

By: Senator(s) Furniss

To: Finance

SENATE BILL NO. 2656

1 AN ACT TO CREATE NEW SECTION 25-11-126, MISSISSIPPI CODE OF
2 1972, TO PROVIDE THAT PERSONS RECEIVING A RETIREMENT ALLOWANCE
3 FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO ARE ELECTED OR
4 APPOINTED TO PUBLIC OFFICE IN A POLITICAL SUBDIVISION OR
5 INSTRUMENTALITY THEREOF AFTER RETIREMENT, AND ELECTED OR APPOINTED
6 OFFICIALS IN A POLITICAL SUBDIVISION OR INSTRUMENTALITY THEREOF
7 WHO BECOME ELIGIBLE TO RECEIVE A RETIREMENT ALLOWANCE FROM THE
8 PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHILE HOLDING OFFICE, MAY
9 RECEIVE A RETIREMENT ALLOWANCE FROM THE SYSTEM WHILE HOLDING
10 OFFICE IN ADDITION TO RECEIVING TWO-THIRDS OF THE REGULAR
11 COMPENSATION FOR SUCH OFFICE; TO PROVIDE THAT THOSE PERSONS SHALL
12 NOT BE ACTIVE MEMBERS OF THE RETIREMENT SYSTEM AND SHALL NOT
13 RECEIVE ANY CREDITABLE SERVICE FOR THE PERIOD DURING WHICH THEY
14 RECEIVE A RETIREMENT ALLOWANCE WHILE HOLDING OFFICE; TO PROVIDE
15 THAT EMPLOYEE CONTRIBUTIONS SHALL BE DEDUCTED AND EMPLOYER
16 CONTRIBUTIONS SHALL BE MADE FOR THOSE PERSONS FOR THE PERIOD
17 DURING WHICH THEY RECEIVE A RETIREMENT ALLOWANCE WHILE HOLDING
18 OFFICE; TO AMEND SECTIONS 25-11-103, 25-11-105 AND 25-11-127,
19 MISSISSIPPI CODE OF 1972, IN CONFORMITY WITH THE PROVISIONS OF
20 THIS ACT; TO AMEND SECTION 25-11-117, MISSISSIPPI CODE OF 1972, TO
21 PROVIDE THAT ANY PERSON WHO RECEIVED A RETIREMENT ALLOWANCE WHILE
22 HOLDING OFFICE IN A POLITICAL SUBDIVISION OR INSTRUMENTALITY
23 THEREOF MAY NOT RECEIVE A REFUND OF EMPLOYEE CONTRIBUTIONS THAT
24 WERE MADE DURING THAT PERIOD OF SERVICE; AND FOR RELATED PURPOSES.

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

26 SECTION 1. The following shall be codified as Section
27 25-11-126, Mississippi Code of 1972:

28 25-11-126. (1) Any person who is receiving a retirement
29 allowance under this article and who is elected or appointed after
30 retirement to an office in a political subdivision or
31 instrumentality thereof, and any elected or appointed official in
32 a political subdivision or instrumentality thereof who becomes
33 eligible to receive a retirement allowance under this article
34 while holding such office, may choose to receive or continue to
35 receive a retirement allowance under this article while holding
36 such office in addition to receiving two-thirds (2/3) of the

37 regular compensation for such office in the manner provided in
38 this section.

39 (2) Any person who is receiving a retirement allowance and
40 who is elected or appointed to office in a political subdivision
41 or instrumentality thereof after retirement shall notify the
42 executive director of the system before taking office of his
43 choice about continuing to receive the retirement allowance while
44 holding such office. If the person chooses not to continue
45 receiving the retirement allowance while holding such office, the
46 retirement allowance shall cease on the day that he begins serving
47 in the office. After leaving the office, in order to begin
48 receiving a retirement allowance under this article again, such
49 person shall make application to the executive director of the
50 system, and the retirement allowance shall begin on the first of
51 the month following the date that the application is received by
52 the executive director.

