  
254 his spouse retirement benefit from and after making application  
255 with the board of trustees to reinstate such spouse retirement  
256 benefit.

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

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

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

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





270 deputies and employees performing public services or any  
271 department, independent agency, board or commission thereof, and  
272 shall also include all offices and positions of trust or  
273 employment in the employ of joint state and federal agencies  
274 administering state and federal funds and service rendered by  
275 employees of the public schools. Effective July 1, 1973, all  
276 nonprofessional public school employees, such as bus drivers,  
277 janitors, maids, maintenance workers and cafeteria employees,  
278 shall have the option to become members in accordance with Section  
279 25-11-105(b), and shall be eligible to receive credit for services  
280 prior to July 1, 1973, provided the contributions and interest are  
281 paid by the employee in accordance with that section; provided,  
282 further, that the county or municipal separate school district may  
283 pay the employer contribution and pro rata share of interest of  
284 the retroactive service from available funds. From and after July  
285 1, 1998, retroactive service credit shall be purchased at the  
286 actuarial cost in accordance with Section 25-11-105(b). Public  
287 school bus drivers shall be eligible to become or remain members  
288 of the retirement system regardless of the number of hours per  
289 week or per month for which they receive compensation.

290 (aa) "Withdrawal from service" shall mean complete  
291 severance of employment in the state service of any member by  
292 resignation, dismissal or discharge.

293 (bb) The masculine pronoun, wherever used, shall  
294 include the feminine pronoun.

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

297 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

298 The membership of this retirement system shall be composed as  
299 follows:

300 (a) All persons who shall become employees in the state  
301 service after January 31, 1953, and whose wages are subject to  
302 payroll taxes and are lawfully reported on IRS Form W-2, except



303 (i) those persons who are specifically excluded, (ii) those  
304 persons to whom election is provided in Articles 1 and 3, or (iii)  
305 those persons who continue to receive a retirement allowance  
306 during their employment as bus drivers under the authority of  
307 Section 25-11-126, shall become members of the retirement system  
308 as a condition of their employment.

309 (b) All persons who shall become employees in the state  
310 service after January 31, 1953, except those specifically excluded  
311 or as to whom election is provided in Articles 1 and 3, unless  
312 they shall file with the board prior to the lapse of sixty (60)  
313 days of employment or sixty (60) days after the effective date of  
314 the cited articles, whichever is later, on a form prescribed by  
315 the board, a notice of election not to be covered by the  
316 membership of the retirement system and a duly executed waiver of  
317 all present and prospective benefits which would otherwise inure  
318 to them on account of their participation in the system, shall  
319 become members of the retirement system; provided, however, that  
320 no credit for prior service will be granted to members until they  
321 have contributed to Article 3 of the retirement system for a  
322 minimum period of at least four (4) years. Such members shall  
323 receive credit for services performed prior to January 1, 1953, in  
324 employment now covered by Article 3, but no credit shall be  
325 granted for retroactive services between January 1, 1953, and the  
326 date of their entry into the retirement system unless the employee  
327 pays into the retirement system both the employer's and the  
328 employee's contributions on wages paid him during the period from  
329 January 31, 1953, to the date of his becoming a contributing  
330 member, together with interest at the rate determined by the board  
331 of trustees. Members reentering after withdrawal from service  
332 shall qualify for prior service under the provisions of Section  
333 25-11-117. From and after July 1, 1998, upon eligibility as noted  
334 above, the member may receive credit for such retroactive service  
335 provided:



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

339                   (2) The member shall pay to the retirement system  
340 on the date he or she is eligible for such credit or at any time  
341 thereafter prior to the date of retirement the actuarial cost for  
342 each year of such creditable service. The provisions of this  
343 subparagraph (2) shall be subject to the limitations of Section  
344 415 of the Internal Revenue Code and regulations promulgated  
345 thereunder.

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

350                   (c) All persons who shall become employees in the state  
351 service after January 31, 1953, and who are eligible for  
352 membership in any other retirement system shall become members of  
353 this retirement system as a condition of their employment unless  
354 they elect at the time of their employment to become a member of  
355 such other system.

356                   (d) All persons who are employees in the state service  
357 on January 31, 1953, and who are members of any nonfunded  
358 retirement system operated by the State of Mississippi, or any of  
359 its departments or agencies, shall become members of this system  
360 with prior service credit unless, before February 1, 1953, they  
361 shall file a written notice with the board of trustees that they  
362 do not elect to become members.

