HOUSE BILL NO. 1324

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

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

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

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

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

(a) The State Treasurer;

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

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


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

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

(f) Two (2) retired members who are receiving a retirement allowance from the system who shall be elected by the retired members or beneficiaries receiving a retirement allowance from the system and by the retired members or beneficiaries of the municipal systems, the firemen's and policemen's disability and relief funds and the Mississippi Highway Safety Patrol Retirement System administered by the board of trustees, to serve for a term of six (6) years under rules and regulations adopted by the board to govern such election; however, any retired member of the board in office on April 19, 1993, shall serve as a retired trustee until the end of the term for which he was elected;
(g) One (1) member of the system having at least ten (10) years of creditable service who shall be an employee of any public school district or junior college or community college district that participates in the system, who shall be elected by the members of the system who are employees of any public school district or junior college or community college district; however, any member of the board on June 30, 1989, who is a certified classroom teacher shall serve as the member representing a classroom teacher until the end of the term for which the member was appointed;

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

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

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

(3) If a vacancy occurs in the office of a trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled. However, if the unexpired term is six (6) months or less, an election shall be held to fill the office vacated for the next succeeding full term of office,
and the person so elected to fill the next full term shall be appointed by the board to fill the remainder of the unexpired term. Whenever any member who is elected to a position to represent a class of members ceases to be a member of that class, that board member is no longer eligible for membership on the board. The position shall be declared vacant, and the unexpired term shall be filled in the same manner as the office was previously filled.

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

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

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

(7) Notwithstanding any other law to the contrary, in the event of a natural disaster or other occurrence that results in the failure of the retirement system's computer system or a significant disruption of the normal activities of the retirement system, the executive director of the board, or his deputy, shall be authorized to contract with another entity, governmental or
private, during the period of such failure or disruption, for
services, commodities, work space and supplies as necessary to
carry out the administration of all systems and programs
administered by the board. The board shall be authorized to pay
the reasonable cost of such services, commodities, work space and
supplies. At the meeting of the board next following the
execution of a contract authorized pursuant to this subsection,
documentation of the contract, including a description of the
services, commodities, work space or supplies, the price thereof
and the nature of the disaster or occurrence, shall be presented
to the board and placed on the minutes of the board. Because of
their emergency nature, purchases made pursuant to this subsection
shall not be required to comply with the provisions of Section
31-7-13 or any other law governing public purchases.

(8) Except as otherwise provided in subsection (7) of this
section, in its acquisition of computer equipment, services and
software, the board shall submit to the Central Data Processing
Authority for review and comment all proposals over Fifteen
Thousand Dollars ($15,000.00), but less than Fifty Thousand
Dollars ($50,000.00), for the acquisition of computer equipment,
services and software. The Central Data Processing Authority
shall furnish its written recommendations to the board within
thirty (30) days of its receipt of the proposal. In the event
that the Central Data Processing Authority finds that alternatives
should be considered with respect to a proposed acquisition and if
the board elects by two-thirds (2/3) vote to deviate from these
recommendations, the board shall spread upon its minutes the
reasons for its decision not to act on such recommendations. From
and after April 15, 1990, any acquisition of computer equipment,
services and software by the board in the amount of Fifty Thousand
Dollars ($50,000.00) or more is subject to approval by the Central
Data Processing Authority; and, in responding to a request of
approval therefor, the Central Data Processing Authority shall
reply within thirty (30) days of its receipt of such request from the board. The computer equipment and software owned by the Public Employees' Retirement System are assets of the Trust Fund by virtue of the Constitution, Section 272-A and acquisition and operation thereof shall be under the jurisdiction of the Public Employees' Retirement System.

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

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

(11) All expenses of the board incurred in the administration of Articles 1 and 3 shall be paid from such funds
as may be appropriated by the Legislature for such purpose or from administrative fees collected from political subdivisions or juristic entities of the state. Each political subdivision of the state and each instrumentality of the state or of a political subdivision or subdivisions which submit a plan for approval by the board as provided in Section 25-11-11 shall reimburse the board, for coverage into the administrative expense fund, its pro rata share of the total expense of administering Articles 1 and 3 as provided by regulations of said board.

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

(13) The Lieutenant Governor may designate two (2) Senators and the Speaker of the House of Representatives may designate two Representatives to attend any meeting of the Board of Trustees.
of the Public Employees' Retirement System. The appointing
authorities may designate alternate members from their respective
houses to serve when the regular designees are unable to attend
such meetings of the board. Such legislative designees shall have
no jurisdiction or vote on any matter within the jurisdiction of
the board. For attending meetings of the board, such legislators
shall receive per diem and expenses which shall be paid from the
contingent expense funds of their respective houses in the same
amounts as provided for committee meetings when the Legislature is
not in session; however, no per diem and expenses for attending
meetings of the board will be paid while the Legislature is in
session. No per diem and expenses will be paid except for
attending meetings of the board without prior approval of the
proper committee in their respective houses.

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

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

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

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

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

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

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

(iii) Justices and judges of the judicial branch

or members of appeals boards on a per diem basis;
(iv) The Lieutenant Governor, staff members of the immediate Office of the Lieutenant Governor and officers and employees directly appointed by the Lieutenant Governor;
(v) Officers and officials elected by popular vote and persons appointed to fill vacancies in elective offices;
(vi) Members of boards and commissioners appointed by the Governor, Lieutenant Governor or the state Legislature;
(vii) All academic officials, members of the teaching staffs and employees of the state institutions of higher learning, the State Board for Community and Junior Colleges, and community and junior colleges;
(viii) Officers and enlisted members of the National Guard of the state;
(ix) Prisoners, inmates, student or patient help working in or about institutions;
(x) Contract personnel; provided, that any agency which employs state service employees may enter into contracts for personal and professional services only if such contracts are approved in compliance with the rules and regulations promulgated by the State Personal Service Contract Review Board under Section 25-9-120(3). Before paying any warrant for such contractual services in excess of One Hundred Thousand Dollars ($100,000.00), the Auditor of Public Accounts, or the successor to those duties, shall determine whether the contract involved was for personal or professional services, and, if so, was approved by the State Personal Service Contract Review Board;
(xii) Part-time employees; provided, however, part-time employees shall only be hired into authorized employment positions classified by the board, shall meet minimum qualifications as set by the board, and shall be paid in accordance with the Variable Compensation Plan as certified by the board;
(xii) Persons appointed on an emergency basis for the duration of the emergency; the effective date of the emergency appointments shall not be earlier than the date approved by the State Personnel Director, and shall be limited to thirty (30) working days. Emergency appointments may be extended to sixty (60) working days by the State Personnel Board;

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

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

(xv) The administrative head who is in charge of any state department, agency, institution, board or commission, in which the statute specifically authorizes the Governor, board, commission or other authority to appoint the administrative head; however, the salary of such administrative head shall be determined by the State Personnel Board in accordance with the
Variable Compensation Plan unless otherwise fixed by statute or except as otherwise authorized under Section 25-11-15(9);

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

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

(xviii) Repealed;

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

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

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

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