

By: Representative Chism

To: Appropriations

HOUSE BILL NO. 38

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 A  
 4 MUNICIPAL OFFICE AFTER RETIREMENT, AND ELECTED OFFICIALS IN A  
 5 MUNICIPAL OFFICE WHO BECOME ELIGIBLE TO RECEIVE A RETIREMENT  
 6 ALLOWANCE FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHILE  
 7 HOLDING THAT OFFICE, MAY RECEIVE A RETIREMENT ALLOWANCE FROM THE  
 8 SYSTEM WHILE HOLDING THE OFFICE IN ADDITION TO RECEIVING THE  
 9 REGULAR COMPENSATION FOR THE OFFICE; TO PROVIDE THAT THOSE PERSONS  
 10 SHALL NOT BE CONTRIBUTING MEMBERS OF THE RETIREMENT SYSTEM OR  
 11 RECEIVE ANY CREDITABLE SERVICE FOR THE PERIOD DURING WHICH THEY  
 12 RECEIVE A RETIREMENT ALLOWANCE WHILE HOLDING THE OFFICE; TO AMEND  
 13 SECTIONS 25-11-103, 25-11-105 AND 25-11-127, MISSISSIPPI CODE OF  
 14 1972, IN CONFORMITY WITH THE PROVISIONS OF THIS ACT; AND FOR  
 15 RELATED PURPOSES.

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

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

19 25-11-126. (1) (a) Any person who is receiving a  
 20 retirement allowance under this article and who is elected to a  
 21 municipal office after retirement, and (b) any elected official in  
 22 a municipal office who becomes eligible to receive a retirement  
 23 allowance under this article while holding that office, may choose  
 24 to receive or continue to receive a retirement allowance under  
 25 this article while holding the office in addition to receiving the  
 26 regular compensation for the office in the manner provided in this  
 27 section.

28 (2) Any person who is receiving a retirement allowance and  
 29 who is elected to a municipal office after retirement shall notify  
 30 the executive director of the system before taking office about  
 31 his choice on continuing to receive the retirement allowance while  
 32 holding the office. If the person chooses not to continue  
 33 receiving the retirement allowance while holding the office, the



34 retirement allowance shall cease on the day that he begins serving  
35 in the office. After leaving the office, in order to begin  
36 receiving a retirement allowance under this article again, the  
37 person shall make application to the executive director of the  
38 system, and the retirement allowance shall begin on the first of  
39 the month following the date that the application is received by  
40 the executive director.

41 (3) Any elected official in a municipal office who becomes  
42 eligible to receive a retirement allowance while holding that  
43 office and who chooses to receive a retirement allowance while  
44 holding the office shall make application to the executive  
45 director of the system, and the retirement allowance shall begin  
46 on the first of the month following the date that the application  
47 is received by the executive director. Those elected officials  
48 shall not be required to withdraw from service in order to receive  
49 the retirement allowance.

50 (4) Any person who receives or continues to receive a  
51 retirement allowance under this article while holding a municipal  
52 office as authorized by this section shall not be a contributing  
53 member of the retirement system or receive any creditable service  
54 for the period during which he receives a retirement allowance  
55 while holding the office. Any such person who chooses not to  
56 receive a retirement allowance while holding the office shall be a  
57 contributing member of the retirement system and shall receive  
58 creditable service for the period during which he holds the office  
59 without receiving a retirement allowance. If the person has  
60 previously received a retirement allowance under this article and  
61 he holds the office for more than six (6) months without receiving  
62 a retirement allowance, he shall have his allowance recomputed  
63 when he retires again, which shall include the service after he  
64 again became a contributing member of the retirement system.

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



67           25-11-103. The following words and phrases as used in  
68 Articles 1 and 3, unless a different meaning is plainly required  
69 by the context, shall have the following meanings:

70           (a) "Accumulated contributions" shall mean the sum of  
71 all the amounts deducted from the compensation of a member and  
72 credited to his individual account in the annuity savings account,  
73 together with regular interest thereon as provided in Section  
74 25-11-123.

