

By: Senator(s) Harden

To: Finance

SENATE BILL NO. 2179

1 AN ACT TO AMEND SECTION 25-11-127, MISSISSIPPI CODE OF 1972,
 2 TO AUTHORIZE RETIREES WHO HAD AT LEAST 30 YEARS OF CREDITABLE
 3 SERVICE AT THE TIME OF THEIR RETIREMENT TO BE EMPLOYED IN STATE
 4 SERVICE AND DRAW A RETIREMENT ALLOWANCE FOR A PERIOD OF TIME NOT
 5 TO EXCEED 185 DAYS IN ANY FISCAL YEAR; TO PROVIDE THAT ANY PERSON
 6 EMPLOYED PURSUANT TO THIS PROVISION SHALL NOT BE AN ACTIVE MEMBER
 7 OF THE RETIREMENT SYSTEM AND SHALL NOT RECEIVE ANY CREDITABLE
 8 SERVICE FOR THE PERIOD DURING WHICH HE IS EMPLOYED PURSUANT TO
 9 THIS PROVISION; TO PROVIDE THAT THE EMPLOYER OF A PERSON EMPLOYED
 10 PURSUANT TO SUCH PROVISION SHALL DEDUCT EMPLOYEE CONTRIBUTIONS AND
 11 MAKE EMPLOYER CONTRIBUTIONS ON BEHALF OF SUCH PERSON; TO PROVIDE
 12 THAT THE RETIREMENT ALLOWANCE OF SUCH PERSON SHALL NOT BE ENHANCED
 13 OR DIMINISHED AS A RESULT OF SUCH EMPLOYMENT; TO AMEND SECTION
 14 25-11-117, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A MEMBER
 15 EMPLOYED UNDER THE ABOVE PROVISION MAY NOT RECEIVE A REFUND OF THE
 16 AMOUNT OF EMPLOYEE CONTRIBUTIONS, OR INTEREST EARNED ON THOSE
 17 CONTRIBUTIONS THAT WERE MADE DURING ANY PERIOD WHEN HE WAS SO
 18 EMPLOYED; AND FOR RELATED PURPOSES.

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

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

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



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

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

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



69 (3) The provisions of this section shall not be construed to
70 prohibit any retirant, regardless of age, who had at least thirty
71 (30) years of creditable service at the time of his retirement
72 from being employed and from drawing a retirement allowance for a
73 period of time not to exceed one hundred eighty-five (185) days in
74 any fiscal year. Such employment may begin at any time following
75 the date of retirement. Notice shall be given in writing to the
76 executive director of the system, setting forth the facts upon
77 which the emergency employment is being made, and such notice
78 shall be given within five (5) days from the date of employment
79 and also from the date of termination of said employment. Any
80 person employed pursuant to this subsection shall not be an active
81 member of the retirement system and shall not receive any
82 creditable service for the period during which he is employed.
83 The employer shall deduct employee contributions for any person
84 employed pursuant to this subsection and shall make employer
85 contributions on behalf of the person in the same manner as
86 provided in Section 25-1-123 for active members for the period
87 during which such person is employed, and the employer shall pay
88 the contributions to the retirement system. The retirement
89 allowance of any person employed pursuant to this subsection shall
90 not be enhanced or diminished as a result of such employment.

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



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

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

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

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



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

149 (2) Pursuant to the Unemployment Compensation Amendments of
150 1992 (Public Law 102-318 (UCA)), a member or eligible beneficiary
151 eligible for a refund under this section may elect on a form
152 prescribed by the board under rules and regulations established by
153 the board to have an eligible rollover distribution of accumulated
154 contributions payable under this section paid directly to an
155 eligible retirement plan or individual retirement account. If the
156 member or eligible beneficiary makes such election and specifies
157 the eligible retirement plan or individual retirement account to
158 which such distribution is to be paid, the distribution will be
159 made in the form of a direct trustee-to-trustee transfer to the
160 specified eligible retirement plan. Flexible rollovers under this
161 subsection shall not be considered assignments under Section
162 25-11-129.

163 (3) If any person who has received a refund reenters the
164 state service and again becomes a member of the system, the member
165 may repay all or part of the amounts previously received as a
166 refund, together with regular interest covering the period from
167 the date of refund to the date of repayment; provided, however,



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

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

