HOUSE BILL NO. 1096

AN ACT TO CREATE NEW SECTION 25-11-126, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT PERSONS RECEIVING A RETIREMENT ALLOWANCE FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO ARE ELECTED OR APPOINTED TO A PUBLIC OFFICE IN A POLITICAL SUBDIVISION OR INSTRUMENTALITY THEREOF AFTER RETIREMENT, AND PERSONS WHO ARE ELECTED OR APPOINTED OFFICIALS IN A PUBLIC OFFICE IN A POLITICAL SUBDIVISION OR INSTRUMENTALITY THEREOF ON THE EFFECTIVE DATE OF THIS ACT WHO BECOME ELIGIBLE TO RECEIVE A RETIREMENT ALLOWANCE FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHILE HOLDING THAT OFFICE, MAY RECEIVE A RETIREMENT ALLOWANCE FROM THE SYSTEM WHILE HOLDING THAT OFFICE IN ADDITION TO RECEIVING TWO-THIRDS OF THE REGULAR COMPENSATION FOR THAT OFFICE; TO PROVIDE THAT THOSE PERSONS SHALL NOT BE ACTIVE MEMBERS OF THE RETIREMENT SYSTEM AND SHALL NOT RECEIVE ANY CREDITABLE SERVICE FOR THE PERIOD DURING WHICH THEY RECEIVE A RETIREMENT ALLOWANCE WHILE HOLDING OFFICE; TO PROVIDE THAT EMPLOYEE CONTRIBUTIONS SHALL BE DEDUCTED AND EMPLOYER CONTRIBUTIONS SHALL BE MADE FOR THOSE PERSONS FOR THE PERIOD DURING WHICH THEY RECEIVE A RETIREMENT ALLOWANCE WHILE HOLDING OFFICE; TO AMEND SECTIONS 25-11-103, 25-11-105 AND 25-11-127, MISSISSIPPI CODE OF 1972, IN CONFORMITY WITH THE PROVISIONS OF THIS ACT; TO AMEND SECTION 25-11-117, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY PERSON WHO RECEIVED A RETIREMENT ALLOWANCE WHILE HOLDING OFFICE IN A POLITICAL SUBDIVISION OR INSTRUMENTALITY THEREOF MAY NOT RECEIVE A REFUND OF EMPLOYEE CONTRIBUTIONS THAT WERE MADE DURING THAT PERIOD OF SERVICE; AND FOR RELATED PURPOSES.

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

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

25-11-126. (1) Any person who is receiving a retirement allowance under this article and who is elected or appointed after retirement to a public office in a political subdivision or instrumentality thereof, and any person who is an elected or appointed official in a public office in a political subdivision or instrumentality thereof on the effective date of House Bill No. _____, 2001 Regular Session, who becomes eligible to receive a retirement allowance under this article while holding that office,
may choose to receive or continue to receive a retirement
allowance under this article while holding that office in addition
to receiving two-thirds (2/3) of the regular compensation for that
office in the manner provided in this section.

(2) Any person who is receiving a retirement allowance and
who is elected or appointed to a public office in a political
subdivision or instrumentality thereof after retirement shall
notify the executive director of the system before taking office
of his or her choice about continuing to receive the retirement
allowance while holding that office. If the person chooses not to
continue receiving the retirement allowance while holding that
office, the retirement allowance shall cease on the day that he or
she begins serving in the office. After leaving the office, in
order to begin receiving a retirement allowance under this article
again, the person shall make application to the executive director
of the system, and the retirement allowance shall begin on the
first of the month following the date that the application is
received by the executive director.

(3) Any person who is an elected or appointed official in a
public office in a political subdivision or instrumentality
thereof on the effective date of House Bill No. ____, 2001 Regular
Session, who becomes eligible to receive a retirement allowance
while holding that office and who chooses to receive a retirement
allowance while holding that office shall make application to the
executive director of the system and the retirement allowance
shall begin on the first of the month following the date that the
application is received by the executive director. Those elected
or appointed officials shall not be required to withdraw from
service in order to receive the retirement allowance.

