SENATE BILL NO. 2569

AN ACT TO CREATE A NEW CODE SECTION TO BE CODIFIED AS SECTION 25-11-126, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CERTAIN PERSONS RECEIVING A RETIREMENT ALLOWANCE FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO ARE EMPLOYED AS TEACHERS IN THE PUBLIC SCHOOL SYSTEM AFTER THEIR RETIREMENT, AND CERTAIN PERSONS EMPLOYED AS TEACHERS IN THE PUBLIC SCHOOL SYSTEM WHO ARE ELIGIBLE TO RECEIVE A RETIREMENT ALLOWANCE FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM, MAY RECEIVE A RETIREMENT ALLOWANCE DURING THEIR EMPLOYMENT AS TEACHERS IN ADDITION TO RECEIVING A TEACHER'S SALARY; TO PROVIDE THAT THOSE PERSONS SHALL NOT BE CONTRIBUTING MEMBERS OF THE RETIREMENT SYSTEM NOR RECEIVE ANY CREDITABLE SERVICE FOR THE PERIOD DURING WHICH THEY RECEIVE A RETIREMENT ALLOWANCE; TO CREATE A NEW CODE SECTION TO BE CODIFIED AS SECTION 25-11-128, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT PERSONS RECEIVING A RETIREMENT ALLOWANCE FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO ARE ELECTED TO PUBLIC OFFICE AFTER RETIREMENT AND ELECTED OFFICIALS WHO BECOME ELIGIBLE TO RECEIVE A RETIREMENT ALLOWANCE FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHILE HOLDING OFFICE MAY RECEIVE A RETIREMENT ALLOWANCE FROM THE SYSTEM WHILE HOLDING SUCH OFFICE IN ADDITION TO RECEIVING A SALARY AND OTHER COMPENSATION FOR SUCH OFFICE; TO PROVIDE THAT SUCH PERSONS SHALL NOT BE CONTRIBUTING MEMBERS OF THE RETIREMENT SYSTEM NOR RECEIVE ANY CREDITABLE SERVICE FOR THE PERIOD DURING WHICH THEY RECEIVE A RETIREMENT ALLOWANCE WHILE HOLDING OFFICE; TO AMEND SECTIONS 25-11-103, 25-11-105 AND 25-11-127, MISSISSIPPI CODE OF 1972, IN CONFORMITY WITH THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

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

25-11-126. (1) (a) Any person who has completed twenty-five (25) or more years of creditable service and is employed as a teacher in the public school system at the time of his retirement and who is employed as a teacher in the public school system after his retirement, may choose to continue receiving the retirement allowance under this article during his employment as a teacher after his retirement in addition to...
receiving the salary authorized under Section 37-19-7, in the
manner provided in this section.

(b) Any person who is employed as a teacher in the
governmental public school system who completes twenty-five (25) or more years
of creditable service during his employment as a teacher, may
choose to receive a retirement allowance under this article during
his employment as a teacher in the public school system in
addition to receiving the salary authorized under Section 37-19-7,
in the manner provided in this section.

(2) Any person described in subsection (1)(a) of this
section shall notify the executive director of the retirement
system, before being employed as a teacher in the public school
system after his retirement, about his choice on continuing to
receive the retirement allowance during his employment as a
teacher. If the person chooses not to continue receiving the
retirement allowance during his employment as a teacher, the
retirement allowance shall cease on the day that he begins
employment as a teacher after his retirement. After the person
leaves employment as a teacher that he began after his retirement,
in order to begin receiving a retirement allowance under this
article again, the person shall make application to the executive
director of the retirement system, and the retirement allowance
shall begin on the first of the month following the date that the
application is received by the executive director.

(3) Any person described in subsection (1)(b) who chooses to
receive a retirement allowance during his employment as a teacher
in the public school system shall make application to the
executive director of the retirement system, and the retirement
allowance shall begin on the first of the month following the date
that the application is received by the executive director. Those
persons shall not be required to withdraw from service in order to
receive the retirement allowance.
(4) Any person to whom this section applies who receives or continues to receive a retirement allowance under this article during his employment as a teacher shall not be a contributing member of the retirement system nor receive any creditable service for the period during which he receives a retirement allowance during his employment as a teacher. Any person to whom this section applies who chooses not to receive a retirement allowance during his employment as a teacher shall be a contributing member of the retirement system and shall receive creditable service for the period during which he is employed as a teacher without receiving a retirement allowance. If the person has previously received a retirement allowance under this article and he is employed as a teacher for more than six (6) months without receiving a retirement allowance, he shall have his allowance recomputed when he retires again, which shall include the service after he again became a contributing member of the retirement system.