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



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

373 (f) Each political subdivision of the state and each  
374 instrumentality of the state or a political subdivision, or both,  
375 is hereby authorized to submit, for approval by the board of  
376 trustees, a plan for extending the benefits of this article to  
377 employees of any such political subdivision or instrumentality.  
378 Each such plan or any amendment to the plan for extending benefits  
379 thereof shall be approved by the board of trustees if it finds  
380 that such plan, or such plan as amended, is in conformity with  
381 such requirements as are provided in Articles 1 and 3; however,  
382 upon approval of such plan or any such plan heretofore approved by  
383 the board of trustees, the approved plan shall not be subject to  
384 cancellation or termination by the political subdivision or  
385 instrumentality, except that any community hospital serving a  
386 municipality that joined the Public Employees' Retirement System  
387 as of November 1, 1956, to offer social security coverage for its  
388 employees and subsequently extended retirement annuity coverage to  
389 its employees as of December 1, 1965, may, upon documentation of  
390 extreme financial hardship, have future retirement annuity  
391 coverage cancelled or terminated at the discretion of the board of  
392 trustees. No such plan shall be approved unless:

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

400 (2) It specifies the source or sources from which  
401 the funds necessary to make the payments required by paragraph (d)



402 of Section 25-11-123 and of paragraph (f) (5)B and C of this  
403 section are expected to be derived and contains reasonable  
404 assurance that such sources will be adequate for such purpose;

405 (3) It provides for such methods of administration  
406 of the plan by the political subdivision or instrumentality as are  
407 found by the board of trustees to be necessary for the proper and  
408 efficient administration thereof;

409 (4) It provides that the political subdivision or  
410 instrumentality will make such reports, in such form and  
411 containing such information, as the board of trustees may from  
412 time to time require;

413 (5) It authorizes the board of trustees to  
414 terminate the plan in its entirety in the discretion of the board  
415 if it finds that there has been a failure to comply substantially  
416 with any provision contained in such plan, such termination to  
417 take effect at the expiration of such notice and on such  
418 conditions as may be provided by regulations of the board and as  
419 may be consistent with applicable federal law.

420 A. The board of trustees shall not finally  
421 refuse to approve a plan submitted under paragraph (f), and shall  
422 not terminate an approved plan without reasonable notice and  
423 opportunity for hearing to each political subdivision or  
424 instrumentality affected thereby. The board's decision in any  
425 such case shall be final, conclusive and binding unless an appeal  
426 be taken by the political subdivision or instrumentality aggrieved  
427 thereby to the Circuit Court of Hinds County, Mississippi, in  
428 accordance with the provisions of law with respect to civil causes  
429 by certiorari.

430 B. Each political subdivision or  
431 instrumentality as to which a plan has been approved under this  
432 section shall pay into the contribution fund, with respect to  
433 wages (as defined in Section 25-11-5), at such time or times as  
434 the board of trustees may by regulation prescribe, contributions



435 in the amounts and at the rates specified in the applicable  
436 agreement entered into by the board.

437 C. Every political subdivision or  
438 instrumentality required to make payments under paragraph (f) (5)B  
439 hereof is authorized, in consideration of the employees' retention  
440 in or entry upon employment after enactment of Articles 1 and 3,  
441 to impose upon its employees, as to services which are covered by  
442 an approved plan, a contribution with respect to wages (as defined  
443 in Section 25-11-5) not exceeding the amount provided in Section  
444 25-11-123(d) if such services constituted employment within the  
445 meaning of Articles 1 and 3, and to deduct the amount of such  
446 contribution from the wages as and when paid. Contributions so  
447 collected shall be paid into the contribution fund as partial  
448 discharge of the liability of such political subdivisions or  
449 instrumentalities under paragraph (f) (5)B hereof. Failure to  
450 deduct such contribution shall not relieve the employee or  
451 employer of liability thereof.

452 D. Any state agency, school, political  
453 subdivision, instrumentality or any employer that is required to  
454 submit contribution payments or wage reports under any section of  
455 this chapter shall be assessed interest on delinquent payments or  
456 wage reports as determined by the board of trustees in accordance  
457 with rules and regulations adopted by the board and such assessed  
458 interest may be recovered by action in a court of competent  
459 jurisdiction against such reporting agency liable therefor or may,  
460 upon due certification of delinquency and at the request of the  
461 board of trustees, be deducted from any other monies payable to  
462 such reporting agency by any department or agency of the state.