75           (b) "Actuarial cost" shall mean the amount of funds  
76 presently required to provide future benefits as determined by the  
77 board based on applicable tables and formulas provided by the  
78 actuary.

79           (c) "Actuarial equivalent" shall mean a benefit of  
80 equal value to the accumulated contributions, annuity or benefit,  
81 as the case may be, when computed upon the basis of such mortality  
82 tables as shall be adopted by the board of trustees, and regular  
83 interest.

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

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

89           (f) "Average compensation" shall mean the average of  
90 the four (4) highest years of earned compensation reported for an  
91 employee in a fiscal or calendar year period, or combination  
92 thereof which do not overlap, or the last forty-eight (48)  
93 consecutive months of earned compensation reported for an  
94 employee. The four (4) years need not be successive or joined  
95 years of service. In no case shall the average compensation so  
96 determined be in excess of One Hundred Twenty-five Thousand  
97 Dollars (\$125,000.00). In computing the average compensation, any  
98 amount paid in a lump sum for personal leave shall be included in  
99 the calculation to the extent that such amount does not exceed an



100 amount which is equal to thirty (30) days of earned compensation  
101 and to the extent that it does not cause the employees' earned  
102 compensation to exceed the maximum reportable amount specified in  
103 Section 25-11-103(k); provided, however, that such thirty-day  
104 limitation shall not prevent the inclusion in the calculation of  
105 leave earned under federal regulations prior to July 1, 1976, and  
106 frozen as of that date as referred to in Section 25-3-99. Only  
107 the amount of lump sum pay for personal leave due and paid upon  
108 the death of a member attributable for up to one hundred fifty  
109 (150) days shall be used in the deceased member's average  
110 compensation calculation in determining the beneficiary's  
111 benefits. In computing the average compensation, no amounts shall  
112 be used which are in excess of the amount on which contributions  
113 were required and paid. If any member who is or has been granted  
114 any increase in annual salary or compensation of more than eight  
115 percent (8%) retires within twenty-four (24) months from the date  
116 that such increase becomes effective, then the board shall exclude  
117 that part of the increase in salary or compensation that exceeds  
118 eight percent (8%) in calculating that member's average  
119 compensation for retirement purposes. The board may enforce this  
120 provision by rule or regulation. However, increases in  
121 compensation in excess of eight percent (8%) per year granted  
122 within twenty-four (24) months of the date of retirement may be  
123 included in such calculation of average compensation if  
124 satisfactory proof is presented to the board showing that the  
125 increase in compensation was the result of an actual change in the  
126 position held or services rendered, or that such compensation  
127 increase was authorized by the State Personnel Board or was  
128 increased as a result of statutory enactment, and the employer  
129 furnishes an affidavit stating that such increase granted within  
130 the last twenty-four (24) months was not contingent on a promise  
131 or agreement of the employee to retire. Nothing in Section  
132 25-3-31 shall affect the calculation of the average compensation



133 of any member for the purposes of this article. The average  
134 compensation of any member who retires before July 1, 1992, shall  
135 not exceed the annual salary of the Governor.

136 (g) "Beneficiary" shall mean any person entitled to  
137 receive a retirement allowance, an annuity or other benefit as  
138 provided by Articles 1 and 3. In the event of the death prior to  
139 retirement of any member whose spouse and/or children are not  
140 entitled to a retirement allowance on the basis that the member  
141 has less than four (4) years of service credit and/or has not been  
142 married for a minimum of one (1) year or the spouse has waived his  
143 or her entitlement to a retirement allowance pursuant to Section  
144 25-11-114, the lawful spouse of a member at the time of the death  
145 of such member shall be the beneficiary of such member unless the  
146 member has designated another beneficiary subsequent to the date  
147 of marriage in writing, and filed such writing in the office of  
148 the executive director of the board of trustees. No designation  
149 or change of beneficiary shall be made in any other manner.