53 (3) Any elected or appointed official of a political
54 subdivision or instrumentality thereof who becomes eligible to
55 receive a retirement allowance while holding office and who
56 chooses to receive a retirement allowance while holding office
57 shall make application to the executive director of the system and
58 the retirement allowance shall begin on the first of the month
59 following the date that the application is received by the
60 executive director. Such elected or appointed officials shall not
61 be required to withdraw from service in order to receive the
62 retirement allowance.

63 (4) Any person to whom this section applies who receives or
64 continues to receive a retirement allowance under this article
65 while holding office in a political subdivision or instrumentality
66 thereof shall not be an active member of the retirement system and
67 shall not receive any creditable service for the period during
68 which he receives a retirement allowance while holding office in a
69 political subdivision or instrumentality thereof. However, the

70 employer shall deduct employee contributions for the person and
71 shall make employer contributions on behalf of the person in the
72 same manner as provided in Section 25-11-123 for active members,
73 for the period during which he receives a retirement allowance
74 while holding office in a political subdivision or instrumentality
75 thereof, and the employer shall pay the contributions to the
76 retirement system.

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

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

95 (7) This section shall apply to officials who are elected to
96 office and officials who are appointed to office in a political
97 subdivision or instrumentality thereof for a specified term or for
98 the will and pleasure of the appointing authority prior to the
99 effective date of this section.

100 SECTION 2. Section 25-11-103, Mississippi Code of 1972, is
101 amended as follows:

102 25-11-103. The following words and phrases as used in
103 Articles 1 and 3, unless a different meaning is plainly required
104 by the context, shall have the following meanings:

105 (a) "Accumulated contributions" shall mean the sum of
106 all the amounts deducted from the compensation of a member and
107 credited to his individual account in the annuity savings account,
108 together with regular interest thereon as provided in Section
109 25-11-123.

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

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

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

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

124 (f) "Average compensation" shall mean the average of
125 the four (4) highest years of earned compensation reported for an
126 employee in a fiscal or calendar year period, or combination
127 thereof which do not overlap, or the last forty-eight (48)
128 consecutive months of earned compensation reported for an
129 employee. The four (4) years need not be successive or joined
130 years of service. In no case shall the average compensation so
131 determined be in excess of One Hundred Twenty-five Thousand
132 Dollars (\$125,000.00). In computing the average compensation, any
133 amount paid in a lump sum for personal leave shall be included in
134 the calculation to the extent that such amount does not exceed an

135 amount which is equal to thirty (30) days of earned compensation
136 and to the extent that it does not cause the employees' earned
137 compensation to exceed the maximum reportable amount specified in
138 Section 25-11-103(k); provided, however, that such thirty-day
139 limitation shall not prevent the inclusion in the calculation of
140 leave earned under federal regulations prior to July 1, 1976, and
141 frozen as of that date as referred to in Section 25-3-99. Only
142 the amount of lump sum pay for personal leave due and paid upon
143 the death of a member attributable for up to one hundred fifty
144 (150) days shall be used in the deceased member's average
145 compensation calculation in determining the beneficiary's
146 benefits. In computing the average compensation, no amounts shall
147 be used which are in excess of the amount on which contributions
148 were required and paid. If any member who is or has been granted
149 any increase in annual salary or compensation of more than eight
150 percent (8%) retires within twenty-four (24) months from the date
151 that such increase becomes effective, then the board shall exclude
152 that part of the increase in salary or compensation that exceeds
153 eight percent (8%) in calculating that member's average
154 compensation for retirement purposes. The board may enforce this
155 provision by rule or regulation. However, increases in
156 compensation in excess of eight percent (8%) per year granted
157 within twenty-four (24) months of the date of retirement may be
158 included in such calculation of average compensation if
159 satisfactory proof is presented to the board showing that the
160 increase in compensation was the result of an actual change in the
161 position held or services rendered, or that such compensation
162 increase was authorized by the State Personnel Board or was
163 increased as a result of statutory enactment, and the employer
164 furnishes an affidavit stating that such increase granted within
165 the last twenty-four (24) months was not contingent on a promise
166 or agreement of the employee to retire. Nothing in Section
167 25-3-31 shall affect the calculation of the average compensation

168 of any member for the purposes of this article. The average
169 compensation of any member who retires before July 1, 1992, shall
170 not exceed the annual salary of the Governor.