463 E. Each political subdivision of the state  
464 and each instrumentality of the state or a political subdivision  
465 or subdivisions which submits a plan for approval of the board, as  
466 provided in this section, shall reimburse the board for coverage  
467 into the expense account, its pro rata share of the total expense



468 of administering Articles 1 and 3 as provided by regulations of  
469 said board.

470 (g) The board may, in its discretion, deny the right of  
471 membership in this system to any class of employees whose  
472 compensation is only partly paid by the state or who are occupying  
473 positions on a part-time or intermittent basis. The board may, in  
474 its discretion, make optional with employees in any such classes  
475 their individual entrance into this system. However, the board  
476 may not deny the right of membership in the system to public  
477 school bus drivers.

478 (h) An employee whose membership in this system is  
479 contingent on his own election, and who elects not to become a  
480 member, may thereafter apply for and be admitted to membership;  
481 but no such employee shall receive prior service credit unless he  
482 becomes a member prior to July 1, 1953, except as provided in  
483 paragraph (b).

484 (i) In the event any member of this system should  
485 change his employment to any agency of the state having an  
486 actuarially funded retirement system, the board of trustees may  
487 authorize the transfer of the member's creditable service and of  
488 the present value of the member's employer's accumulation account  
489 and of the present value of the member's accumulated membership  
490 contributions to such other system, provided the employee agrees  
491 to the transfer of his accumulated membership contributions and  
492 provided such other system is authorized to receive and agrees to  
493 make such transfer.

494 In the event any member of any other actuarially funded  
495 system maintained by an agency of the state changes his employment  
496 to an agency covered by this system, the board of trustees may  
497 authorize the receipt of the transfer of the member's creditable  
498 service and of the present value of the member's employer's  
499 accumulation account and of the present value of the member's  
500 accumulated membership contributions from such other system,



501 provided the employee agrees to the transfer of his accumulated  
502 membership contributions to this system and provided the other  
503 system is authorized and agrees to make such transfer.

504 (j) Wherever herein state employment is referred to, it  
505 shall include joint employment by state and federal agencies of  
506 all kinds.

507 (k) Employees of a political subdivision or  
508 instrumentality who were employed by such political subdivision or  
509 instrumentality prior to an agreement between such entity and the  
510 Public Employees' Retirement System to extend the benefits of this  
511 article to its employees, and which agreement provides for the  
512 establishment of retroactive service credit, and who have been  
513 members of the retirement system and have remained contributors to  
514 the retirement system for four (4) years, may receive credit for  
515 such retroactive service with such political subdivision or  
516 instrumentality, provided the employee and/or employer, as  
517 provided under the terms of the modification of the joinder  
518 agreement in allowing such coverage, pay into the retirement  
519 system the employer's and employee's contributions on wages paid  
520 the member during such previous employment, together with interest  
521 or actuarial cost as determined by the board covering the period  
522 from the date the service was rendered until the payment for the  
523 credit for such service was made. Such wages shall be verified by  
524 the Social Security Administration or employer payroll records.  
525 Effective July 1, 1998, upon eligibility as noted above, a member  
526 may receive credit for such retroactive service with such  
527 political subdivision or instrumentality provided:

528 (1) The member shall furnish proof satisfactory to  
529 the board of trustees of certification of such services from the  
530 political subdivision or instrumentality where the services were  
531 rendered or verification by the Social Security Administration;  
532 and





533                   (2) The member shall pay to the retirement system  
534 on the date he or she is eligible for such credit or at any time  
535 thereafter prior to the date of retirement the actuarial cost for  
536 each year of such creditable service. The provisions of this  
537 subparagraph (2) shall be subject to the limitations of Section  
538 415 of the Internal Revenue Code and regulations promulgated  
539 thereunder.

540           Nothing contained in this paragraph (k) shall be construed to  
541 limit the authority of the board to allow the correction of  
542 reporting errors or omissions based on the payment of employee and  
543 employer contributions plus applicable interest. Payment for such  
544 time shall be made in increments of not less than one-quarter  
545 (1/4) year of creditable service beginning with the most recent  
546 service. Upon the payment of all or part of such required  
547 contributions, plus interest or the actuarial cost as provided  
548 above, the member shall receive credit for the period of  
549 creditable service for which full payment has been made to the  
550 retirement system.