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

153 (i) "Creditable service" shall mean "prior service,"  
154 "retroactive service" and all lawfully credited unused leave not  
155 exceeding the accrual rates and limitations provided in Section  
156 25-3-91 et seq., as of the date of withdrawal from service plus  
157 "membership service" for which credit is allowable as provided in  
158 Section 25-11-109. Except to limit creditable service reported to  
159 the system for the purpose of computing an employee's retirement  
160 allowance or annuity or benefits provided in this article, nothing  
161 in this paragraph shall limit or otherwise restrict the power of  
162 the governing authority of a municipality or other political  
163 subdivision of the state to adopt such vacation and sick leave  
164 policies as it deems necessary.



165           (j) "Child" means either a natural child of the member,  
166 a child that has been made a child of the member by applicable  
167 court action before the death of the member, or a child under the  
168 permanent care of the member at the time of the latter's death,  
169 which permanent care status shall be determined by evidence  
170 satisfactory to the board.

171           (k) "Earned compensation" shall mean the full amount  
172 earned by an employee for a given pay period including any  
173 maintenance furnished up to a maximum of One Hundred Twenty-five  
174 Thousand Dollars (\$125,000.00) per year, and proportionately for  
175 less than one (1) year of service. The value of such maintenance  
176 when not paid in money shall be fixed by the employing state  
177 agency, and, in case of doubt, by the board of trustees as defined  
178 in Section 25-11-15. In any case, earned compensation shall be  
179 limited to the regular periodic compensation paid, exclusive of  
180 litigation fees, bond fees, and other similar extraordinary  
181 nonrecurring payments. In addition, any member in a covered  
182 position, as defined by Public Employees' Retirement System laws  
183 and regulations, who is also employed by another covered agency or  
184 political subdivision shall have the earnings of that additional  
185 employment reported to the Public Employees' Retirement System  
186 regardless of whether the additional employment is sufficient in  
187 itself to be a covered position. In the case of fee officials,  
188 the net earnings from their office after deduction of expenses  
189 shall apply, except that in no case shall earned compensation be  
190 less than the total direct payments made by the state or  
191 governmental subdivisions to the official, and employer and  
192 employee contributions shall be paid thereon. In the case of  
193 members of the state Legislature, all remuneration or amounts  
194 paid, except mileage allowance, shall apply. The amount by which  
195 an eligible employee's salary is reduced pursuant to a salary  
196 reduction agreement authorized under Section 25-17-5 shall be  
197 included as earned compensation under this paragraph, provided



198 this inclusion does not conflict with federal law, including  
199 federal regulations and federal administrative interpretations  
200 thereunder, pertaining to the Federal Insurance Contributions Act  
201 or to Internal Revenue Code Section 125 cafeteria plans.  
202 Compensation in addition to an employee's base salary that is paid  
203 to the employee pursuant to the vacation and sick leave policies  
204 of a municipality or other political subdivision of the state that  
205 employs him which exceeds the maximums authorized by Section  
206 25-3-91 et seq., shall be excluded from the calculation of earned  
207 compensation under this article. The maximum salary applicable  
208 for retirement purposes before July 1, 1992, shall be the salary  
209 of the Governor. Nothing in Section 25-3-31 shall affect the  
210 determination of the earned compensation of any member for the  
211 purposes of this article.

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

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

218 (n) "Executive director" shall mean the secretary to  
219 the board of trustees, as provided in Section 25-11-15(9), and the  
220 administrator of the Public Employees' Retirement System and all  
221 systems under the management of the board of trustees. Wherever  
222 the term "Executive Secretary of the Public Employees' Retirement  
223 System" or "executive secretary" appears in this article or in any  
224 other provision of law, it shall be construed to mean the  
225 Executive Director of the Public Employees' Retirement System.

226 (o) "Fiscal year" shall mean the period beginning on  
227 July 1 of any year and ending on June 30 of the next succeeding  
228 year.

229 (p) "Medical board" shall mean the board of physicians  
230 or any governmental or nongovernmental disability determination



231 service designated by the board of trustees that is qualified to  
232 make disability determinations as provided for in Section  
233 25-11-119.

