

By: Representative Stringer

To: Appropriations

HOUSE BILL NO. 1324

1 AN ACT TO AMEND SECTION 25-11-15, MISSISSIPPI CODE OF 1972,  
 2 TO AUTHORIZE THE BOARD OF TRUSTEES OF THE PUBLIC EMPLOYEES'  
 3 RETIREMENT SYSTEM TO SET THE ANNUAL SALARIES FOR ALL NONSTATE  
 4 SERVICE EMPLOYEES OF THE RETIREMENT SYSTEM; TO REVISE THE SALARY  
 5 OF BOARD MEMBERS; TO AMEND SECTION 25-9-107, MISSISSIPPI CODE OF  
 6 1972, TO CONFORM TO THE PRECEDING PROVISION; AND FOR RELATED  
 7 PURPOSES.

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

9 SECTION 1. Section 25-11-15, Mississippi Code of 1972, is  
 10 amended as follows:

11 25-11-15. (1) Board of trustees: The general  
 12 administration and responsibility for the proper operation of the  
 13 Public Employees' Retirement System and the federal-state  
 14 agreement and for making effective the provisions of Articles 1  
 15 and 3 are hereby vested in a board of trustees.

16 (2) The board shall consist of ten (10) trustees, as  
 17 follows:

18 (a) The State Treasurer;

19 (b) One (1) member who shall be appointed by the  
 20 Governor for a term of four (4) years, who shall be a member of  
 21 the system;

22 (c) Two (2) members of the system having at least ten  
 23 (10) years of creditable service who shall be state employees who  
 24 shall not be employees of the institutions of higher learning, who  
 25 shall be elected by members of the system who are employees of  
 26 state agencies and by members of the Mississippi Highway Safety  
 27 Patrol Retirement System, but not including the employees of the  
 28 institutions of higher learning;

29           (d) Two (2) members of the system having at least ten  
30 (10) years of creditable service who shall not hold office in the  
31 legislative or judicial departments of municipal or county  
32 government, one (1) of whom shall be an employee of a  
33 municipality, instrumentality or juristic entity thereof who shall  
34 be elected by members of the system who are employees of the  
35 municipalities, instrumentalities or juristic entities thereof and  
36 by members of the municipal systems and the firemen's and  
37 policemen's disability and relief funds administered by the board  
38 of trustees, and one (1) of whom shall be an employee of a county,  
39 instrumentality or juristic entity thereof who shall be elected by  
40 members of the system who are employees of the counties,  
41 instrumentalities or juristic entities thereof;

42           (e) One (1) member of the system having at least ten  
43 (10) years of creditable service who shall be an employee of an  
44 institution of higher learning who shall be elected by members of  
45 the system who are employees of the state institutions of higher  
46 learning as included in Section 37-101-1. Any member of the board  
47 on July 1, 1984, who is an employee of an institution of higher  
48 learning shall serve as the member trustee representing the  
49 institutions of higher learning until the end of the term for  
50 which he was elected;

51           (f) Two (2) retired members who are receiving a  
52 retirement allowance from the system who shall be elected by the  
53 retired members or beneficiaries receiving a retirement allowance  
54 from the system and by the retired members or beneficiaries of the  
55 municipal systems, the firemen's and policemen's disability and  
56 relief funds and the Mississippi Highway Safety Patrol Retirement  
57 System administered by the board of trustees, to serve for a term  
58 of six (6) years under rules and regulations adopted by the board  
59 to govern such election; however, any retired member of the board  
60 in office on April 19, 1993, shall serve as a retired trustee  
61 until the end of the term for which he was elected;

62           (g) One (1) member of the system having at least ten  
63 (10) years of creditable service who shall be an employee of any  
64 public school district or junior college or community college  
65 district that participates in the system, who shall be elected by  
66 the members of the system who are employees of any public school  
67 district or junior college or community college district; however,  
68 any member of the board on June 30, 1989, who is a certified  
69 classroom teacher shall serve as the member representing a  
70 classroom teacher until the end of the term for which the member  
71 was appointed;

72           (h) In the first election to be held for trustees one  
73 (1) member shall be elected for a term of two (2) years, and one  
74 (1) member for a term of four (4) years, and one (1) member for a  
75 term of six (6) years. Thereafter, their successors shall be  
76 elected for terms of six (6) years. All elections shall be held  
77 in accordance with rules and regulations adopted by the board to  
78 govern such elections and the board shall be the sole judge of all  
79 questions arising incident to or connected with the elections.

80           (i) Any person eligible to vote for the election of a  
81 member of the board of trustees and who meets the qualifications  
82 for the office may seek election to such office and serve if  
83 elected. For purposes of determining eligibility to seek office  
84 as a member of the board of trustees, the required creditable  
85 service in "the system" shall include each system administered by  
86 the board of trustees in which such person is a member.