(4) Any person to whom this section applies who receives or
continues to receive a retirement allowance under this article
while holding office in a political subdivision or instrumentality
thereof shall not be an active member of the retirement system and

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shall not receive any creditable service for the period during which he or she receives a retirement allowance while holding office in a political subdivision or instrumentality thereof. However, the employer shall deduct employee contributions for the person 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 he or she receives a retirement allowance while holding office in a political subdivision or instrumentality thereof, and the employer shall pay the contributions to the retirement system.

(5) Any person to whom this section applies who chooses not to receive a retirement allowance while holding office in a political subdivision or instrumentality thereof shall be an active and contributing member of the retirement system and shall receive creditable service for the period during which he or she holds office in a political subdivision or instrumentality thereof without receiving a retirement allowance. If the person has previously received a retirement allowance under this article and holds office for more than six (6) months without receiving a retirement allowance, the person shall have his or her allowance recomputed when he or she retires again, which shall include the service after the person again became a contributing member of the retirement system.

(6) This section shall apply to officials who are elected to office and officials who are appointed to office in a political subdivision or instrumentality thereof for a specified term or for the will and pleasure of the appointing authority, but shall not apply to persons in other positions of employment in the state service.

SECTION 2. Section 25-11-103, Mississippi Code of 1972, is amended as follows:
25-11-103. The following words and phrases as used in Articles 1 and 3, unless a different meaning is plainly required by the context, shall have the following meanings:

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

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

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

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

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

(f) "Average compensation" shall mean the average of the four (4) highest years of earned compensation reported for an employee in a fiscal or calendar year period, or combination thereof which do not overlap, or the last forty-eight (48) consecutive months of earned compensation reported for an employee. The four (4) years need not be successive or joined years of service. In no case shall the average compensation so determined be in excess of One Hundred Twenty-five Thousand Dollars ($125,000.00). In computing the average compensation, any amount paid in a lump sum for personal leave shall be included in the calculation to the extent that such amount does not exceed an
amount which is equal to thirty (30) days of earned compensation and to the extent that it does not cause the employees' earned compensation to exceed the maximum reportable amount specified in Section 25-11-103(k); provided, however, that such thirty-day limitation shall not prevent the inclusion in the calculation of leave earned under federal regulations prior to July 1, 1976, and frozen as of that date as referred to in Section 25-3-99. Only the amount of lump sum pay for personal leave due and paid upon the death of a member attributable for up to one hundred fifty (150) days shall be used in the deceased member's average compensation calculation in determining the beneficiary's benefits. In computing the average compensation, no amounts shall be used which are in excess of the amount on which contributions were required and paid. If any member who is or has been granted any increase in annual salary or compensation of more than eight percent (8%) retires within twenty-four (24) months from the date that such increase becomes effective, then the board shall exclude that part of the increase in salary or compensation that exceeds eight percent (8%) in calculating that member's average compensation for retirement purposes. The board may enforce this provision by rule or regulation. However, increases in compensation in excess of eight percent (8%) per year granted within twenty-four (24) months of the date of retirement may be included in such calculation of average compensation if satisfactory proof is presented to the board showing that the increase in compensation was the result of an actual change in the position held or services rendered, or that such compensation increase was authorized by the State Personnel Board or was increased as a result of statutory enactment, and the employer furnishes an affidavit stating that such increase granted within the last twenty-four (24) months was not contingent on a promise or agreement of the employee to retire. Nothing in Section 25-3-31 shall affect the calculation of the average compensation.
of any member for the purposes of this article. The average
compensation of any member who retires before July 1, 1992, shall
not exceed the annual salary of the Governor.

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

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

(i) "Creditable service" shall mean "prior service,"
"retroactive service" and all lawfully credited unused leave not
exceeding the accrual rates and limitations provided in Section
25-3-91 et seq., as of the date of withdrawal from service plus
"membership service" for which credit is allowable as provided in
Section 25-11-109. Except to limit creditable service reported to
the system for the purpose of computing an employee's retirement
allowance or annuity or benefits provided in this article, nothing
in this paragraph shall limit or otherwise restrict the power of
the governing authority of a municipality or other political
subdivision of the state to adopt such vacation and sick leave
policies as it deems necessary.
(j) "Child" means either a natural child of the member, a child that has been made a child of the member by applicable court action before the death of the member, or a child under the permanent care of the member at the time of the latter's death, which permanent care status shall be determined by evidence satisfactory to the board.

