HOUSE BILL NO. 896

AN ACT TO CREATE NEW SECTION 21-29-325, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT RETIRED MEMBERS OF A MUNICIPAL RETIREMENT SYSTEM OR DISABILITY AND RELIEF FUND MAY BE REEMPLOYED BY THE SAME OR ANY OTHER MUNICIPALITY OR ANY EMPLOYER PARTICIPATING IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WITHOUT THE LOSS OF RETIREMENT BENEFITS FROM THE SYSTEM OR FUND FROM WHICH THE MEMBER RETIRED; TO AMEND SECTIONS 21-29-143, 21-29-251, 21-29-33, 21-29-139 AND 21-29-245, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISION; AND FOR RELATED PURPOSES.

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

SECTION 1. The following shall be codified as Section 21-29-325, Mississippi Code of 1972:

21-29-325. From and after July 1, 2002, any member of a municipal retirement system or disability and relief fund who retires or who has previously retired from a municipality with a retirement system or disability and relief fund under Articles 1, 3 or 5 of this chapter, may be reemployed by the same or any other municipality or any employer participating in the Public Employees' Retirement System without loss of retirement benefits from the system or fund from which the member retired. The Board of Trustees of the Public Employees' Retirement System shall have the authority to establish rules and regulations defining what constitutes retirement from active service for purposes of being eligible to draw a retirement benefit from the municipal retirement system or disability and relief fund.

SECTION 2. Section 21-29-143, Mississippi Code of 1972, is amended as follows:

21-29-143. Any person receiving relief or benefits under the provisions of this article shall not be entitled to those benefits if the person attaches himself to a paid fire department or police
department in another city having a paid retirement benefit program for firemen or policemen. This section is applicable to periods of employment before July 1, 2002.

SECTION 3. Section 21-29-251, Mississippi Code of 1972, is amended as follows:

21-29-251. Any municipality which has a population in excess of twenty thousand (20,000) according to the 1970 federal decennial census and which lies within any Class 1 county touching the Mississippi River, located wholly within the Yazoo-Mississippi Delta Levee District and which has an approximate land area of five hundred seventy (570) square miles, is **author**ized and empowered, in its discretion, to adopt the following retirement program for policemen and firemen as an alternative to the program established in Sections 21-29-245 through 21-29-249, and which shall otherwise conform with the provisions of this article.

Any member of the fire and/or police department who has been in, and has received compensation for, fire and/or police department service for twenty (20) years before the filing of an application as hereinafter provided, with the preceding ten (10) years of service being continuous in the city to which application is made, may file a written application for retirement relief. Thereupon, the board of disability and relief shall retire such member from active service without a medical examination of disability and shall order the monthly payment to him from the fund of an amount equal to fifty percent (50%) of the average monthly base salary and longevity pay received as salary by him in the six-month period preceding the filing of such application. Thereafter, such payment, to be known as "retirement relief," shall be made to such retired member for the remainder of his life.

Any member of the fire and/or police department who has been in, and has received compensation for, fire and/or police department service for more than twenty (20) years shall be
entitled to, and shall receive, additional retirement relief for
the remainder of his life of an amount equal to one and
seven-tenths percent (1-7/10%) of the same average monthly base
salary and longevity pay received by such member as salary in the
six-month period preceding the filing of such application for each
full year of service in excess of twenty (20) years. However,
such retired member shall receive the additional retirement relief
provided in this paragraph only for each full year of service in
excess of twenty (20) years completed after July 1, 1966. No such
retired member shall receive such additional retirement relief in
excess of sixty-six and two-thirds percent (66-2/3%) of the same
average monthly base salary and longevity pay received as salary
by him in the six-month period preceding the filing of such
application, excluding such other benefits as may be hereinafter
provided.

Any member of the fire and/or police department who (1) has
been in, and has received compensation for, fire and/or police
department service for a period equal to or greater than five (5)
years and less than twenty (20) years, and (2) has been forced to
retirement on account of age may file a written application for
pro rata retirement relief. Thereupon, the disability and relief
board shall retire such member from active service without a
medical examination for disability and shall order the monthly
payment to him from the fund of an amount equal to two and
one-half percent (2-1/2%) of the average monthly base salary and
longevity pay received as salary by him in the six-month period
preceding the filing of such application for each full year of
active service.