87           The members described above and serving on the board on June  
88 30, 1989, shall continue to serve on the board until the  
89 expiration of their terms.

90           (3) If a vacancy occurs in the office of a trustee, the  
91 vacancy shall be filled for the unexpired term in the same manner  
92 as the office was previously filled. However, if the unexpired  
93 term is six (6) months or less, an election shall be held to fill  
94 the office vacated for the next succeeding full term of office,

95 and the person so elected to fill the next full term shall be  
96 appointed by the board to fill the remainder of the unexpired  
97 term. Whenever any member who is elected to a position to  
98 represent a class of members ceases to be a member of that class,  
99 that board member is no longer eligible for membership on the  
100 board. The position shall be declared vacant, and the unexpired  
101 term shall be filled in the same manner as the office was  
102 previously filled.

103 (4) Each trustee shall, within ten (10) days after his  
104 appointment or election, take an oath of office as provided by law  
105 and, in addition, shall take an oath that he will diligently and  
106 honestly administer the affairs of the said board, and that he  
107 will not knowingly violate or willingly permit to be violated any  
108 of the provisions of law applicable to Articles 1 and 3. Such  
109 oath shall be signed by the member making it, certified by the  
110 officer before whom it is taken, and immediately filed in the  
111 office of the Secretary of State.

112 (5) Each trustee shall be entitled to one (1) vote. Six (6)  
113 members shall constitute a quorum at any meeting of said board,  
114 and a majority of those present shall be necessary for a decision.

115 (6) Subject to the limitations of Articles 1 and 3, the  
116 board shall establish rules and regulations for the administration  
117 of the system created by said articles and for the transaction of  
118 its business, and to give force and effect to the provisions of  
119 said articles wherever necessary to carry out the intent and  
120 purposes of the Legislature. The cited articles are remedial law  
121 and shall be liberally construed to accomplish their purposes.

122 (7) Notwithstanding any other law to the contrary, in the  
123 event of a natural disaster or other occurrence that results in  
124 the failure of the retirement system's computer system or a  
125 significant disruption of the normal activities of the retirement  
126 system, the executive director of the board, or his deputy, shall  
127 be authorized to contract with another entity, governmental or

128 private, during the period of such failure or disruption, for  
129 services, commodities, work space and supplies as necessary to  
130 carry out the administration of all systems and programs  
131 administered by the board. The board shall be authorized to pay  
132 the reasonable cost of such services, commodities, work space and  
133 supplies. At the meeting of the board next following the  
134 execution of a contract authorized pursuant to this subsection,  
135 documentation of the contract, including a description of the  
136 services, commodities, work space or supplies, the price thereof  
137 and the nature of the disaster or occurrence, shall be presented  
138 to the board and placed on the minutes of the board. Because of  
139 their emergency nature, purchases made pursuant to this subsection  
140 shall not be required to comply with the provisions of Section  
141 31-7-13 or any other law governing public purchases.

142 (8) Except as otherwise provided in subsection (7) of this  
143 section, in its acquisition of computer equipment, services and  
144 software, the board shall submit to the Central Data Processing  
145 Authority for review and comment all proposals over Fifteen  
146 Thousand Dollars (\$15,000.00), but less than Fifty Thousand  
147 Dollars (\$50,000.00), for the acquisition of computer equipment,  
148 services and software. The Central Data Processing Authority  
149 shall furnish its written recommendations to the board within  
150 thirty (30) days of its receipt of the proposal. In the event  
151 that the Central Data Processing Authority finds that alternatives  
152 should be considered with respect to a proposed acquisition and if  
153 the board elects by two-thirds (2/3) vote to deviate from these  
154 recommendations, the board shall spread upon its minutes the  
155 reasons for its decision not to act on such recommendations. From  
156 and after April 15, 1990, any acquisition of computer equipment,  
157 services and software by the board in the amount of Fifty Thousand  
158 Dollars (\$50,000.00) or more is subject to approval by the Central  
159 Data Processing Authority; and, in responding to a request of  
160 approval therefor, the Central Data Processing Authority shall

161 reply within thirty (30) days of its receipt of such request from  
162 the board. The computer equipment and software owned by the  
163 Public Employees' Retirement System are assets of the Trust Fund  
164 by virtue of the Constitution, Section 272-A and acquisition and  
165 operation thereof shall be under the jurisdiction of the Public  
166 Employees' Retirement System.

167 (9) The board shall elect a chairman and shall by a majority  
168 vote of all of its members appoint a secretary whose title shall  
169 be executive director, who shall serve at the will and pleasure of  
170 the board, who shall not be a member of the board of trustees, who  
171 shall be entitled to membership in the system, and who shall act  
172 as secretary of the board. The board of trustees shall employ  
173 such actuarial, clerical and other employees as shall be required  
174 to transact the business of the system, and shall fix the  
175 compensation of all employees, subject to the rules and  
176 regulations of the State Personnel Board; however, the board may  
177 set the annual salaries for all nonstate service employees of the  
178 system.