(k) "Earned compensation" shall mean the full amount earned by an employee for a given pay period including any maintenance furnished up to a maximum of One Hundred Twenty-five Thousand Dollars ($125,000.00) per year, and proportionately for less than one (1) year of service. The value of such maintenance when not paid in money shall be fixed by the employing state agency, and, in case of doubt, by the board of trustees as defined in Section 25-11-15. In any case, earned compensation shall be limited to the regular periodic compensation paid, exclusive of litigation fees, bond fees, and other similar extraordinary nonrecurring payments. In addition, any member in a covered position, as defined by Public Employees' Retirement System laws and regulations, who is also employed by another covered agency or political subdivision shall have the earnings of that additional employment reported to the Public Employees' Retirement System regardless of whether the additional employment is sufficient in itself to be a covered position. In the case of fee officials, the net earnings from their office after deduction of expenses shall apply, except that in no case shall earned compensation be less than the total direct payments made by the state or governmental subdivisions to the official, and employer and employee contributions shall be paid thereon. In the case of members of the state Legislature, all remuneration or amounts paid, except mileage allowance, shall apply. The amount by which an eligible employee's salary is reduced pursuant to a salary reduction agreement authorized under Section 25-17-5 shall be included as earned compensation under this paragraph, provided...
this inclusion does not conflict with federal law, including federal regulations and federal administrative interpretations thereunder, pertaining to the Federal Insurance Contributions Act or to Internal Revenue Code Section 125 cafeteria plans. Compensation in addition to an employee's base salary that is paid to the employee pursuant to the vacation and sick leave policies of a municipality or other political subdivision of the state that employs him which exceeds the maximums authorized by Section 25-3-91 et seq., shall be excluded from the calculation of earned compensation under this article. The maximum salary applicable for retirement purposes before July 1, 1992, shall be the salary of the Governor. Nothing in Section 25-3-31 shall affect the determination of the earned compensation of any member for the purposes of this article.

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

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

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

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

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

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

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

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

(t) "Prior service" shall mean service rendered before February 1, 1953, for which credit is allowable under Sections 25-11-105 and 25-11-109, and which shall allow prior service for any person who is now or becomes a member of the Public Employees' Retirement System and who does contribute to the system for a minimum period of four (4) years.
(u) "Regular interest" shall mean interest compounded annually at such a rate as shall be determined by the board in accordance with Section 25-11-121.

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

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

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

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

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

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

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

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

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

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

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

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

(1) The member shall furnish proof satisfactory to the board of trustees of certification of such service from the covered employer where the services were performed; and
(2) The member shall pay to the retirement system on the date he or she is eligible for such credit or at any time thereafter prior to the date of retirement the actuarial cost for each year of such creditable service. The provisions of this subparagraph (2) shall be subject to the limitations of Section 415 of the Internal Revenue Code and regulations promulgated thereunder.

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

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

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

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

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

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

(2) It specifies the source or sources from which
the funds necessary to make the payments required by paragraph (d)
of Section 25-11-123 and of paragraph (f)(5)b and c of this
section are expected to be derived and contains reasonable
assurance that such sources will be adequate for such purpose;

