HOUSE BILL NO. 32

AN ACT TO AMEND SECTION 25-11-127, MISSISSIPPI CODE OF 1972, TO AUTHORIZE RETIREEs UNDER THE PUBLIC EMPLOYEES RETIREMENT SYSTEM WHO HAD AT LEAST 25 YEARS OF CREDITABLE SERVICE AT THE TIME OF THEIR RETIREMENT TO BE EMPLOYED IN STATE SERVICE AND DRAW A RETIREMENT ALLOWANCE FOR A PERIOD OF TIME NOT TO EXCEED 185 DAYS IN ANY FISCAL YEAR; TO PROVIDE THAT ANY PERSON EMPLOYED UNDER THIS PROVISION SHALL NOT BE AN ACTIVE MEMBER OF THE RETIREMENT SYSTEM AND SHALL NOT RECEIVE ANY CREDITABLE SERVICE FOR THE PERIOD DURING WHICH HE IS EMPLOYED UNDER THIS PROVISION; TO PROVIDE THAT THE EMPLOYER OF A PERSON EMPLOYED UNDER THIS PROVISION SHALL DEDUCT EMPLOYEE CONTRIBUTIONS AND MAKE EMPLOYER CONTRIBUTIONS ON BEHALF OF THE PERSON; TO PROVIDE THAT THE RETIREMENT ALLOWANCE OF THE PERSON SHALL NOT BE ENHANCED OR DIMINISHED AS A RESULT OF THAT EMPLOYMENT; TO AMEND SECTION 25-11-117, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A MEMBER EMPLOYED UNDER THE ABOVE PROVISION MAY NOT RECEIVE A REFUND OF THE AMOUNT OF EMPLOYEE CONTRIBUTIONS, OR INTEREST EARNED ON THOSE CONTRIBUTIONS, THAT WERE MADE DURING ANY PERIOD WHEN HE WAS SO EMPLOYED; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 25-11-127, Mississippi Code of 1972, is amended as follows:

25-11-127. (1) No person who is being paid a retirement allowance or a pension after retirement under this article shall be employed or paid for any service by the State of Mississippi, except as provided in this section. This section shall not apply to any pensioner who has been elected to public office after retirement, nor to any person employed because of special knowledge or experience. This section shall not be construed to mean that any person employed or elected under the above exceptions shall become a member under Article 3 of the retirement system, nor shall any retirant of this retirement system who is reemployed or is reelected to office after retirement continue to draw retirement benefits while so reemployed. Any person who has been retired under the provisions of Articles 1 and 3 and who is later reemployed in service covered by this article shall cease to
receive benefits under this article and shall again become a
contributing member of the retirement system; and when the person
retires again ***, if his reemployment exceeds six (6) months, he
shall have his benefit recomputed, including service after
again becoming a member*** provided ** that the total retirement
allowance paid to the retired member in his previous retirement
shall be deducted from his retirement reserve and taken into
consideration in recalculating the retirement allowance under a
new option selected. Nothing contained in this section shall be
construed as prohibiting any county or city not a member of the
Public Employees' Retirement System from employing persons up to
the age of seventy-three (73); and in addition, through June 30, 1988,
nothing contained in this section shall be construed as
prohibiting any governmental unit that is a member from employing
persons up to the age of seventy-three (73) who are not eligible
for membership at the time of employment under Article 3.

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

(2) The provisions of this section shall not be construed to
prohibit any retirant regardless of age from being employed and
from drawing retirement allowance either (a) for a period of time
not to exceed one hundred twenty (120) days in any fiscal year,
but less than one-half (1/2) of the normal working days for the
position in any fiscal year, or (b) for a period of time in any
fiscal year sufficient in length to permit a retirant to earn not
in excess of twenty-five percent (25%) of retirant's average
compensation or the current rate of the salary in effect for the
regular position filled. Notice shall be given in writing to the
executive director of the system, setting forth the facts upon
which the *** employment is being made, and the notice shall be
given within five (5) days from the date of employment and also
from the date of termination of the employment.
(3) The provisions of this section shall not be construed to prohibit any retirant, regardless of age, who had at least twenty-five (25) years of creditable service at the time of his retirement from being employed and from drawing a retirement allowance for a period of time not to exceed one hundred eighty-five (185) days in any fiscal year. The employment may begin at any time following the date of retirement. Notice shall be given in writing to the executive director of the system, setting forth the facts upon which the employment is being made, and the notice shall be given within five (5) days from the date of employment and also from the date of termination of the employment. Any person employed under this subsection shall not be an active member of the retirement system and shall not receive any creditable service for the period during which he is employed. The employer shall deduct employee contributions for any person employed under this subsection and shall make employer contributions on behalf of the person in the same manner as provided in Section 25-11-123 for active members for the period during which the person is employed, and the employer shall pay the contributions to the retirement system. The retirement allowance of any person employed under this subsection shall not be enhanced or diminished as a result of that employment.

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

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

SECTION 2. Section 25-11-117, Mississippi Code of 1972, is
amended as follows:

25-11-117. (1) A member may be paid a refund of the amount
of accumulated contributions to the credit of the member in the
annuity savings account, provided that the member has withdrawn
from state service and has not returned to state service on
the date the refund of the accumulated contributions would be
paid. However, a member may not receive a refund of the amount of
employee contributions, or interest earned on those contributions,
that were made during any period when he was employed under the
provisions of Section 25-11-127(3). The refund of the
contributions to the credit of the member in the annuity savings
account shall be paid within ninety (90) days from receipt in the
office of the retirement system of the properly completed form
requesting that payment. In the event of death before retirement
of any member whose spouse and/or children are not entitled to a
retirement allowance, the accumulated contributions to the credit
of the deceased member in the annuity savings account shall be
paid to the designated beneficiary on file in writing in the
office of executive director of the board of trustees within ninety (90) days from receipt of a properly completed form requesting that payment. If there is no such designated beneficiary on file for that deceased member in the office of the system, upon the filing of a proper request with the board, the contributions to the credit of the deceased member in the annuity savings account shall be refunded under Section 25-11-117.1(1). The payment of the refund shall discharge all obligations of the retirement system to the member on account of any creditable service rendered by the member before the receipt of the refund. By the acceptance of the refund, the member shall waive and relinquish all accrued rights in the system.

(2) Under the Unemployment Compensation Amendments of 1992 (Public Law 102-318 (UCA)), a member or eligible beneficiary eligible for a refund under this section may elect on a form prescribed by the board under rules and regulations established by the board, to have an eligible rollover distribution of accumulated contributions payable under this section paid directly to an eligible retirement plan or individual retirement account. If the member or eligible beneficiary makes that election and specifies the eligible retirement plan or individual retirement account to which the distribution is to be paid, the distribution will be made in the form of a direct trustee-to-trustee transfer to the specified eligible retirement plan. Flexible rollovers under this subsection shall not be considered assignments under Section 25-11-129.

(3) If any person who has received a refund reenters the state service and again becomes a member of the system, the member may repay all or part of the amounts previously received as a refund, together with regular interest covering the period from the date of refund to the date of repayment. However, the amounts that are repaid by the member and the creditable service related thereto shall not be used in any benefit...
calculation or determination until the member has remained a contributor to the system for a period of at least four (4) years after the member's reentry into state service. Repayment for that time shall be made in increments of not less than one-quarter (1/4) year of creditable service beginning with the most recent service for which refund has been made. Upon the repayment of all or part of the refund and interest, the member shall again receive credit for the period of creditable service for which full repayment has been made to the system.

SECTION 3. This act shall take effect and be in force from and after July 1, 2001.