551           (1) Through June 30, 1998, any state service eligible  
552 for retroactive service credit, no part of which has ever been  
553 reported, and requiring the payment of employee and employer  
554 contributions plus interest, or, from and after July 1, 1998, any  
555 state service eligible for retroactive service credit, no part of  
556 which has ever been reported to the retirement system, and  
557 requiring the payment of the actuarial cost for such creditable  
558 service, may, at the member's option, be purchased in quarterly  
559 increments as provided above at such time as its purchase is  
560 otherwise allowed.

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

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



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

568 (a) Patient or inmate help in state charitable, penal  
569 or correctional institutions;

570 (b) Students of any state educational institution  
571 employed by any agency of the state for temporary, part-time or  
572 intermittent work;

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

576 **III. TERMINATION OF MEMBERSHIP**

577 Membership in this system shall cease by a member withdrawing  
578 his accumulated contributions, or by a member withdrawing from  
579 active service with a retirement allowance, or by a member's  
580 death.

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

583 25-11-127. No person who is being paid a retirement  
584 allowance or a pension after retirement under this article shall  
585 be employed or paid for any service by the State of Mississippi,  
586 except as provided in this section or in Section 25-11-126. This  
587 section shall not apply to any pensioner who has been elected to  
588 public office after retirement, nor to any person employed because  
589 of special knowledge or experience. This section shall not be  
590 construed to mean that any person employed or elected under the  
591 above exceptions shall become a member under Article 3 of the  
592 retirement system, nor shall any retirant of this retirement  
593 system who is reemployed or is reelected to office after  
594 retirement continue to draw retirement benefits while so  
595 reemployed or reelected except those persons who continue to  
596 receive a retirement allowance during their employment as bus  
597 drivers under the authority of Section 25-11-126. Any person who



598 has been retired under the provisions of Articles 1 and 3 and who  
599 is later reemployed in service covered by this article shall cease  
600 to receive benefits under this article unless he continues to  
601 receive a retirement allowance during his employment as a bus  
602 driver under the authority of Section 25-11-126, and the person  
603 shall again become a contributing member of the retirement system;  
604 and when the person retires again, if he has been a contributing  
605 member of the retirement system during his reemployment and his  
606 reemployment exceeds six (6) months, he shall have his benefit  
607 recomputed, including service after again becoming a member,  
608 provided \* \* \* that the total retirement allowance paid to the  
609 retired member in his previous retirement shall be deducted from  
610 his retirement reserve and taken into consideration in  
611 recalculating the retirement allowance under a new option  
612 selected. Nothing contained in this section shall be construed as  
613 prohibiting any county or city not a member of the Public  
614 Employees' Retirement System from employing persons up to the age  
615 of seventy-three (73); and in addition, through June 30, 1988,  
616 nothing contained in this section shall be construed as  
617 prohibiting any governmental unit that is a member from employing  
618 persons up to the age of seventy-three (73) who are not eligible  
619 for membership at the time of employment under Article 3.

620 The board of trustees of the retirement system shall have the  
621 right to prescribe rules and regulations for the carrying out of  
622 this provision.

623 The provisions of this section shall not be construed to  
624 prohibit any retirant, regardless of age, from being employed and  
625 from drawing retirement allowance either (a) for a period of time  
626 not to exceed one hundred twenty (120) days in any fiscal year,  
627 but less than one-half (1/2) of the normal working days for the  
628 position in any fiscal year, or (b) for a period of time in any  
629 fiscal year sufficient in length to permit a retirant to earn not  
630 in excess of twenty-five percent (25%) of retirant's average



631 compensation or the current rate of the salary in effect for the  
632 regular position filled. Notice shall be given in writing to the  
633 executive director of the system, setting forth the facts upon  
634 which the \* \* \* employment is being made, and the notice shall be  
635 given within five (5) days from the date of employment and also  
636 from the date of termination of the employment.

637 \* \* \* Any member who has attained seventy (70) years of age  
638 and who has forty (40) or more years of creditable service may  
639 continue in office or employment or be reemployed or elected,  
640 provided that the person files annually, in writing, in the office  
641 of the employer and the office of the executive director of the  
642 system before those services, a waiver of all salary or  
643 compensation and elects to receive in lieu of that salary or  
644 compensation a retirement allowance as provided in this section,  
645 in which event no salary or compensation shall thereafter be due  
646 or payable for those services. However, any such officer or  
647 employee may receive, in addition to the retirement allowance, any  
648 per diem, office expense allowance, mileage or travel expense  
649 authorized by any statute of the State of Mississippi.