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

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

238 (s) "Position" means any office or any employment in  
239 the state service, or two (2) or more of them, the duties of which  
240 call for services to be rendered by one (1) person, including  
241 positions jointly employed by federal and state agencies  
242 administering federal and state funds. The employer shall  
243 determine upon initial employment and during the course of  
244 employment of an employee who does not meet the criteria for  
245 coverage in the Public Employees' Retirement System based on the  
246 position held, whether the employee is or becomes eligible for  
247 coverage in the Public Employees' Retirement System based upon any  
248 other employment in a covered agency or political subdivision. If  
249 or when the employee meets the eligibility criteria for coverage  
250 in such other position, then the employer must withhold  
251 contributions and report wages from the noncovered position in  
252 accordance with the provisions for reporting of earned  
253 compensation. Failure to deduct and report those contributions  
254 shall not relieve the employee or employer of liability thereof.  
255 The board shall adopt such rules and regulations as necessary to  
256 implement and enforce this provision.

257 (t) "Prior service" shall mean service rendered before  
258 February 1, 1953, for which credit is allowable under Sections  
259 25-11-105 and 25-11-109, and which shall allow prior service for  
260 any person who is now or becomes a member of the Public Employees'  
261 Retirement System and who does contribute to the system for a  
262 minimum period of four (4) years.





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

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

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

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

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

285 (z) "State service" shall mean all offices and  
286 positions of trust or employment in the employ of the state, or  
287 any political subdivision or instrumentality thereof, which elect  
288 to participate as provided by Section 25-11-105(f), including the  
289 position of elected or fee officials of the counties and their  
290 deputies and employees performing public services or any  
291 department, independent agency, board or commission thereof, and  
292 shall also include all offices and positions of trust or  
293 employment in the employ of joint state and federal agencies  
294 administering state and federal funds and service rendered by  
295 employees of the public schools. Effective July 1, 1973, all



296 nonprofessional public school employees, such as bus drivers,  
297 janitors, maids, maintenance workers and cafeteria employees,  
298 shall have the option to become members in accordance with Section  
299 25-11-105(b), and shall be eligible to receive credit for services  
300 prior to July 1, 1973, provided the contributions and interest are  
301 paid by the employee in accordance with that section; provided,  
302 further, that the county or municipal separate school district may  
303 pay the employer contribution and pro rata share of interest of  
304 the retroactive service from available funds. From and after July  
305 1, 1998, retroactive service credit shall be purchased at the  
306 actuarial cost in accordance with Section 25-11-105(b).

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

314 (bb) The masculine pronoun, wherever used, shall  
315 include the feminine pronoun.

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

318 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

319 The membership of this retirement system shall be composed as  
320 follows:

321 (a) All persons who shall become employees in the state  
322 service after January 31, 1953, and whose wages are subject to  
323 payroll taxes and are lawfully reported on IRS Form W-2, except  
324 (i) those persons who are specifically excluded, (ii) those  
325 persons to whom election is provided in Articles 1 and 3, and  
326 (iii) those elected officials who choose to receive or continue to  
327 receive a retirement allowance while holding the office as



328 authorized by Section 25-11-126, shall become members of the  
329 retirement system as a condition of their employment.

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

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



360                   (2) The member shall pay to the retirement system  
361 on the date he or she is eligible for such credit or at any time  
362 thereafter prior to the date of retirement the actuarial cost for  
363 each year of such creditable service. The provisions of this  
364 subparagraph (2) shall be subject to the limitations of Section  
365 415 of the Internal Revenue Code and regulations promulgated  
366 thereunder.

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

371           (c) All persons who shall become employees in the state  
372 service after January 31, 1953, and who are eligible for  
373 membership in any other retirement system shall become members of  
374 this retirement system as a condition of their employment unless  
375 they elect at the time of their employment to become a member of  
376 such other system.

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

384           (e) All persons who are employees in the state service  
385 on January 31, 1953, and who under existing laws are members of  
386 any fund operated for the retirement of employees by the State of  
387 Mississippi, or any of its departments or agencies, shall not be  
388 entitled to membership in this retirement system unless, before  
389 February 1, 1953, any such person shall indicate by a notice filed  
390 with the board, on a form prescribed by the board, his individual  
391 election and choice to participate in this system, but no such



392 person shall receive prior service credit unless he becomes a  
393 member on or before February 1, 1953.