179 (10) Each member of the board shall receive as compensation  
180 for his services Four Hundred Dollars (\$400.00) per month. All  
181 members of said board shall be reimbursed for their necessary  
182 traveling expenses which shall be paid in accordance with the  
183 requirements of Section 25-3-41 or other applicable statutes with  
184 respect to traveling expenses of state officials and employees on  
185 official business. All members of said board shall be entitled to  
186 be members of the system and shall be entitled to creditable  
187 service for all time served as a member of said board except the  
188 retired member who shall not be entitled to be a member of the  
189 system and who shall be eligible to receive the retirement  
190 allowance and compensation for services from the system while  
191 serving as a member of the board.

192 (11) All expenses of the board incurred in the  
193 administration of Articles 1 and 3 shall be paid from such funds

194 as may be appropriated by the Legislature for such purpose or from  
195 administrative fees collected from political subdivisions or  
196 juristic entities of the state. Each political subdivision of the  
197 state and each instrumentality of the state or of a political  
198 subdivision or subdivisions which submit a plan for approval by  
199 the board as provided in Section 25-11-11 shall reimburse the  
200 board, for coverage into the administrative expense fund, its pro  
201 rata share of the total expense of administering Articles 1 and 3  
202 as provided by regulations of said board.

203 (12) There shall be an investment advisory board to provide  
204 advice and counsel to the board of trustees regarding the  
205 investment of the funds of the system. The advisory board shall  
206 consist of three (3) members, one (1) appointed by the Governor,  
207 one (1) appointed by the Lieutenant Governor, and one (1)  
208 appointed by the Speaker of the House of Representatives. Each  
209 member of the advisory board shall be someone who is not a public  
210 employee who has had at least ten (10) years' experience in  
211 investment banking or commercial banking or who has had at least  
212 ten (10) years' professional experience in managing investments.  
213 Each member of the advisory board shall serve for a term  
214 concurrent with the term of the appointing authority. Any vacancy  
215 on the advisory board shall be filled by appointment of the  
216 original appointing authority for the remainder of the unexpired  
217 term. Members of the advisory board shall receive no compensation  
218 for their services, but shall be reimbursed for their actual and  
219 necessary expenses incurred in the performance of their duties, as  
220 provided in Section 25-3-41 for state officers and employees. The  
221 advisory board shall operate under the rules and regulations of  
222 the board of trustees and shall meet at such times as determined  
223 by the board of trustees.

224 (13) The Lieutenant Governor may designate two (2) Senators  
225 and the Speaker of the House of Representatives may designate two  
226 (2) Representatives to attend any meeting of the Board of Trustees

227 of the Public Employees' Retirement System. The appointing  
228 authorities may designate alternate members from their respective  
229 houses to serve when the regular designees are unable to attend  
230 such meetings of the board. Such legislative designees shall have  
231 no jurisdiction or vote on any matter within the jurisdiction of  
232 the board. For attending meetings of the board, such legislators  
233 shall receive per diem and expenses which shall be paid from the  
234 contingent expense funds of their respective houses in the same  
235 amounts as provided for committee meetings when the Legislature is  
236 not in session; however, no per diem and expenses for attending  
237 meetings of the board will be paid while the Legislature is in  
238 session. No per diem and expenses will be paid except for  
239 attending meetings of the board without prior approval of the  
240 proper committee in their respective houses.

241 SECTION 2. Section 25-9-107, Mississippi Code of 1972, is  
242 amended as follows:

243 25-9-107. The following terms, when used in this chapter,  
244 unless a different meaning is plainly required by the context,  
245 shall have the following meanings:

246 (a) "Board" shall mean the State Personnel Board  
247 created under the provisions of this chapter.

248 (b) "State service" shall mean all employees of state  
249 departments, agencies and institutions as defined herein, except  
250 those officers and employees excluded by this chapter.

