AN ACT TO AUTHORIZE CERTAIN MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO PARTICIPATE IN A DEFERRED RETIREMENT OPTION PLAN IN LIEU OF TERMINATING REEMPLOYMENT AND ACCEPTING A RETIREMENT ALLOWANCE; TO PROVIDE THAT AN ELECTION TO PARTICIPATE IN THE PLAN MAY BE MADE ONLY ONCE FOR A SPECIFIED PERIOD NOT TO EXCEED THREE YEARS; TO PROVIDE THAT A MEMBER PARTICIPATING IN THE PLAN MAY NOT TERMINATE PARTICIPATION PRIOR TO THE END OF THE SELECTED DURATION WITHOUT TERMINATING EMPLOYMENT; TO PROVIDE THAT DURING PARTICIPATION IN THE DEFERRED RETIREMENT OPTION PLAN THE PARTICIPANT SHALL REMAIN A MEMBER OF THE SYSTEM BUT EMPLOYER AND EMPLOYEE CONTRIBUTIONS SHALL NOT BE PAYABLE; TO PROVIDE THAT THE RETIREMENT BENEFITS WHICH OTHERWISE WOULD HAVE BEEN DUE THE PARTICIPANT SHALL, DURING THE PERIOD OF PARTICIPATION IN THE PLAN, BE CREDITED TO THE DEFERRED RETIREMENT OPTION PLAN ACCOUNT; TO REQUIRE THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO ESTABLISH A DEFERRED RETIREMENT OPTION PLAN ACCOUNT AND TO MAINTAIN SUBACCOUNTS WITHIN THIS ACCOUNT REFLECTING THE CREDITS ATTRIBUTED TO EACH PARTICIPANT IN THE PLAN; TO PROVIDE THAT UPON TERMINATION OR PARTICIPATION IN THE PLAN AND EMPLOYMENT, A PARTICIPANT SHALL RECEIVE A LUMP-SUM PAYMENT FROM THE ACCOUNT OR SYSTEMATIC DISBURSEMENTS FROM HIS INDIVIDUAL SUBACCOUNT IN ANY MANNER APPROVED BY THE BOARD OF TRUSTEES OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM, AND BEGIN TO RECEIVE MONTHLY RETIREMENT BENEFITS BASED ON THE OPTION SELECTED AT THE TIME OF PARTICIPATION IN THE PLAN; TO PROVIDE THAT THE ELECTION TO PARTICIPATE IN THE PLAN IS IRREVOCABLE ONCE MADE; TO AMEND SECTIONS 25-11-109, 25-11-117 AND 25-11-127, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) In lieu of terminating employment and accepting a retirement allowance, any member of the Public Employees' Retirement System who has thirty (30) years of creditable service at any age, twenty-five (25) years of creditable service and is at least age fifty-five (55) or has twenty (20) years of creditable service exclusive of military service and is at least age sixty-five (65), may elect to participate in the Deferred Retirement Option Plan.

(2) An election to participate in the plan may be made only once for a specified period not to exceed three (3) years. The three-year period begins within sixty (60) calendar days after the
first time the member reaches one (1) of the eligibility
requirements of subsection (1) of this section. The participation
period must end not more than three (3) years and sixty (60)
calendar days from the date the member first becomes eligible
under any of the eligibility requirements of subsection (1) of
this section, and in no case may the actual participation in the
plan exceed three (3) years. Once specified, the period of
participation may not be extended. A member participating in the
plan may not terminate participation prior to the end of the
selected duration without terminating employment. A member who
chooses to participate in the plan shall elect a retirement plan
option at the beginning of the participation period and such
election shall be irrevocable once the participation period
begins.

(3) For purposes of this plan, sick and annual leave may not
be converted for purposes of establishing eligibility.

SECTION 2. (1) (a) During participation in the Deferred
Retirement Option Plan, although the member shall remain a member
of this retirement system, neither regular member nor employer
contributions to the regular plan shall be payable.

(b) Any member who is a participant of the Deferred
Retirement Option Plan shall not be subject to any change in his
seniority status or other related benefits to which he is entitled
as a condition of employment.