394 (f) Each political subdivision of the state and each  
395 instrumentality of the state or a political subdivision, or both,  
396 is hereby authorized to submit, for approval by the board of  
397 trustees, a plan for extending the benefits of this article to  
398 employees of any such political subdivision or instrumentality.  
399 Each such plan or any amendment to the plan for extending benefits  
400 thereof shall be approved by the board of trustees if it finds  
401 that such plan, or such plan as amended, is in conformity with  
402 such requirements as are provided in Articles 1 and 3; however,  
403 upon approval of such plan or any such plan heretofore approved by  
404 the board of trustees, the approved plan shall not be subject to  
405 cancellation or termination by the political subdivision or  
406 instrumentality, except that any community hospital serving a  
407 municipality that joined the Public Employees' Retirement System  
408 as of November 1, 1956, to offer social security coverage for its  
409 employees and subsequently extended retirement annuity coverage to  
410 its employees as of December 1, 1965, may, upon documentation of  
411 extreme financial hardship, have future retirement annuity  
412 coverage cancelled or terminated at the discretion of the board of  
413 trustees. No such plan shall be approved unless:

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

421 (2) It specifies the source or sources from which  
422 the funds necessary to make the payments required by paragraph (d)  
423 of Section 25-11-123 and of paragraph (f) (5)B and C of this



424 section are expected to be derived and contains reasonable  
425 assurance that such sources will be adequate for such purpose;

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

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

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

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

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



456 in the amounts and at the rates specified in the applicable  
457 agreement entered into by the board.

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

473 D. Any state agency, school, political  
474 subdivision, instrumentality or any employer that is required to  
475 submit contribution payments or wage reports under any section of  
476 this chapter shall be assessed interest on delinquent payments or  
477 wage reports as determined by the board of trustees in accordance  
478 with rules and regulations adopted by the board and such assessed  
479 interest may be recovered by action in a court of competent  
480 jurisdiction against such reporting agency liable therefor or may,  
481 upon due certification of delinquency and at the request of the  
482 board of trustees, be deducted from any other monies payable to  
483 such reporting agency by any department or agency of the state.

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



489 of administering Articles 1 and 3 as provided by regulations of  
490 said board.

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

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

503 (i) In the event any member of this system should  
504 change his employment to any agency of the state having an  
505 actuarially funded retirement system, the board of trustees may  
506 authorize the transfer of the member's creditable service and of  
507 the present value of the member's employer's accumulation account  
508 and of the present value of the member's accumulated membership  
509 contributions to such other system, provided the employee agrees  
510 to the transfer of his accumulated membership contributions and  
511 provided such other system is authorized to receive and agrees to  
512 make such transfer.

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





521 membership contributions to this system and provided the other  
522 system is authorized and agrees to make such transfer.

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

526 (k) Employees of a political subdivision or  
527 instrumentality who were employed by such political subdivision or  
528 instrumentality prior to an agreement between such entity and the  
529 Public Employees' Retirement System to extend the benefits of this  
530 article to its employees, and which agreement provides for the  
531 establishment of retroactive service credit, and who have been  
532 members of the retirement system and have remained contributors to  
533 the retirement system for four (4) years, may receive credit for  
534 such retroactive service with such political subdivision or  
535 instrumentality, provided the employee and/or employer, as  
536 provided under the terms of the modification of the joinder  
537 agreement in allowing such coverage, pay into the retirement  
538 system the employer's and employee's contributions on wages paid  
539 the member during such previous employment, together with interest  
540 or actuarial cost as determined by the board covering the period  
541 from the date the service was rendered until the payment for the  
542 credit for such service was made. Such wages shall be verified by  
543 the Social Security Administration or employer payroll records.  
544 Effective July 1, 1998, upon eligibility as noted above, a member  
545 may receive credit for such retroactive service with such  
546 political subdivision or instrumentality provided:

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

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



554 thereafter prior to the date of retirement the actuarial cost for  
555 each year of such creditable service. The provisions of this  
556 subparagraph (2) shall be subject to the limitations of Section  
557 415 of the Internal Revenue Code and regulations promulgated  
558 thereunder.