650 Any \* \* \* member may continue in municipal or county office  
651 or employment or be reemployed or elected in a municipality or  
652 county, provided that the person files annually, in writing, in  
653 the office of the employer and the office of the executive  
654 director of the system before those services, a waiver of all  
655 salary or compensation and elects to receive in lieu of that  
656 salary or compensation a retirement allowance as provided in this  
657 section, in which event no salary or compensation shall thereafter  
658 be due or payable for those services. However, any such officer  
659 or employee may receive, in addition to the retirement allowance,  
660 any per diem, office expense allowance, mileage or travel expense  
661 authorized by any statute of the State of Mississippi.

662 SECTION 5. Section 25-15-3, Mississippi Code of 1972, is  
663 amended as follows:



664 25-15-3. For the purposes of this article, the words and  
665 phrases used herein shall have the following meanings:

666 (a) "Employee" means any person who works full time for  
667 the State of Mississippi and receives his compensation in a direct  
668 payment from a department, agency or institution of the state  
669 government and any person who works full time for any school  
670 district, community/junior college, public library or  
671 university-based program authorized under Section 37-23-31 for  
672 deaf, aphasic and emotionally disturbed children or any regular  
673 nonstudent bus driver. This term includes legislators, employees  
674 of the legislative branch and the judicial branch of the state,  
675 full-time salaried judges and full-time district attorneys and  
676 their staff and full-time compulsory school attendance officers.  
677 For the purposes of this article, any "employee" making  
678 contributions to the Public Employees' Retirement System or the  
679 Mississippi Highway Patrol Retirement System shall be considered a  
680 full-time employee; however, any person who is employed as a bus  
681 driver under the authority of Section 25-11-126 shall be  
682 considered a full-time employee even though the person is not a  
683 contributing member of the Public Employees' Retirement System.

684 (b) "Department" means the Department of Finance and  
685 Administration.

686 (c) "Plan" means the State and School Employees Life  
687 and Health Insurance Plan created under this article.

688 (d) "Fund" means the State and School Employees  
689 Insurance Fund set up under this article.

690 (e) "Retiree" or "retired employee" means any employee  
691 who is retired under the Public Employees' Retirement System or  
692 the Mississippi Highway Patrol Retirement System and is receiving  
693 a retirement allowance from either system.

694 (f) "Board" means the State and School Employees Health  
695 Insurance Management Board created under Section 25-15-303.



696 SECTION 6. Section 25-15-13, Mississippi Code of 1972, is  
697 amended as follows:

698 25-15-13. Each eligible employee may participate in the  
699 plan by signing up for the plan at the time of employment. Each  
700 eligible employee who declines coverage under the plan must sign a  
701 waiver of coverage. After acceptance in the plan, the employee  
702 may cease his or her participation by filing a specific disclaimer  
703 with the board. Forms for this purpose shall be prescribed and  
704 issued by the board. All eligible employees will be eligible to  
705 participate in the plan on the effective date of the plan or on  
706 the date on which they are employed by the state, whichever is  
707 later, provided they make the necessary contributions as provided  
708 in this article. Spouses of employees, unmarried dependent  
709 children from birth to age nineteen (19) years, unmarried  
710 dependent children who are full-time students up to age  
711 twenty-five (25) years, and physically or mentally handicapped  
712 children, regardless of age, are eligible under the plan as of the  
713 date the employee becomes eligible. If both spouses are eligible  
714 employees who participate in the plan, the benefits shall apply  
715 individually to each spouse by virtue of his or her participation  
716 in the plan. If those spouses also have one or more eligible  
717 dependents participating in the plan, the cost of their dependents  
718 shall be calculated at a special family plan rate. The cost for  
719 participation by the dependents shall be paid by the spouse who  
720 elects to carry such dependents under his or her coverage.

721 Any person who is employed as a bus driver under the  
722 authority of Section 25-11-126 shall be eligible to continue  
723 health insurance and life insurance coverage under the plan upon  
724 termination of employment as a bus driver, in the same manner and  
725 subject to the same limitations as any other retired employee.

726 SECTION 7. This act shall take effect and be in force from  
727 and after July 1, 2001.

