

By: Senator(s) Thames

To: Fees, Salaries and
Administration;
Appropriations

SENATE BILL NO. 2829

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

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

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

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

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

19 (a) The State Treasurer;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

129 private, during the period of such failure or disruption, for
130 services, commodities, work space and supplies as necessary to
131 carry out the administration of all systems and programs
132 administered by the board. The board shall be authorized to pay
133 the reasonable cost of such services, commodities, work space and
134 supplies. At the meeting of the board next following the
135 execution of a contract authorized pursuant to this subsection,
136 documentation of the contract, including a description of the
137 services, commodities, work space or supplies, the price thereof
138 and the nature of the disaster or occurrence, shall be presented
139 to the board and placed on the minutes of the board. Because of
140 their emergency nature, purchases made pursuant to this subsection
141 shall not be required to comply with the provisions of Section
142 31-7-13 or any other law governing public purchases.

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

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

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

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

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

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

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

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

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

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

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

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

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

- 258 (ii) The Governor and staff members of the
259 immediate Office of the Governor;
- 260 (iii) Justices and judges of the judicial branch
261 or members of appeals boards on a per diem basis;
- 262 (iv) The Lieutenant Governor, staff members of the
263 immediate Office of the Lieutenant Governor and officers and
264 employees directly appointed by the Lieutenant Governor;
- 265 (v) Officers and officials elected by popular vote
266 and persons appointed to fill vacancies in elective offices;
- 267 (vi) Members of boards and commissioners appointed
268 by the Governor, Lieutenant Governor or the state Legislature;
- 269 (vii) All academic officials, members of the
270 teaching staffs and employees of the state institutions of higher
271 learning, the State Board for Community and Junior Colleges, and
272 community and junior colleges;
- 273 (viii) Officers and enlisted members of the
274 National Guard of the state;
- 275 (ix) Prisoners, inmates, student or patient help
276 working in or about institutions;
- 277 (x) Contract personnel; provided, that any agency
278 which employs state service employees may enter into contracts for
279 personal and professional services only if such contracts are
280 approved in compliance with the rules and regulations promulgated
281 by the State Personal Service Contract Review Board under Section
282 25-9-120(3). Before paying any warrant for such contractual
283 services in excess of One Hundred Thousand Dollars (\$100,000.00),
284 the Auditor of Public Accounts, or the successor to those duties,
285 shall determine whether the contract involved was for personal or
286 professional services, and, if so, was approved by the State
287 Personal Service Contract Review Board;
- 288 (xi) Part-time employees; provided, however,
289 part-time employees shall only be hired into authorized employment
290 positions classified by the board, shall meet minimum

291 qualifications as set by the board, and shall be paid in
292 accordance with the Variable Compensation Plan as certified by the
293 board;

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

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

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

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

324 * * * however, * * * the salary of such administrative head shall
325 be determined by the State Personnel Board in accordance with the
326 Variable Compensation Plan unless otherwise fixed by statute or
327 except as otherwise authorized under Section 25-11-15(9);

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

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

340 (xviii) Repealed;

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

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

353 (d) "Agency" means any state board, commission,
354 committee, council, department or unit thereof created by the
355 Constitution or statutes if such board, commission, committee,
356 council, department, unit or the head thereof, is authorized to

357 appoint subordinate staff by the Constitution or statute, except a
358 legislative or judicial board, commission, committee, council,
359 department or unit thereof.

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