171 (g) "Beneficiary" shall mean any person entitled to
172 receive a retirement allowance, an annuity or other benefit as
173 provided by Articles 1 and 3. In the event of the death prior to
174 retirement of any member whose spouse and/or children are not
175 entitled to a retirement allowance on the basis that the member
176 has less than four (4) years of service credit and/or has not been
177 married for a minimum of one (1) year or the spouse has waived his
178 or her entitlement to a retirement allowance pursuant to Section
179 25-11-114, the lawful spouse of a member at the time of the death
180 of such member shall be the beneficiary of such member unless the
181 member has designated another beneficiary subsequent to the date
182 of marriage in writing, and filed such writing in the office of
183 the executive director of the board of trustees. No designation
184 or change of beneficiary shall be made in any other manner.

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

188 (i) "Creditable service" shall mean "prior service,"
189 "retroactive service" and all lawfully credited unused leave not
190 exceeding the accrual rates and limitations provided in Section
191 25-3-91 et seq., as of the date of withdrawal from service plus
192 "membership service" for which credit is allowable as provided in
193 Section 25-11-109. Except to limit creditable service reported to
194 the system for the purpose of computing an employee's retirement
195 allowance or annuity or benefits provided in this article, nothing
196 in this paragraph shall limit or otherwise restrict the power of
197 the governing authority of a municipality or other political
198 subdivision of the state to adopt such vacation and sick leave
199 policies as it deems necessary.

200 (j) "Child" means either a natural child of the member,
201 a child that has been made a child of the member by applicable
202 court action before the death of the member, or a child under the
203 permanent care of the member at the time of the latter's death,
204 which permanent care status shall be determined by evidence
205 satisfactory to the board.

206 (k) "Earned compensation" shall mean the full amount
207 earned by an employee for a given pay period including any
208 maintenance furnished up to a maximum of One Hundred Twenty-five
209 Thousand Dollars (\$125,000.00) per year, and proportionately for
210 less than one (1) year of service. The value of such maintenance
211 when not paid in money shall be fixed by the employing state
212 agency, and, in case of doubt, by the board of trustees as defined
213 in Section 25-11-15. In any case, earned compensation shall be
214 limited to the regular periodic compensation paid, exclusive of
215 litigation fees, bond fees, and other similar extraordinary
216 nonrecurring payments. In addition, any member in a covered
217 position, as defined by Public Employees' Retirement System laws
218 and regulations, who is also employed by another covered agency or
219 political subdivision shall have the earnings of that additional
220 employment reported to the Public Employees' Retirement System
221 regardless of whether the additional employment is sufficient in
222 itself to be a covered position. In the case of fee officials,
223 the net earnings from their office after deduction of expenses
224 shall apply, except that in no case shall earned compensation be
225 less than the total direct payments made by the state or
226 governmental subdivisions to the official, and employer and
227 employee contributions shall be paid thereon. In the case of
228 members of the state Legislature, all remuneration or amounts
229 paid, except mileage allowance, shall apply. The amount by which
230 an eligible employee's salary is reduced pursuant to a salary
231 reduction agreement authorized under Section 25-17-5 shall be
232 included as earned compensation under this paragraph, provided

233 this inclusion does not conflict with federal law, including
234 federal regulations and federal administrative interpretations
235 thereunder, pertaining to the Federal Insurance Contributions Act
236 or to Internal Revenue Code Section 125 cafeteria plans.
237 Compensation in addition to an employee's base salary that is paid
238 to the employee pursuant to the vacation and sick leave policies
239 of a municipality or other political subdivision of the state that
240 employs him which exceeds the maximums authorized by Section
241 25-3-91 et seq., shall be excluded from the calculation of earned
242 compensation under this article. The maximum salary applicable
243 for retirement purposes before July 1, 1992, shall be the salary
244 of the Governor. Nothing in Section 25-3-31 shall affect the
245 determination of the earned compensation of any member for the
246 purposes of this article.

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

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

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

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

264 (p) "Medical board" shall mean the board of physicians
265 or any governmental or nongovernmental disability determination

266 service designated by the board of trustees that is qualified to
267 make disability determinations as provided for in Section
268 25-11-119.

