

By: Representative Fleming

To: Appropriations

HOUSE BILL NO. 32

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

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

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

22 25-11-127. (1) No person who is being paid a retirement  
 23 allowance or a pension after retirement under this article shall  
 24 be employed or paid for any service by the State of Mississippi,  
 25 except as provided in this section. This section shall not apply  
 26 to any pensioner who has been elected to public office after  
 27 retirement, nor to any person employed because of special  
 28 knowledge or experience. This section shall not be construed to  
 29 mean that any person employed or elected under the above  
 30 exceptions shall become a member under Article 3 of the retirement  
 31 system, nor shall any retirant of this retirement system who is  
 32 reemployed or is reelected to office after retirement continue to  
 33 draw retirement benefits while so reemployed. Any person who has  
 34 been retired under the provisions of Articles 1 and 3 and who is  
 35 later reemployed in service covered by this article shall cease to



36 receive benefits under this article and shall again become a  
37 contributing member of the retirement system; and when the person  
38 retires again \* \* \*, if his reemployment exceeds six (6) months,  
39 he shall have his benefit recomputed, including service after  
40 again becoming a member, provided \* \* \* that the total retirement  
41 allowance paid to the retired member in his previous retirement  
42 shall be deducted from his retirement reserve and taken into  
43 consideration in recalculating the retirement allowance under a  
44 new option selected. Nothing contained in this section shall be  
45 construed as prohibiting any county or city not a member of the  
46 Public Employees' Retirement System from employing persons up to  
47 the age of seventy-three (73); and in addition, through June 30,  
48 1988, nothing contained in this section shall be construed as  
49 prohibiting any governmental unit that is a member from employing  
50 persons up to the age of seventy-three (73) who are not eligible  
51 for membership at the time of employment under Article 3.

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

55 (2) The provisions of this section shall not be construed to  
56 prohibit any retirant, regardless of age, from being employed and  
57 from drawing retirement allowance either (a) for a period of time  
58 not to exceed one hundred twenty (120) days in any fiscal year,  
59 but less than one-half (1/2) of the normal working days for the  
60 position in any fiscal year, or (b) for a period of time in any  
61 fiscal year sufficient in length to permit a retirant to earn not  
62 in excess of twenty-five percent (25%) of retirant's average  
63 compensation or the current rate of the salary in effect for the  
64 regular position filled. Notice shall be given in writing to the  
65 executive director of the system, setting forth the facts upon  
66 which the \* \* \* employment is being made, and the notice shall be  
67 given within five (5) days from the date of employment and also  
68 from the date of termination of the employment.



69       (3) The provisions of this section shall not be construed to  
70 prohibit any retirant, regardless of age, who had at least  
71 twenty-five (25) years of creditable service at the time of his  
72 retirement from being employed and from drawing a retirement  
73 allowance for a period of time not to exceed one hundred  
74 eighty-five (185) days in any fiscal year. The employment may  
75 begin at any time following the date of retirement. Notice shall  
76 be given in writing to the executive director of the system,  
77 setting forth the facts upon which the employment is being made,  
78 and the notice shall be given within five (5) days from the date  
79 of employment and also from the date of termination of the  
80 employment. Any person employed under this subsection shall not  
81 be an active member of the retirement system and shall not receive  
82 any creditable service for the period during which he is employed.  
83 The employer shall deduct employee contributions for any person  
84 employed under this subsection and shall make employer  
85 contributions on behalf of the person in the same manner as  
86 provided in Section 25-11-123 for active members for the period  
87 during which the person is employed, and the employer shall pay  
88 the contributions to the retirement system. The retirement  
89 allowance of any person employed under this subsection shall not  
90 be enhanced or diminished as a result of that employment.

91       (4) \* \* \* Any member who has attained seventy (70) years of  
92 age and who has forty (40) or more years of creditable service may  
93 continue in office or employment or be reemployed or elected  
94 provided that the person files annually, in writing, in the office  
95 of the employer and the office of the executive director of the  
96 system before those services, a waiver of all salary or  
97 compensation and elects to receive in lieu of that salary or  
98 compensation a retirement allowance as provided in this section,  
99 in which event no salary or compensation shall thereafter be due  
100 or payable for those services. However, any such officer or  
101 employee may receive, in addition to the retirement allowance, any



102 per diem, office expense allowance, mileage or travel expense  
103 authorized by any statute of the State of Mississippi.

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

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

118 25-11-117. (1) A member may be paid a refund of the amount  
119 of accumulated contributions to the credit of the member in the  
120 annuity savings account, provided that the member has withdrawn  
121 from state service and \* \* \* has not returned to state service on  
122 the date the refund of the accumulated contributions would be  
123 paid. However, a member may not receive a refund of the amount of  
124 employee contributions, or interest earned on those contributions,  
125 that were made during any period when he was employed under the  
126 provisions of Section 25-11-127(3). The refund of the  
127 contributions to the credit of the member in the annuity savings  
128 account shall be paid within ninety (90) days from receipt in the  
129 office of the retirement system of the properly completed form  
130 requesting that payment. In the event of death before retirement  
131 of any member whose spouse and/or children are not entitled to a  
132 retirement allowance, the accumulated contributions to the credit  
133 of the deceased member in the annuity savings account shall be  
134 paid to the designated beneficiary on file in writing in the



135 office of executive director of the board of trustees within  
136 ninety (90) days from receipt of a properly completed form  
137 requesting that payment. If there is no such designated  
138 beneficiary on file for that deceased member in the office of the  
139 system, upon the filing of a proper request with the board, the  
140 contributions to the credit of the deceased member in the annuity  
141 savings account shall be refunded under Section 25-11-117.1(1).  
142 The payment of the refund shall discharge all obligations of the  
143 retirement system to the member on account of any creditable  
144 service rendered by the member before the receipt of the refund.  
145 By the acceptance of the refund, the member shall waive and  
146 relinquish all accrued rights in the system.

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

161 (3) If any person who has received a refund reenters the  
162 state service and again becomes a member of the system, the member  
163 may repay all or part of the amounts previously received as a  
164 refund, together with regular interest covering the period from  
165 the date of refund to the date of repayment \* \* \*. However, \* \* \*  
166 the amounts that are repaid by the member and the creditable  
167 service related thereto shall not be used in any benefit



168 calculation or determination until the member has remained a  
169 contributor to the system for a period of at least four (4) years  
170 after the member's reentry into state service. Repayment for that  
171 time shall be made in increments of not less than one-quarter  
172 (1/4) year of creditable service beginning with the most recent  
173 service for which refund has been made. Upon the repayment of all  
174 or part of the refund and interest, the member shall again receive  
175 credit for the period of creditable service for which full  
176 repayment has been made to the system.

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