Periods of time in which a member may have been inactive on
account of physical or mental disability shall not be excluded in
computing the hereinbefore-mentioned time periods, except that
such periods of inactivity shall be excluded in computing the
aforementioned five-year pro rata eligibility period. Periods of
time in which a member may have been absent from such employment on account of active service in the Army or Navy of the United States, the United States Marine Corps or the United States Coast Guard between September 16, 1940, and July 25, 1947, or while as a civil employee engaged by the Army or Navy while serving outside the continental United States shall not be excluded in computing the hereinbefore-mentioned time period except that such periods of inactivity shall be excluded in computing the aforementioned five-year pro rata eligibility period. The discharge or release of such member from such Armed Forces shall have been under conditions other than dishonorable. Any member who has been retired or is voluntarily retired under this section, or who has received relief or disability benefits under this section, shall be required to report such duties as required by the disability and relief board.

The disability and relief board shall, when a member of the fire and/or police department completes thirty-five (35) years of paid employment or attains the age of sixty (60), whichever occurs first, retire him from active service and order the payment of such funds as the member is entitled to under the provisions of this section. However, the continued employment of any member who has not completed twenty (20) years of service may be authorized by the governing authority of the municipality on a year-to-year basis until the employee completes twenty (20) years of active service or reaches the age of seventy (70), whichever occurs first.

Any person receiving retirement relief under the provisions of this section shall no longer be entitled to that relief upon attachment with a paid fire department or police department in another city having a paid retirement relief program for policemen or firemen. This paragraph is applicable to periods of employment before July 1, 2002.
The entitlement, under the particular retirement program in operation prior to the adoption of the alternative retirement program established in this section, of a policeman or fireman thereunder to any benefits or rights thereof shall not be diminished on account of the transition by such municipalities to the alternative retirement program established by this section.

SECTION 4. Section 21-29-33, Mississippi Code of 1972, is amended as follows:

21-29-33. Upon retirement from service as provided in Section 21-29-31 a member shall receive a service retirement allowance for the remainder of his life, payable monthly, which allowance shall be a sum equal to fifty percent (50%) of his average monthly salary for the last four (4) years of service immediately prior to retirement; however, an additional retirement allowance shall be based upon the average monthly salary for the last two (2) years of service immediately prior to retirement. Any member who has been in paid service for longer than twenty (20) years shall be entitled to receive additional payments for life in a sum equal to one and seven-tenths percent (1-7/10%) of the average monthly salary received by such member in the two-year period next preceding the filing of said application for each full year of service in excess of twenty (20) years' service. However, no retired payment to any member shall exceed sixty-six and two-thirds percent (66-2/3%) of the average monthly salary received by a member for the four-year or two-year period, as the case may be, next preceding the filing of the application.
Periods of time in which a member may have been inactive on account of physical or mental disability shall not be excluded in computing the twenty-year period and the seven-year period hereinbefore mentioned, provided the employee continues to contribute his share to the program based on the average of his last two (2) months' compensation. This contribution shall continue during the total time the employee shall be inactive.

Nothing in this section shall be construed to prohibit a retired member of the retirement system from being reemployed by the same or any other municipality or any employer participating in the Public Employees' Retirement System without the loss of retirement benefits from the retirement system, as authorized by Section 21-29-325.

SECTION 5. Section 21-29-139, Mississippi Code of 1972, is amended as follows:

21-29-139. If any member of the fire and/or police department who has been in paid fire and/or police department service for as long as twenty (20) years before making application hereinafter mentioned, the last ten (10) years of which shall have been continuous in the city in which the application is made, shall make written application for retirement and relief, the board of disability and relief shall, without medical examination of disability, retire him from active service in said fire and/or police department. Upon such retirement from active service, the board of disability and relief shall order the payment to such retired member monthly from the fund a sum equal to fifty percent (50%) of the average monthly base salary and longevity pay received as salary by such member in the six-month period next before the filing of such application in the fire and/or police department. Such payments shall thereafter be made to the retired member for life, such payment to be known as "retired relief."

Any member of the fire and/or police department who has been in paid fire and/or police department service for longer than
twenty (20) years in a municipality shall be entitled and shall receive additional retired relief payment for life in a sum equal to one and seven-tenths percent (1-7/10%) of the same average monthly base salary and longevity pay received by such member in the six-month period next preceding the filing of the application, for each full year of service in excess of twenty (20) years' service. However, no retired relief payment to any member shall exceed sixty-six and two-thirds percent (66-2/3%) of the average monthly base salary and longevity pay received by a member for the six-month period next preceding the filing of the application.