(2) For purposes of this act, average compensation and
creditable service shall remain fixed as they existed on the date
of commencement of participation in the plan. Creditable service
shall not include conversion of sick and annual leave.

(3) Retirement benefits based on average compensation and
creditable service as established under subsection (2) of this
section and which otherwise would have been due the participant
shall, during the period of participation in the plan, be credited
to the Deferred Retirement Option Plan Account.
(4) Individuals who participate in the Deferred Retirement Option Plan shall not receive the benefit of any cost-of-living adjustments granted during participation while employed and for a period of one (1) year following termination of employment.

SECTION 3. (1) The system shall establish a Deferred Retirement Option Plan Account which shall be a part of the system fund. This account shall not be subject to any fees, costs or expenses of any kind.

(2) The system shall maintain subaccounts within this account reflecting the credits attributed to each participant in the plan, but the monies in the account shall remain a part of the fund until disbursed to a participant in accordance with the plan provisions.

(3) Interest shall not be credited to a participant's subaccount during the period of participation. All amounts which remain credited to the individual's subaccount after termination of participation in the plan shall be credited with interest after the end of each fiscal year at a rate equal to the realized return on the system's portfolio for that fiscal year as certified by the system actuary in his actuarial report, less one-half of one percent (1/2-1%).

SECTION 4. (1) Upon termination of participation in both the plan and employment, a participant shall:

(a) At the participant's option, receive either a lump-sum payment from the account equal to the amount then credited to his individual subaccount or systematic disbursements based on his individual subaccount in any manner approved by the Board of Trustees of the Public Employees' Retirement System.

(b) Begin to receive monthly retirement benefits based on the option selected at the time of election to participate in the plan, as adjusted pursuant to subsection (4) of this section.

(2) Upon termination of participation in the plan but not employment, credits to the account shall cease, and no retirement...
benefits shall be paid to the participant until employment is terminated. No payment shall be made based on credits in the account until employment is terminated. Employer and employee contributions shall resume.

(3) If a participant dies while still employed, his credits and benefits, if any, shall be payable in accordance with Section 25-11-117.

(4) Monthly retirement benefits payable to a participant after termination of participation in the plan and employment shall be calculated as follows:

(a) There shall be a "base benefit" which shall equal the participant's monthly credit to the account plus conversion of sick and annual leave, if any, based on the average compensation rate used to calculate the monthly credit.

(b) If the participant does not continue employment after termination of participation in the plan, his monthly retirement benefit shall equal his base benefit.

(c) If the participant continues employment after termination of participation in the plan for a period of less than thirty-six (36) months, his monthly retirement benefit shall equal his base benefit plus an amount based upon the service credit for the additional employment, together with conversion of the net amount of sick and annual leave accumulated during that period of employment, based upon the average compensation used to calculate the monthly credit.

(d) If the participant continues employment after termination of participation in the plan for a period of thirty-six (36) months or more, his monthly retirement benefit shall equal his base benefit plus an amount based upon the service credit for the additional employment, together with conversion of the net amount of sick and annual leave accumulated during that period of employment, based upon the average compensation for the
period of employment after termination of participation in the plan.

SECTION 5. Once participation in the plan commences, the election to participate is irrevocable and the term of participation may not be extended. Only one (1) period of participation is permitted. Average compensation and election of option, if any, are fixed upon commencement of participation.

SECTION 6. (1) Any member who retires from the Public Employees' Retirement System of Mississippi and terminates employment, who participated in the Deferred Retirement Option Plan and becomes employed or reemployed by any employer, shall have his total benefit suspended for the duration of such employment.

(2) During the period of his return to active service, the retiree and his employer shall make contributions to the retirement system, but the retiree shall receive no additional service credit or accrue any additional retirement benefits in the retirement system. Upon termination of such active service the member shall, upon application, be refunded the employee contributions paid since reemployment. The refund shall be without interest. The retirement system shall retain the employer contributions.

SECTION 7. Section 25-11-109, Mississippi Code of 1972, is amended as follows:

25-11-109. (1) Under such rules and regulations as the board of trustees shall adopt, each person who becomes a member of this retirement system, as provided in Section 25-11-105, on or prior to July 1, 1953, or who becomes a member and contributes to the system for a minimum period of four (4) years, shall receive credit for all state service rendered before February 1, 1953. To receive such credit, such member shall file a detailed statement of all services as an employee rendered by him in the state service before February 1, 1953. For any member who joined the
system after July 1, 1953, any creditable service for which the
member is not required to make contributions shall not be credited
to the member until the member has contributed to the system for a
minimum period of at least four (4) years.