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

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

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

292 (t) "Prior service" shall mean service rendered before
293 February 1, 1953, for which credit is allowable under Sections
294 25-11-105 and 25-11-109, and which shall allow prior service for
295 any person who is now or becomes a member of the Public Employees'
296 Retirement System and who does contribute to the system for a
297 minimum period of four (4) years.

298 (u) "Regular interest" shall mean interest compounded
299 annually at such a rate as shall be determined by the board in
300 accordance with Section 25-11-121.

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

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

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

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

320 (z) "State service" shall mean all offices and
321 positions of trust or employment in the employ of the state, or
322 any political subdivision or instrumentality thereof, which elect
323 to participate as provided by Section 25-11-105(f), including the
324 position of elected or fee officials of the counties and their
325 deputies and employees performing public services or any
326 department, independent agency, board or commission thereof, and
327 shall also include all offices and positions of trust or
328 employment in the employ of joint state and federal agencies
329 administering state and federal funds and service rendered by
330 employees of the public schools. Effective July 1, 1973, all

331 nonprofessional public school employees, such as bus drivers,
332 janitors, maids, maintenance workers and cafeteria employees,
333 shall have the option to become members in accordance with Section
334 25-11-105(b), and shall be eligible to receive credit for services
335 prior to July 1, 1973, provided the contributions and interest are
336 paid by the employee in accordance with said section; provided,
337 further, that the county or municipal separate school district may
338 pay the employer contribution and pro rata share of interest of
339 the retroactive service from available funds. From and after July
340 1, 1998, retroactive service credit shall be purchased at the
341 actuarial cost in accordance with Section 25-11-105(b).

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

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

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

353 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

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

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

363 members of the retirement system as a condition of their
364 employment.

365 (b) All persons who shall become employees in the state
366 service after January 31, 1953, except those specifically excluded
367 or as to whom election is provided in Articles 1 and 3, unless
368 they shall file with the board prior to the lapse of sixty (60)
369 days of employment or sixty (60) days after the effective date of
370 the cited articles, whichever is later, on a form prescribed by
371 the board, a notice of election not to be covered by the
372 membership of the retirement system and a duly executed waiver of
373 all present and prospective benefits which would otherwise inure
374 to them on account of their participation in the system, shall
375 become members of the retirement system; provided, however, that
376 no credit for prior service will be granted to members until they
377 have contributed to Article 3 of the retirement system for a
378 minimum period of at least four (4) years. Such members shall
379 receive credit for services performed prior to January 1, 1953, in
380 employment now covered by Article 3, but no credit shall be
381 granted for retroactive services between January 1, 1953, and the
382 date of their entry into the retirement system unless the employee
383 pays into the retirement system both the employer's and the
384 employee's contributions on wages paid him during the period from
385 January 31, 1953, to the date of his becoming a contributing
386 member, together with interest at the rate determined by the board
387 of trustees. Members reentering after withdrawal from service
388 shall qualify for prior service under the provisions of Section
389 25-11-117. From and after July 1, 1998, upon eligibility as noted
390 above, the member may receive credit for such retroactive service
391 provided:

392 (1) The member shall furnish proof satisfactory to
393 the board of trustees of certification of such service from the
394 covered employer where the services were performed; and

395 (2) The member shall pay to the retirement system
396 on the date he or she is eligible for such credit or at any time
397 thereafter prior to the date of retirement the actuarial cost for
398 each year of such creditable service. The provisions of this
399 subparagraph (2) shall be subject to the limitations of Section
400 415 of the Internal Revenue Code and regulations promulgated
401 thereunder.

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

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

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

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

427 person shall receive prior service credit unless he becomes a
428 member on or before February 1, 1953.

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

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

456 (2) It specifies the source or sources from which
457 the funds necessary to make the payments required by paragraph (d)
458 of Section 25-11-123 and of paragraph (f)(5)b and c of this

459 section are expected to be derived and contains reasonable
460 assurance that such sources will be adequate for such purpose;

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

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

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

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

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

491 in the amounts and at the rates specified in the applicable
492 agreement entered into by the board.