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

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

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

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

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

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

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

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

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

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

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

In the event any member of any other actuarially funded system maintained by an agency of the state changes his employment to an agency covered by this system, the board of trustees may authorize the receipt of the transfer of the member's creditable service and of the present value of the member's employer's accumulation account and of the present value of the member's accumulated membership contributions from such other system, provided the employee agrees to the transfer of his accumulated
membership contributions to this system and provided the other system is authorized and agrees to make such transfer.
(j) Wherever herein state employment is referred to, it shall include joint employment by state and federal agencies of all kinds.
(k) Employees of a political subdivision or instrumentality who were employed by such political subdivision or instrumentality prior to an agreement between such entity and the Public Employees' Retirement System to extend the benefits of this article to its employees, and which agreement provides for the establishment of retroactive service credit, and who have been members of the retirement system and have remained contributors to the retirement system for four (4) years, may receive credit for such retroactive service with such political subdivision or instrumentality, provided the employee and/or employer, as provided under the terms of the modification of the joinder agreement in allowing such coverage, pay into the retirement system the employer's and employee's contributions on wages paid the member during such previous employment, together with interest or actuarial cost as determined by the board covering the period from the date the service was rendered until the payment for the credit for such service was made. Such wages shall be verified by the Social Security Administration or employer payroll records.
Effective July 1, 1998, upon eligibility as noted above, a member may receive credit for such retroactive service with such political subdivision or instrumentality provided:
(1) The member shall furnish proof satisfactory to the board of trustees of certification of such services from the political subdivision or instrumentality where the services were rendered or verification by the Social Security Administration; and
(2) The member shall pay to the retirement system on the date he or she is eligible for such credit or at any time
thereafter prior to the date of retirement the actuarial cost for
each year of such creditable service. The provisions of this
subparagraph (2) shall be subject to the limitations of Section
415 of the Internal Revenue Code and regulations promulgated
thereunder.

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

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

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

II. THOSE WHO ARE NOT ELIGIBLE FOR MEMBERSHIP

The following classes of employees and officers shall not
become members of this retirement system, any other provisions of
Articles 1 and 3 to the contrary notwithstanding:
(a) Patient or inmate help in state charitable, penal or correctional institutions;
(b) Students of any state educational institution employed by any agency of the state for temporary, part-time or intermittent work;
(c) Participants of Comprehensive Employment and Training Act of 1973 (CETA) being Public Law 93-203, who enroll on or after July 1, 1979.

III. TERMINATION OF MEMBERSHIP

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

SECTION 4. 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 the member has withdrawn from state service and further provided the member 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 or she received a retirement allowance during his or her employment as authorized by Section 25-11-126. Such 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 such payment. In the event of death prior to 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 such payment. If there is no such
designated beneficiary on file for such 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 pursuant to 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 prior to the receipt
of the refund. By the acceptance of the refund, the member shall
waive and relinquish all accrued rights in the system.

(2) Pursuant to 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 such election and specifies
the eligible retirement plan or individual retirement account to
which such 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; provided, however,
that 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
subsequent to such member’s reentry into state service. Repayment
for such 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 such 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 5. 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 or in Section 25-11-126. 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 retiree of this retirement system
who is reemployed or is reelected to office after retirement
continue to draw retirement benefits while so reemployed or
reelected except those elected or appointed officials who choose
to continue to receive a retirement allowance while holding office
as authorized by Section 25-11-126.

(2) 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. When the person retires again *, **, if the reemployment
exceeds six (6) months, the person shall have his or her benefit
recomputed, including service after again becoming a member.
provided ** that the total retirement allowance paid to the retired member in his or her previous retirement shall be deducted from the member's retirement reserve and taken into consideration in recalculating the retirement allowance under a new option selected.

(3) 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). 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.

(4) The board of trustees of the retirement system shall have the right to prescribe rules and regulations for ** carrying out of the provisions of this section.

(5) The provisions of this section shall not be construed to prohibit any retiree, regardless of age, from being employed and ** drawing a 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 retiree to earn not in excess of twenty-five percent (25%) of retiree'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. **

(6) 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.

(7) Any member may continue in municipal or county

office or employment or be reemployed 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 6. The Attorney General of the State of Mississippi

shall submit this act, immediately upon approval by the Governor,

or upon approval by the Legislature subsequent to a veto, to the

Attorney General of the United States or to the United States

District Court for the District of Columbia in accordance with the

provisions of the Voting Rights Act of 1965, as amended and

extended.

SECTION 7. This act shall take effect and be in force from

and after July 1, 2001, if it is effectuated on or before that

date under Section 5 of the Voting Rights Act of 1965, as amended
and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, after July 1, 2001, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.