MISSISSIPPI LEGISLATURE
REGULAR SESSION 2001

By: Senator(s) Harden
To: Finance

SENGATE BILL NO. 2179

AN ACT TO AMEND SECTION 25-11-127, MISSISSIPPI CODE OF 1972, TO AUTHORIZE RETIREES WHO HAD AT LEAST 30 YEARS OF CREDITABLE SERVICE AT THE TIME OF THEIR RETIREMENT TO BE EMPLOYED IN STATE SERVICE AND DRAW A RETIREMENT ALLOWANCE FOR A PERIOD OF TIME NOT TO EXCEED 185 DAYS IN ANY FISCAL YEAR; TO PROVIDE THAT ANY PERSON EMPLOYED PURSUANT TO THIS PROVISION SHALL NOT BE AN ACTIVE MEMBER OF THE RETIREMENT SYSTEM AND SHALL NOT RECEIVE ANY CREDITABLE SERVICE FOR THE PERIOD DURING WHICH HE IS EMPLOYED PURSUANT TO THIS PROVISION; TO PROVIDE THAT THE EMPLOYER OF A PERSON EMPLOYED PURSUANT TO SUCH PROVISION SHALL DEDUCT EMPLOYEE CONTRIBUTIONS AND MAKE EMPLOYER CONTRIBUTIONS ON BEHALF OF SUCH PERSON; TO PROVIDE THAT THE RETIREMENT ALLOWANCE OF SUCH PERSON SHALL NOT BE ENHANCED OR DIMINISHED AS A RESULT OF SUCH EMPLOYMENT; TO AMEND SECTION 25-11-117, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A MEMBER EMPLOYED UNDER THE ABOVE PROVISION 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 WAS SO EMPLOYED; AND FOR RELATED PURPOSES.

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

SECTION 1. 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. 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 retirant of this retirement system who is reemployed or is reelected to office, after retirement continue to draw retirement benefits while so reemployed. 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

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receive benefits hereunder and shall again become a contributing
member of the retirement system; and upon again retiring, if his
reemployment exceeds six (6) months, shall have his benefit
recomputed, including service after again becoming a member.
Provided, further, that the total retirement allowance paid to the
retired member in his previous retirement shall be deducted from
his retirement reserve and taken into consideration in
recalculating the retirement allowance under a new option
selected. 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); and provided further that, through June 30, 1988, nothing contained in this section shall be construed as
prohibiting any governmental unit which 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.

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

[2] The provisions of this section shall not be construed to
prohibit any retirant regardless of age from being employed and
from drawing 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 retirant to earn not
in excess of twenty-five percent (25%) of retirant'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 emergency employment is being made, and such notice
shall be given within five (5) days from the date of employment
and also from the date of termination of said employment.
(3) The provisions of this section shall not be construed to prohibit any retirant, regardless of age, who had at least thirty (30) years of creditable service at the time of his retirement from being employed and from drawing a retirement allowance for a period of time not to exceed one hundred eighty-five (185) days in any fiscal year. Such employment may begin at any time following the date of retirement. Notice shall be given in writing to the executive director of the system, setting forth the facts upon which the emergency employment is being made, and such notice shall be given within five (5) days from the date of employment and also from the date of termination of said employment. Any person employed pursuant to this subsection shall not be an active member of the retirement system and shall not receive any creditable service for the period during which he is employed. The employer shall deduct employee contributions for any person employed pursuant to this subsection and shall make employer contributions on behalf of the person in the same manner as provided in Section 25-1-123 for active members for the period during which such person is employed, and the employer shall pay the contributions to the retirement system. The retirement allowance of any person employed pursuant to this subsection shall not be enhanced or diminished as a result of such employment.

(4) * * * 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 such person files annually, in writing, in the office of the employer and the office of the executive director of the system prior to such services, a waiver of all salary or compensation and elects to receive in lieu of such 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 such services and provided, further, that any such officer or employee may receive in addition to such retirement
allowance any per diem, office expense allowance, mileage or travel expense authorized by any statute of the State of Mississippi.

(5) Any * * * member may continue in municipal or county office or employment or be reemployed * * * in a municipality or county provided such person files annually, in writing, in the office of the employer and the office of the executive director of the system prior to such services, a waiver of all salary or compensation and elects to receive in lieu of such 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 such services and provided, further, that any such officer or employee may receive in addition to such retirement allowance any per diem, office expense allowance, mileage or travel expense authorized by any statute of the State of Mississippi.

SECTION 2. 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 was employed under the provisions of Section 25-11-127(3). 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

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