(2) In the computation of membership service or prior
service under the provisions of this article, the total months of
accumulative service during any fiscal year shall be calculated in
accordance with the schedule as follows: ten (10) or more months
of creditable service during any fiscal year shall constitute a
year of creditable service; seven (7) months to nine (9) months
inclusive, three-quarters (3/4) of a year of creditable service;
four (4) months to six (6) months inclusive, one-half-year of
creditable service; one (1) month to three (3) months inclusive,
one-quarter (1/4) of a year of creditable service. In no case
shall credit be allowed for any period of absence without
compensation except for disability while in receipt of a
disability retirement allowance, nor shall less than fifteen (15)
days of service in any month, or service less than the equivalent
of one-half (1/2) of the normal working load for the position and
less than one-half (1/2) of the normal compensation for the
position in any month, constitute a month of creditable service,
nor shall more than one (1) year of service be creditable for all
services rendered in any one (1) fiscal year; provided that for a
school employee, substantial completion of the legal school term
when and where the service was rendered shall constitute a year of
service credit for both prior service and membership service. Any
state or local elected official shall be deemed a full-time
employee for the purpose of creditable service for prior service
or membership service. However, an appointed or elected official
compensated on a per diem basis only shall not be allowed
creditable service for terms of office.

In the computation of any retirement allowance or any annuity
or benefits provided in this article, any fractional period of
service of less than one (1) year shall be taken into account and
a proportionate amount of such retirement allowance, annuity or
benefit shall be granted for any such fractional period of
service.

In the computation of unused leave for creditable service
authorized in Section 25-11-103, the following shall govern:
twenty-one (21) days of unused leave shall constitute one (1)
month of creditable service and in no case shall credit be allowed
for any period of unused leave of less than fifteen (15) days.
The number of months of unused leave shall determine the number of
quarters or years of creditable service in accordance with the
above schedule for membership and prior service. In order for the
member to receive creditable service for the number of days of
unused leave, the system must receive certification from the
governing authority.

For the purpose of this subsection, for members of the system
who are elected officers and who retire on or after July 1, 1987,
the following shall govern:

(a) For service prior to July 1, 1984, the members
shall receive credit for leave (combined personal and major
medical) for service as an elected official prior to that date at
the rate of thirty (30) days per year.

(b) For service on and after July 1, 1984, the member
shall receive credit for personal and major medical leave
beginning July 1, 1984, at the rates authorized in Sections
25-3-93 and 25-3-95, computed as a full-time employee.

(3) Subject to the above restrictions and to such other
rules and regulations as the board may adopt, the board shall
verify, as soon as practicable after the filing of such statements
of service, the services therein claimed.

(4) Upon verification of the statement of prior service, the
board shall issue a prior service certificate certifying to each
member the length of prior service for which credit shall have
been allowed on the basis of his statement of service. So long as membership continues, a prior service certificate shall be final and conclusive for retirement purposes as to such service, provided that any member may within five (5) years from the date of issuance or modification of such certificate request the board of trustees to modify or correct his prior service certificate. Any modification or correction authorized shall only apply prospectively.

When membership ceases, such prior service certificates shall become void. Should the employee again become a member, he shall enter the system as an employee not entitled to prior service credit except as provided in Sections 25-11-105(I), 25-11-113 and 25-11-117.

(5) Creditable service at retirement, on which the retirement allowance of a member shall be based, shall consist of the membership service rendered by him since he last became a member, and also, if he has a prior service certificate which is in full force and effect, the amount of the service certified on his prior service certificate. Creditable service shall not consist of any service rendered while participating in the Deferred Retirement Option Plan.