SECTION 2. The following shall be codified as Section 25-11-128, Mississippi Code of 1972:

25-11-128. (1) Any person who is receiving a retirement allowance under this article and who is elected to an office in the state service after retirement, and any elected official in the state service who becomes eligible to receive a retirement allowance under this article while holding office, may choose to receive or continue to receive a retirement allowance under this article while holding office in addition to receiving the salary and other compensation for such office.

(2) Any person who is receiving a retirement allowance and who is elected to office after retirement shall notify the executive director of the system before taking office of his choice about continuing to receive the retirement allowance while holding office. If the person chooses not to continue receiving the retirement allowance while holding office, the retirement
allowance shall cease on the day that he begins serving in the
office. After leaving office, in order to begin receiving a
retirement allowance under this article again, such person shall
make application to the executive director of the system, and the
retirement allowance shall begin on the first of the month
following the date that the application is received by the
executive director.

(3) Any elected official who becomes eligible to receive a
retirement allowance while holding office or who is in office on
the effective date of this section and is eligible to receive a
retirement allowance and who chooses to receive a retirement
allowance while holding office shall make application to the
executive director of the system, and the retirement allowance
shall begin on the first of the month following the date that the
application is received by the executive director. Such elected
officials shall not be required to withdraw from service in order
to receive the retirement allowance.

(4) Any person to whom this section applies who receives or
continues to receive a retirement allowance under this article
while holding office as authorized by this section shall not be a
contributing member of the retirement system nor receive any
creditable service for the period during which he receives a
retirement allowance while holding office.

(5) Any person to whom this section applies who chooses not
to receive a retirement allowance while holding office shall be a
contributing member of the retirement system and shall receive
creditable service for the period during which he holds office
without receiving a retirement allowance. If such person has
previously received a retirement allowance under this article and
he holds office for more than six (6) months without receiving a
retirement allowance, he shall have his allowance recomputed when
he retires again, which shall include the service after he again
became a contributing member of the retirement system.
This section shall apply to officials who are elected to office, but shall not apply to persons in other positions of employment in the state service.

SECTION 3. Section 25-11-103, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

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

(f) "Average compensation" shall mean the average of the four (4) highest years of earned compensation reported for an employee in a fiscal or calendar year period, or combination thereof which do not overlap, or the last forty-eight (48) consecutive months of earned compensation reported for an employee. The four (4) years need not be successive or joined
years of service. In no case shall the average compensation so
determined be in excess of One Hundred Twenty-five Thousand
Dollars ($125,000.00). In computing the average compensation, any
amount paid in a lump sum for personal leave shall be included in
the calculation to the extent that such amount does not exceed an
amount which is equal to thirty (30) days of earned compensation
and to the extent that it does not cause the employees' earned
compensation to exceed the maximum reportable amount specified in
Section 25-11-103(k); provided, however, that such thirty-day
limitation shall not prevent the inclusion in the calculation of
leave earned under federal regulations prior to July 1, 1976, and
frozen as of that date as referred to in Section 25-3-99. Only
the amount of lump sum pay for personal leave due and paid upon
the death of a member attributable for up to one hundred fifty
(150) days shall be used in the deceased member's average
compensation calculation in determining the beneficiary's
benefits. In computing the average compensation, no amounts shall
be used which are in excess of the amount on which contributions
were required and paid. If any member who is or has been granted
any increase in annual salary or compensation of more than eight
percent (8%) retires within twenty-four (24) months from the date
that such increase becomes effective, then the board shall exclude
that part of the increase in salary or compensation that exceeds
eight percent (8%) in calculating that member's average
compensation for retirement purposes. The board may enforce this
provision by rule or regulation. However, increases in
compensation in excess of eight percent (8%) per year granted
within twenty-four (24) months of the date of retirement may be
included in such calculation of average compensation if
satisfactory proof is presented to the board showing that the
increase in compensation was the result of an actual change in the
position held or services rendered, or that such compensation
increase was authorized by the State Personnel Board or was
increased as a result of statutory enactment, and the employer furnishes an affidavit stating that such increase granted within the last twenty-four (24) months was not contingent on a promise or agreement of the employee to retire. Nothing in Section 25-3-31 shall affect the calculation of the average compensation of any member for the purposes of this article. The average compensation of any member who retires before July 1, 1992, shall not exceed the annual salary of the Governor.