The board shall, when a member of the fire and/or police department reaches the age of sixty-five (65), retire him from active service in the fire and/or police department and order the payment of such funds as the member is entitled to hereunder. Periods of time in which a member may have been inactive on account of physical or mental disability shall not be excluded in computing the twenty-year period and the ten-year period hereinbefore mentioned. Periods of time within which a member may have been absent from his employment while in active service of the Army or Navy of the United States, United States Marine Corps or the United States Coast Guard between September 16, 1940, and July 25, 1947, or while as a civil employee engaged by the Army and Navy while serving outside the continental United States shall not be excluded in computing the twenty-year period and the ten-year period hereinbefore mentioned, provided that the discharge or release of such member from the Armed Forces was under conditions other than dishonorable. Any member who has been retired or is voluntarily retired hereunder, or who has received relief or disability benefits hereunder, shall be required to perform such duties as then may be required of him.

However, in any city having a population of nineteen thousand (19,000) but less than twenty thousand (20,000), according to the 1970 census, the periods of time not exceeding
four (4) years within which a member of the fire or police
departments may have been absent from his employment while in
active service in the Armed Forces of the United States, shall not
be excluded in computing the twenty-year period and the ten-year
period mentioned in this section.

Nothing in this section shall be construed to prohibit a
retired member of the disability and relief fund from being
reemployed by the same or any other municipality or any employer
participating in the Public Employees' Retirement System without
the loss of retirement benefits from the disability and relief
fund, as authorized by Section 21-29-325.

SECTION 6. Section 21-29-245, Mississippi Code of 1972, is
amended as follows:

21-29-245. If any member of the fire and/or police
department who has been in paid fire and/or police department
service for as long as twenty (20) years before making application
hereinafter mentioned, the last ten (10) years of which * * * have
been continuous in the city in which the application is made,
shall make written application for retirement and relief, the
board of disability and relief shall without medical examinations
of disability, retire him from active service in said fire and/or
police department. Upon such retirement from active service the
disability and relief board shall order the payment to such
retired member monthly from said fund a sum equal to fifty percent
(50%) of the average monthly base salary and longevity pay
received as salary by such member in the six-month period next
before the filing of such application in the fire and/or police
department. Such payments shall thereafter be made to the retired
member for life, such payments to be known as "retired relief."

Any member of the fire and/or police department who has been
in paid fire and/or police department service for longer than
twenty (20) years shall be entitled to and shall receive
additional retired relief payment for life in a sum equal to one
and seven-tenths percent (1-1/7%) of the same monthly base salary and longevity pay received by such member in the six-month period next preceding the filing of the application for each full year of service in excess of twenty (20) years' service. However, such additional retired relief payment shall be paid only for each year served after July 1, 1966. No retired relief payment to any member shall exceed sixty-six and two-thirds percent (66-2/3%) of the average monthly base salary and longevity pay received by a member for the six-month period next preceding the filing of the application, except such other additional benefits as may be hereinafter provided.

The board of disability and relief shall, when a member of the fire and/or police department completes thirty-five (35) years of paid employment, or attains the age of sixty (60), whichever occurs first, retire him from active service in the fire and/or police department and order the payment of such funds as the member is entitled to under this article.

Periods of time in which a member may have been inactive on account of physical or mental disability shall not be excluded in computing the twenty-year period and the ten-year period hereinaabove mentioned. Neither shall there be excluded therefrom periods of time within which a member may have been absent from his employment while serving in the Armed Forces of the United States, or any civil employee engaged by the Armed Forces of the United States while serving outside the continental United States, in time of war during World War I, World War II, the Korean Conflict, Cuban Crisis, Berlin Crisis, Vietnam Conflict, or when involuntarily called on active duty, provided that the maximum period for such creditable service shall be four (4) years unless positive proof can be furnished by such person that he was retained in the Armed Forces by cause beyond his control, and without opportunity of discharge, and provided that the discharge or release of such member from the Armed Forces was under
conditions other than dishonorable. Any member who has been
retired or is voluntarily retired hereunder, or who has received
relief or disability benefits hereunder, shall be required to
report such duties as then may be required of them.

Nothing in this section shall be construed to prohibit a
retired member of the disability and relief fund from being
reemployed by the same or any other municipality or any employer
participating in the Public Employees' Retirement System without
the loss of retirement benefits from the disability and relief
fund, as authorized by Section 21-29-325.

SECTION 7. This act shall take effect and be in force from
and after July 1, 2002.