251 (c) "Nonstate service" shall mean the following  
252 officers and employees excluded from the state service by this  
253 chapter. The following are excluded from the state service:

254 (i) Members of the state Legislature, their staffs  
255 and other employees of the legislative branch;

256 (ii) The Governor and staff members of the  
257 immediate Office of the Governor;

258 (iii) Justices and judges of the judicial branch  
259 or members of appeals boards on a per diem basis;



260 (iv) The Lieutenant Governor, staff members of the  
261 immediate Office of the Lieutenant Governor and officers and  
262 employees directly appointed by the Lieutenant Governor;

263 (v) Officers and officials elected by popular vote  
264 and persons appointed to fill vacancies in elective offices;

265 (vi) Members of boards and commissioners appointed  
266 by the Governor, Lieutenant Governor or the state Legislature;

267 (vii) All academic officials, members of the  
268 teaching staffs and employees of the state institutions of higher  
269 learning, the State Board for Community and Junior Colleges, and  
270 community and junior colleges;

271 (viii) Officers and enlisted members of the  
272 National Guard of the state;

273 (ix) Prisoners, inmates, student or patient help  
274 working in or about institutions;

275 (x) Contract personnel; provided, that any agency  
276 which employs state service employees may enter into contracts for  
277 personal and professional services only if such contracts are  
278 approved in compliance with the rules and regulations promulgated  
279 by the State Personal Service Contract Review Board under Section  
280 25-9-120(3). Before paying any warrant for such contractual  
281 services in excess of One Hundred Thousand Dollars (\$100,000.00),  
282 the Auditor of Public Accounts, or the successor to those duties,  
283 shall determine whether the contract involved was for personal or  
284 professional services, and, if so, was approved by the State  
285 Personal Service Contract Review Board;

286 (xi) Part-time employees; provided, however,  
287 part-time employees shall only be hired into authorized employment  
288 positions classified by the board, shall meet minimum  
289 qualifications as set by the board, and shall be paid in  
290 accordance with the Variable Compensation Plan as certified by the  
291 board;

292                   (xii) Persons appointed on an emergency basis for  
293 the duration of the emergency; the effective date of the emergency  
294 appointments shall not be earlier than the date approved by the  
295 State Personnel Director, and shall be limited to thirty (30)  
296 working days. Emergency appointments may be extended to sixty  
297 (60) working days by the State Personnel Board;

298                   (xiii) Physicians, dentists, veterinarians, nurse  
299 practitioners and attorneys, while serving in their professional  
300 capacities in authorized employment positions who are required by  
301 statute to be licensed, registered or otherwise certified as such,  
302 provided that the State Personnel Director shall verify that the  
303 statutory qualifications are met prior to issuance of a payroll  
304 warrant by the auditor;

305                   (xiv) Personnel who are employed and paid from  
306 funds received from a federal grant program which has been  
307 approved by the Legislature or the Department of Finance and  
308 Administration whose length of employment has been determined to  
309 be time-limited in nature. This subparagraph shall apply to  
310 personnel employed under the provisions of the Comprehensive  
311 Employment and Training Act of 1973, as amended, and other special  
312 federal grant programs which are not a part of regular federally  
313 funded programs wherein appropriations and employment positions  
314 are appropriated by the Legislature. Such employees shall be paid  
315 in accordance with the Variable Compensation Plan and shall meet  
316 all qualifications required by federal statutes or by the  
317 Mississippi Classification Plan;

318                   (xv) The administrative head who is in charge of  
319 any state department, agency, institution, board or commission,  
320 in which the statute specifically authorizes the Governor, board,  
321 commission or other authority to appoint the administrative head;

322       \* \* \* however, \* \* \* the salary of such administrative head shall  
323 be determined by the State Personnel Board in accordance with the

324 Variable Compensation Plan unless otherwise fixed by statute or  
325 except as otherwise authorized under Section 25-11-15(9);

326 (xvi) The State Personnel Board shall exclude top  
327 level positions if the incumbents determine and publicly advocate  
328 substantive program policy and report directly to the agency head,  
329 or the incumbents are required to maintain a direct confidential  
330 working relationship with a key excluded official. \* \* \* A written  
331 job classification shall be approved by the board for each such  
332 position, and positions so excluded shall be paid in conformity  
333 with the Variable Compensation Plan, except as otherwise  
334 authorized under Section 25-11-15(9);

335 (xvii) Employees whose employment is solely in  
336 connection with an agency's contract to produce, store or  
337 transport goods, and whose compensation is derived therefrom;

338 (xviii) Repealed;

339 (xix) The associate director, deputy directors and  
340 bureau directors within the Department of Agriculture and  
341 Commerce;

342 (xx) Personnel employed by the Mississippi  
343 Industries for the Blind; provided, that any agency may enter into  
344 contracts for the personal services of MIB employees without the  
345 prior approval of the State Personnel Board or the State Personal  
346 Service Contract Review Board; however, any agency contracting for  
347 the personal services of an MIB employee shall provide the MIB  
348 employee with not less than the entry level compensation and  
349 benefits that the agency would provide to a full-time employee of  
350 the agency who performs the same services.

351 (d) "Agency" means any state board, commission,  
352 committee, council, department or unit thereof created by the  
353 Constitution or statutes if such board, commission, committee,  
354 council, department, unit or the head thereof, is authorized to  
355 appoint subordinate staff by the Constitution or statute, except a

356 legislative or judicial board, commission, committee, council,  
357 department or unit thereof.

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