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

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

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

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

(k) "Earned compensation" shall mean the full amount
earned by an employee for a given pay period including any
maintenance furnished up to a maximum of One Hundred Twenty-five
Thousand Dollars ($125,000.00) per year, and proportionately for
less than one (1) year of service. The value of such maintenance
when not paid in money shall be fixed by the employing state
agency, and, in case of doubt, by the board of trustees as defined
in Section 25-11-15. In any case, earned compensation shall be
limited to the regular periodic compensation paid, exclusive of
litigation fees, bond fees, and other similar extraordinary
nonrecurring payments. In addition, any member in a covered
position, as defined by Public Employees' Retirement System laws
and regulations, who is also employed by another covered agency or
political subdivision shall have the earnings of that additional
employment reported to the Public Employees' Retirement System
regardless of whether the additional employment is sufficient in
itself to be a covered position. In the case of fee officials,
the net earnings from their office after deduction of expenses
shall apply, except that in no case shall earned compensation be
less than the total direct payments made by the state or
governmental subdivisions to the official, and employer and
employee contributions shall be paid thereon. In the case of
members of the state Legislature, all remuneration or amounts
paid, except mileage allowance, shall apply. The amount by which
an eligible employee's salary is reduced pursuant to a salary
reduction agreement authorized under Section 25-17-5 shall be
included as earned compensation under this paragraph, provided
this inclusion does not conflict with federal law, including
federal regulations and federal administrative interpretations
thereunder, pertaining to the Federal Insurance Contributions Act
or to Internal Revenue Code Section 125 cafeteria plans.
Compensation in addition to an employee's base salary that is paid
to the employee pursuant to the vacation and sick leave policies
of a municipality or other political subdivision of the state that
employs him which exceeds the maximums authorized by Section
25-3-91 et seq., shall be excluded from the calculation of earned
compensation under this article. The maximum salary applicable
for retirement purposes before July 1, 1992, shall be the salary
of the Governor. Nothing in Section 25-3-31 shall affect the
determination of the earned compensation of any member for the
purposes of this article.

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

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

(n) "Executive director" shall mean the secretary to
the board of trustees, as provided in Section 25-11-15(9), and the
administrator of the Public Employees' Retirement System and all
systems under the management of the board of trustees. Wherever
the term "Executive Secretary of the Public Employees' Retirement
System" or "executive secretary" appears in this article or in any
other provision of law, it shall be construed to mean the
Executive Director of the Public Employees' Retirement System.
(o) "Fiscal year" shall mean the period beginning on July 1 of any year and ending on June 30 of the next succeeding year.

(p) "Medical board" shall mean the board of physicians or any governmental or nongovernmental disability determination service designated by the board of trustees that is qualified to make disability determinations as provided for in Section 25-11-119.

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

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

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

(t) "Prior service" shall mean service rendered before February 1, 1953, for which credit is allowable under Sections 25-11-401 and 25-11-406.
25-11-105 and 25-11-109, and which shall allow prior service for any person who is now or becomes a member of the Public Employees' Retirement System and who does contribute to the system for a minimum period of four (4) years.

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

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

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

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

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

(z) "State service" shall mean all offices and positions of trust or employment in the employ of the state, or any political subdivision or instrumentality thereof, which elect to participate as provided by Section 25-11-105(f), including the position of elected or fee officials of the counties and their deputies and employees performing public services or any department, independent agency, board or commission thereof, and...
shall also include all offices and positions of trust or employment in the employ of joint state and federal agencies administering state and federal funds and service rendered by employees of the public schools. Effective July 1, 1973, all nonprofessional public school employees, such as bus drivers, janitors, maids, maintenance workers and cafeteria employees, shall have the option to become members in accordance with Section 25-11-105(b), and shall be eligible to receive credit for services prior to July 1, 1973, provided the contributions and interest are paid by the employee in accordance with said section; provided, further, that the county or municipal separate school district may pay the employer contribution and pro rata share of interest of the retroactive service from available funds. From and after July 1, 1998, retroactive service credit shall be purchased at the actuarial cost in accordance with Section 25-11-105(b).