559 Nothing contained in this paragraph (k) shall be construed to  
560 limit the authority of the board to allow the correction of  
561 reporting errors or omissions based on the payment of employee and  
562 employer contributions plus applicable interest. Payment for such  
563 time shall be made in increments of not less than one-quarter  
564 (1/4) year of creditable service beginning with the most recent  
565 service. Upon the payment of all or part of such required  
566 contributions, plus interest or the actuarial cost as provided  
567 above, the member shall receive credit for the period of  
568 creditable service for which full payment has been made to the  
569 retirement system.

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

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

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

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



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

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

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

595 **III. TERMINATION OF MEMBERSHIP**

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

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

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



620 retirement allowance while holding the office as authorized by  
621 Section 25-11-126, shall cease to receive benefits under this  
622 article and shall again become a contributing member of the  
623 retirement system; and when the person retires again, if his  
624 reemployment exceeds six (6) months, he shall have his benefit  
625 recomputed, including service after again becoming a member,  
626 provided \* \* \* that the total retirement allowance paid to the  
627 retired member in his previous retirement shall be deducted from  
628 his retirement reserve and taken into consideration in  
629 recalculating the retirement allowance under a new option  
630 selected. Nothing contained in this section shall be construed as  
631 prohibiting any county or city not a member of the Public  
632 Employees' Retirement System from employing persons up to the age  
633 of seventy-three (73); and, in addition, through June 30, 1988,  
634 nothing contained in this section shall be construed as  
635 prohibiting any governmental unit that is a member from employing  
636 persons up to the age of seventy-three (73) who are not eligible  
637 for membership at the time of employment under Article 3.

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

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



653 given within five (5) days from the date of employment and also  
654 from the date of termination of the employment.

655 \* \* \* Any member who is not eligible to exercise the  
656 provisions of Section 25-11-126 who has attained seventy (70)  
657 years of age and who has forty (40) or more years of creditable  
658 service may continue in office or employment or be reemployed or  
659 elected, provided that the person files annually, in writing, in  
660 the office of the employer and the office of the executive  
661 director of the system before those services, a waiver of all  
662 salary or compensation and elects to receive in lieu of that  
663 salary or compensation a retirement allowance as provided in this  
664 section, in which event no salary or compensation shall thereafter  
665 be due or payable for those services. However, any such officer  
666 or employee may receive, in addition to the retirement allowance,  
667 any per diem, office expense allowance, mileage or travel expense  
668 authorized by any statute of the State of Mississippi.

669 Any \* \* \* member who is not eligible to exercise the  
670 provisions of Section 25-11-126 may continue in municipal  
671 employment or in county office or employment or be  
672 reemployed \* \* \* in a municipality or be reemployed or elected in  
673 a county, provided that the person files annually, in writing, in  
674 the office of the employer and the office of the executive  
675 director of the system before those services, a waiver of all  
676 salary or compensation and elects to receive in lieu of that  
677 salary or compensation a retirement allowance as provided in this  
678 section, in which event no salary or compensation shall thereafter  
679 be due or payable for those services. However, any such officer  
680 or employee may receive, in addition to the retirement allowance,  
681 any per diem, office expense allowance, mileage or travel expense  
682 authorized by any statute of the State of Mississippi.

683 SECTION 5. The Attorney General of the State of Mississippi  
684 shall submit this act, immediately upon approval by the Governor,  
685 or upon approval by the Legislature subsequent to a veto, to the



686 Attorney General of the United States or to the United States  
687 District Court for the District of Columbia in accordance with the  
688 provisions of the Voting Rights Act of 1965, as amended and  
689 extended.

690 SECTION 6. This act shall take effect and be in force from  
691 and after July 1, 2001, if it is effectuated on or before that  
692 date under Section 5 of the Voting Rights Act of 1965, as amended  
693 and extended. If it is effectuated under Section 5 of the Voting  
694 Rights Act of 1965, as amended and extended, after July 1, 2001,  
695 this act shall take effect and be in force from and after the date  
696 it is effectuated under Section 5 of the Voting Rights Act of  
697 1965, as amended and extended.