493 C. Every political subdivision or
494 instrumentality required to make payments under paragraph (f)(5)b
495 hereof is authorized, in consideration of the employees' retention
496 in or entry upon employment after enactment of Articles 1 and 3,
497 to impose upon its employees, as to services which are covered by
498 an approved plan, a contribution with respect to wages (as defined
499 in Section 25-11-5) not exceeding the amount provided in Section
500 25-11-123(d) if such services constituted employment within the
501 meaning of Articles 1 and 3, and to deduct the amount of such
502 contribution from the wages as and when paid. Contributions so
503 collected shall be paid into the contribution fund as partial
504 discharge of the liability of such political subdivisions or
505 instrumentalities under paragraph (f)(5)b hereof. Failure to
506 deduct such contribution shall not relieve the employee or
507 employer of liability thereof.

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

519 E. Each political subdivision of the state
520 and each instrumentality of the state or a political subdivision
521 or subdivisions which submits a plan for approval of the board, as
522 provided in this section, shall reimburse the board for coverage
523 into the expense account, its pro rata share of the total expense

524 of administering Articles 1 and 3 as provided by regulations of
525 said board.

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

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

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

548 In the event any member of any other actuarially funded
549 system maintained by an agency of the state changes his employment
550 to an agency covered by this system, the board of trustees may
551 authorize the receipt of the transfer of the member's creditable
552 service and of the present value of the member's employer's
553 accumulation account and of the present value of the member's
554 accumulated membership contributions from such other system,
555 provided the employee agrees to the transfer of his accumulated

556 membership contributions to this system and provided the other
557 system is authorized and agrees to make such transfer.

558 (j) Wherever herein state employment is referred to, it
559 shall include joint employment by state and federal agencies of
560 all kinds.

561 (k) Employees of a political subdivision or
562 instrumentality who were employed by such political subdivision or
563 instrumentality prior to an agreement between such entity and the
564 Public Employees' Retirement System to extend the benefits of this
565 article to its employees, and which agreement provides for the
566 establishment of retroactive service credit, and who have been
567 members of the retirement system and have remained contributors to
568 the retirement system for four (4) years, may receive credit for
569 such retroactive service with such political subdivision or
570 instrumentality, provided the employee and/or employer, as
571 provided under the terms of the modification of the joinder
572 agreement in allowing such coverage, pay into the retirement
573 system the employer's and employee's contributions on wages paid
574 the member during such previous employment, together with interest
575 or actuarial cost as determined by the board covering the period
576 from the date the service was rendered until the payment for the
577 credit for such service was made. Such wages shall be verified by
578 the Social Security Administration or employer payroll records.
579 Effective July 1, 1998, upon eligibility as noted above, a member
580 may receive credit for such retroactive service with such
581 political subdivision or instrumentality provided:

582 (1) The member shall furnish proof satisfactory to
583 the board of trustees of certification of such services from the
584 political subdivision or instrumentality where the services were
585 rendered or verification by the Social Security Administration;
586 and

587 (2) The member shall pay to the retirement system
588 on the date he or she is eligible for such credit or at any time

589 thereafter prior to the date of retirement the actuarial cost for
590 each year of such creditable service. The provisions of this
591 subparagraph (2) shall be subject to the limitations of Section
592 415 of the Internal Revenue Code and regulations promulgated
593 thereunder.

594 Nothing contained in this paragraph (k) shall be construed to
595 limit the authority of the board to allow the correction of
596 reporting errors or omissions based on the payment of employee and
597 employer contributions plus applicable interest. Payment for such
598 time shall be made in increments of not less than one-quarter
599 (1/4) year of creditable service beginning with the most recent
600 service. Upon the payment of all or part of such required
601 contributions, plus interest or the actuarial cost as provided
602 above, the member shall receive credit for the period of
603 creditable service for which full payment has been made to the
604 retirement system.