(aa) "Withdrawal from service" shall mean complete severance of employment in the state service of any member by resignation, dismissal or discharge, except in the case of (i) persons who become eligible to receive a retirement allowance under this article and who choose to receive or continue to receive a retirement allowance during their employment as teachers as authorized by Section 25-11-126 and (ii) elected officials who choose to receive or continue to receive a retirement allowance while holding office as authorized in Section 25-11-128.

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

SECTION 4. Section 25-11-105, Mississippi Code of 1972, is amended as follows:

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

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

(a) All persons who shall become employees in the state service after January 31, 1953, and whose wages are subject to
payroll taxes and are lawfully reported on IRS Form W-2, except
(i) those persons who are specifically excluded, (ii) those
persons as to whom election is provided in Articles 1 and 3, (iii)
those persons who choose to receive or continue receiving a
retirement allowance during their employment as teachers as
authorized by Section 25-11-126, or (iv) those elected officials
who choose to receive or continue to receive a retirement
allowance while holding office as authorized by Section 25-11-128
shall become members of the retirement system as a condition of
their employment.

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

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

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

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

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

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

(e) All persons who are employees in the state service on January 31, 1953, and who under existing laws are members of

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any fund operated for the retirement of employees by the State of Mississippi, or any of its departments or agencies, shall not be entitled to membership in this retirement system unless, before February 1, 1953, any such person shall indicate by a notice filed with the board, on a form prescribed by the board, his individual election and choice to participate in this system, but no such person shall receive prior service credit unless he becomes a member on or before February 1, 1953.

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

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

(2) It specifies the source or sources from which the funds necessary to make the payments required by paragraph (d) of Section 25-11-123 and of paragraph (f)(5)B and C of this section are expected to be derived and contains reasonable assurance that such sources will be adequate for such purpose;

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

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

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

A. The board of trustees shall not finally refuse to approve a plan submitted under paragraph (f), and shall not terminate an approved plan without reasonable notice and opportunity for hearing to each political subdivision or instrumentality affected thereby. The board's decision in any such case shall be final, conclusive and binding unless an appeal be taken by the political subdivision or instrumentality aggrieved thereby to the Circuit Court of Hinds County, Mississippi, in accordance with the provisions of law with respect to civil causes by certiorari.
B. Each political subdivision or instrumentality as to which a plan has been approved under this section shall pay into the contribution fund, with respect to wages (as defined in Section 25-11-5), at such time or times as the board of trustees may by regulation prescribe, contributions in the amounts and at the rates specified in the applicable agreement entered into by the board.

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

D. Any state agency, school, political subdivision, instrumentality or any employer that is required to submit contribution payments or wage reports under any section of this chapter shall be assessed interest on delinquent payments or wage reports as determined by the board of trustees in accordance with rules and regulations adopted by the board and such assessed interest may be recovered by action in a court of competent jurisdiction against such reporting agency liable therefor or may, upon due certification of delinquency and at the request of the board of trustees, be deducted from any other monies payable to such reporting agency by any department or agency of the state.
E. Each political subdivision of the state and each instrumentality of the state or a political subdivision or subdivisions which submits a plan for approval of the board, as provided in this section, shall reimburse the board for coverage into the expense account, its pro rata share of the total expense of administering Articles 1 and 3 as provided by regulations of said board.

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

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

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

In the event any member of any other actuarially funded system maintained by an agency of the state changes his employment to an agency covered by this system, the board of trustees may authorize the receipt of the transfer of the member's creditable service and of the present value of the member's employer's accumulation account and of the present value of the member's accumulated membership contributions.
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accumulation account and of the present value of the member's
accumulated membership contributions from such other system,
provided the employee agrees to the transfer of his accumulated
membership contributions to this system and provided the other
system is authorized and agrees to make such transfer.

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

(k) Employees of a political subdivision or
instrumentality who were employed by such political subdivision or
instrumentality prior to an agreement between such entity and the
Public Employees' Retirement System to extend the benefits of this
article to its employees, and which agreement provides for the
establishment of retroactive service credit, and who have been
members of the retirement system and have remained contributors to
the retirement system for four (4) years, may receive credit for
such retroactive service with such political subdivision or
instrumentality, provided the employee and/or employer, as
provided under the terms of the modification of the joinder
agreement in allowing such coverage, pay into the retirement
system the employer's and employee's contributions on wages paid
the member during such previous employment, together with interest
or actuarial cost as determined by the board covering the period
from the date the service was rendered until the payment for the
credit for such service was made. Such wages shall be verified by
the Social Security Administration or employer payroll records.

Effective July 1, 1998, upon eligibility as noted above, a member
may receive credit for such retroactive service with such
political subdivision or instrumentality provided:

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

and

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

Nothing contained in this paragraph (k) shall be construed to limit the authority of the board to allow the correction of reporting errors or omissions based on the payment of employee and employer contributions plus applicable interest. Payment 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. Upon the payment of all or part of such required contributions, plus interest or the actuarial cost as provided above, the member shall receive credit for the period of creditable service for which full payment has been made to the retirement system.

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

(m) All rights to purchase retroactive service credit or repay a refund as provided in Section 25-11-101 et seq. shall terminate upon retirement.
II. THOSE WHO ARE NOT ELIGIBLE FOR MEMBERSHIP

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

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

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

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

III. TERMINATION OF MEMBERSHIP

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

SECTION 5. 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, in Section 25-11-126 or in Section 25-11-128. 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 retiree of this retirement system who is reemployed or is reelected to office after retirement continue to draw retirement benefits while so reemployed or reelected except (i) those persons who choose to continue receiving a retirement allowance during their employment.
as teachers as authorized by Section 25-11-126, and (ii) those
elected officials who choose to continue to receive a retirement
allowance while holding office as authorized by Section 25-11-128.

(2) 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 receive benefits under this article
unless he chooses to continue receiving a retirement allowance
during his employment as a teacher as authorized by Section
25-11-126, or while holding office as authorized in Section
25-11-128 and the person shall again become a contributing member
of the retirement system. When the person retires again, if he
has been a contributing member of the retirement system during his
reemployment and the reemployment exceeds six (6) months, the
person shall have his or her benefit recomputed, including service
after again becoming a member, provided that the total retirement
allowance paid to the retired member in his or her previous
retirement shall be deducted from the member's retirement reserve
and taken into consideration in recalculating the retirement
allowance under a new option selected.

(3) 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). In addition, through June 30, 1988,
nothing contained in this section shall be construed as
prohibiting any governmental unit that 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.

(4) The board of trustees of the retirement system shall
have the right to prescribe rules and regulations for carrying out
the provisions of this section.

(5) The provisions of this section shall not be construed to
prohibit any retiree, regardless of age, from being employed and
drawing a retirement allowance either:
(a) For a period of time not to exceed one-half (1/2) of the normal working days for the position in any fiscal year during which the retiree will receive no more than one-half (1/2) of the salary in effect for the position at the time of employment, or

(b) For a period of time in any fiscal year sufficient in length to permit a retiree to earn not in excess of twenty-five percent (25%) of retiree's average compensation.

To determine the normal working days for a position under paragraph (a) of this subsection, the employer shall determine the required number of working days for the position on a full-time basis and the equivalent number of hours representing the full-time position. The retiree then may work up to one-half (1/2) of the required number of working days or up to one-half (1/2) of the equivalent number of hours and receive up to one-half (1/2) of the salary for the position. In the case of employment with multiple employers, the limitation shall equal one-half (1/2) of the number of days or hours for a single full-time position.

Notice shall be given in writing to the executive director of the system, setting forth the facts upon which the employment is being made, and the notice shall be given within five (5) days from the date of employment and also from the date of termination of the employment.

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

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

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

SECTION 7. This act shall take effect and be in force from
and after July 1, 2002, if it is effectuated on or before that
date under Section 5 of the Voting Rights Act of 1965, as amended
and extended. If it is effectuated under Section 5 of the Voting
Rights Act of 1965, as amended and extended, after July 1, 2002,
this act shall take effect and be in force from and after the date
it is effectuated under Section 5 of the Voting Rights Act of
1965, as amended and extended.