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

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

618 **II. THOSE WHO ARE NOT ELIGIBLE FOR MEMBERSHIP**

619 The following classes of employees and officers shall not
620 become members of this retirement system, any other provisions of
621 Articles 1 and 3 to the contrary notwithstanding:

622 (a) Patient or inmate help in state charitable, penal
623 or correctional institutions;

624 (b) Students of any state educational institution
625 employed by any agency of the state for temporary, part-time or
626 intermittent work;

627 (c) Participants of Comprehensive Employment and
628 Training Act of 1973 (CETA) being Public Law 93-203, who enroll on
629 or after July 1, 1979.

630 **III. TERMINATION OF MEMBERSHIP**

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

635 SECTION 4. Section 25-11-117, Mississippi Code of 1972, is
636 amended as follows:

637 25-11-117. (1) A member may be paid a refund of the amount
638 of accumulated contributions to the credit of the member in the
639 annuity savings account provided the member has withdrawn from
640 state service and further provided the member has not returned to
641 state service on the date the refund of the accumulated
642 contributions would be paid. However, a member may not receive a
643 refund of the amount of employee contributions, or interest earned
644 on those contributions, that were made during any period when he
645 received a retirement allowance during his employment as
646 authorized by Section 25-11-126. Such refund of the contributions
647 to the credit of the member in the annuity savings account shall
648 be paid within ninety (90) days from receipt in the office of the
649 retirement system of the properly completed form requesting such
650 payment. In the event of death prior to retirement of any member
651 whose spouse and/or children are not entitled to a retirement
652 allowance, the accumulated contributions to the credit of the
653 deceased member in the annuity savings account shall be paid to
654 the designated beneficiary on file in writing in the office of

655 executive director of the board of trustees within ninety (90)
656 days from receipt of a properly completed form requesting such
657 payment. If there is no such designated beneficiary on file for
658 such deceased member in the office of the system, upon the filing
659 of a proper request with the board, the contributions to the
660 credit of the deceased member in the annuity savings account shall
661 be refunded pursuant to Section 25-11-117.1(1). The payment of
662 the refund shall discharge all obligations of the retirement
663 system to the member on account of any creditable service rendered
664 by the member prior to the receipt of the refund. By the
665 acceptance of the refund, the member shall waive and relinquish
666 all accrued rights in the system.

667 (2) Pursuant to the Unemployment Compensation Amendments of
668 1992 (Public Law 102-318 (UCA)), a member or eligible beneficiary
669 eligible for a refund under this section may elect on a form
670 prescribed by the board under rules and regulations established by
671 the board to have an eligible rollover distribution of accumulated
672 contributions payable under this section paid directly to an
673 eligible retirement plan or individual retirement account. If the
674 member or eligible beneficiary makes such election and specifies
675 the eligible retirement plan or individual retirement account to
676 which such distribution is to be paid, the distribution will be
677 made in the form of a direct trustee-to-trustee transfer to the
678 specified eligible retirement plan. Flexible rollovers under this
679 subsection shall not be considered assignments under Section
680 25-11-129.

681 (3) If any person who has received a refund reenters the
682 state service and again becomes a member of the system, the member
683 may repay all or part of the amounts previously received as a
684 refund, together with regular interest covering the period from
685 the date of refund to the date of repayment; provided, however,
686 that the amounts that are repaid by the member and the creditable
687 service related thereto shall not be used in any benefit

688 calculation or determination until the member has remained a
689 contributor to the system for a period of at least four (4) years
690 subsequent to such member's reentry into state service. Repayment
691 for such time shall be made in increments of not less than
692 one-quarter (1/4) year of creditable service beginning with the
693 most recent service for which refund has been made. Upon the
694 repayment of all or part of such refund and interest, the member
695 shall again receive credit for the period of creditable service
696 for which full repayment has been made to the system.

697 SECTION 5. Section 25-11-127, Mississippi Code of 1972, is
698 amended as follows:

699 25-11-127. No person who is being paid a retirement
700 allowance, or a pension after retirement under this article, shall
701 be employed or paid for any service by the State of Mississippi,
702 except as provided in this section or in Section 25-11-126. This
703 section shall not apply to any pensioner who has been elected to
704 public office after retirement, nor to any person employed because
705 of special knowledge or experience. This section shall not be
706 construed to mean that any person employed or elected under the
707 above exceptions shall become a member under Article 3 of the
708 retirement system, nor shall any retirant of this retirement
709 system who is reemployed or is reelected to office, after
710 retirement continue to draw retirement benefits while so
711 reemployed or reelected except those elected or appointed
712 officials who choose to continue to receive a retirement allowance
713 while holding office as authorized by Section 25-11-126. Any
714 person who has been retired under the provisions of Articles 1 and
715 3 and who is later reemployed in service covered by this article
716 shall cease to receive benefits hereunder and shall again become a
717 contributing member of the retirement system; and upon again
718 retiring, if his reemployment exceeds six (6) months, shall have
719 his benefit recomputed, including service after again becoming a
720 member. Provided, further, that the total retirement allowance

721 paid to the retired member in his previous retirement shall be
722 deducted from his retirement reserve and taken into consideration
723 in recalculating the retirement allowance under a new option
724 selected. Nothing contained in this section shall be construed as
725 prohibiting any county or city not a member of the Public
726 Employees' Retirement System from employing persons up to the age
727 of seventy-three (73); and provided further that, through June 30,
728 1988, nothing contained in this section shall be construed as
729 prohibiting any governmental unit which is a member from employing
730 persons up to the age of seventy-three (73) who are not eligible
731 for membership at the time of employment under Article 3.

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

735 The provisions of this section shall not be construed to
736 prohibit any retirant regardless of age from being employed and
737 from drawing retirement allowance either (a) for a period of time
738 not to exceed one hundred twenty (120) days in any fiscal year,
739 but less than one-half (1/2) of the normal working days for the
740 position in any fiscal year, or (b) for a period of time in any
741 fiscal year sufficient in length to permit a retirant to earn not
742 in excess of twenty-five percent (25%) of retirant's average
743 compensation or the current rate of the salary in effect for the
744 regular position filled. Notice shall be given in writing to the
745 executive secretary of the system, setting forth the facts upon
746 which the emergency employment is being made, and such notice
747 shall be given within five (5) days from the date of employment
748 and also from the date of termination of said employment. It is
749 further provided that any member who has attained seventy (70)
750 years of age and who has forty (40) or more years of creditable
751 service may continue in office or employment or be reemployed or
752 elected provided such person files annually, in writing, in the
753 office of the employer and the office of the executive secretary

754 of the system prior to such services, a waiver of all salary or
755 compensation and elects to receive in lieu of such salary or
756 compensation a retirement allowance as provided in this section,
757 in which event no salary or compensation shall thereafter be due
758 or payable for such services and provided, further, that any such
759 officer or employee may receive in addition to such retirement
760 allowance any per diem, office expense allowance, mileage or
761 travel expense authorized by any statute of the State of
762 Mississippi. Any other member may continue in municipal or county
763 office or employment or be reemployed * * * in a municipality or
764 county provided such person files annually, in writing, in the
765 office of the employer and the office of the executive secretary
766 of the system prior to such services, a waiver of all salary or
767 compensation and elects to receive in lieu of such salary or
768 compensation a retirement allowance as provided in this section,
769 in which event no salary or compensation shall thereafter be due
770 or payable for such services and provided, further, that any such
771 officer or employee may receive in addition to such retirement
772 allowance any per diem, office expense allowance, mileage or
773 travel expense authorized by any statute of the State of
774 Mississippi.

775 SECTION 6. The Attorney General of the State of Mississippi
776 shall submit this act, immediately upon approval by the Governor,
777 or upon approval by the Legislature subsequent to a veto, to the
778 Attorney General of the United States or to the United States
779 District Court for the District of Columbia in accordance with the
780 provisions of the Voting Rights Act of 1965, as amended and
781 extended.

782 SECTION 7. This act shall take effect and be in force from
783 and after July 1, 2001, if it is effectuated on or before that
784 date under Section 5 of the Voting Rights Act of 1965, as amended
785 and extended. If it is effectuated under Section 5 of the Voting
786 Rights Act of 1965, as amended and extended, after July 1, 2001,

787 this act shall take effect and be in force from and after the date
788 it is effectuated under Section 5 of the Voting Rights Act of
789 1965, as amended and extended.