(6) Anything in this article to the contrary notwithstanding, any member who served on active duty in the Armed Forces of the United States, or who served in maritime service during periods of hostility in World War II, shall be entitled to creditable service at no cost for his service on active duty in the Armed Forces or in such maritime service, provided he entered state service after his discharge from the Armed Forces or entered state service after he completed such maritime service. The maximum period for such creditable service for all military service as defined in this subsection (6) shall not exceed four (4) years unless positive proof can be furnished by such person that he was retained in the Armed Forces during World War II or in
maritime service during World War II by causes beyond his control and without opportunity of discharge. The member shall furnish proof satisfactory to the board of trustees of certification of military service or maritime service records showing dates of entrance into active duty service and the date of discharge. From and after July 1, 1993, no creditable service shall be granted for any military service or maritime service to a member who qualifies for a retirement allowance in another public retirement system administered by the Board of Trustees of the Public Employees' Retirement System based in whole or in part on such military or maritime service. In no case shall the member receive creditable service if the member received a dishonorable discharge from the Armed Forces of the United States.

(7) (a) Any member of the Public Employees' Retirement System whose membership service is interrupted as a result of qualified military service within the meaning of Section 414(u)(5) of the Internal Revenue Code, and who has received the maximum service credit available under subsection (6) of this section, shall receive creditable service for the period of qualified military service that does not qualify as creditable service under subsection (6) of this section upon reentering membership service in an amount not to exceed five (5) years if:

(i) The member pays the contributions he would have made to the retirement system if he had remained in membership service for the period of qualified military service based upon his salary at the time his membership service was interrupted;

(ii) The member returns to membership service within ninety (90) days of the end of his qualified military service; and

(iii) The employer at the time the member's service was interrupted and to which employment the member returns pays the contributions it would have made into the retirement system.
system for such period based on the member's salary at the time
the service was interrupted.

(b) The payments required to be made in paragraph
(a)(i) of this subsection may be made over a period beginning with
the date of return to membership service and not exceeding three
(3) times the member's qualified military service; provided,
however, that in no event shall such period exceed fifteen (15)
years.

(c) The member shall furnish proof satisfactory to the
board of trustees of certification of military service showing
dates of entrance into qualified service and the date of discharge
as well as proof that the member has returned to active employment
within the time specified.

(8) Any member of the Public Employees' Retirement System
who has at least four (4) years of membership service credit shall
be entitled to receive a maximum of five (5) years creditable
service for service rendered in another state as a public employee
of such other state, or a political subdivision, public education
system or other governmental instrumentality thereof, or service
rendered as a teacher in American overseas dependent schools
conducted by the Armed Forces of the United States for children of
citizens of the United States residing in areas outside the
continental United States, provided that:

(a) The member shall furnish proof satisfactory to the
board of trustees of certification of such services from the
state, public education system, political subdivision or
retirement system of the state where the services were performed
or the governing entity of the American overseas dependent school
where the services were performed; and

(b) The member is not receiving or will not be entitled
to receive from the public retirement system of the other state or
from any other retirement plan, including optional retirement
plans, sponsored by the employer, a retirement allowance including
such services; and

(c) The member shall pay to the retirement system on
the date he or she is eligible for credit for such out-of-state
service or at any time thereafter prior to date of retirement the
actuarial cost as determined by the actuary for each year of
out-of-state creditable service. The provisions of this
subsection are subject to the limitations of Section 415 of the
Internal Revenue Code and regulations promulgated thereunder.

(9) Any member of the Public Employees' Retirement System
who has at least four (4) years of membership service credit and
who receives, or has received, professional leave without
compensation for professional purposes directly related to the
employment in state service shall receive creditable service for
the period of professional leave without compensation provided:

(a) The professional leave is performed with a public
institution or public agency of this state, or another state or
federal agency;

(b) The employer approves the professional leave
showing the reason for granting the leave and makes a
determination that the professional leave will benefit the
employee and employer;

(c) Such professional leave shall not exceed two (2)
years during any ten-year period of state service;

(d) The employee shall serve the employer on a
full-time basis for a period of time equivalent to the
professional leave period granted immediately following the
termination of the leave period;

(e) The contributing member shall pay to the retirement
system the actuarial cost as determined by the actuary for each
year of professional leave. The provisions of this subsection are
subject to the regulations of the Internal Revenue Code
limitations;
(f) Such other rules and regulations consistent herewith as the board may adopt and in case of question, the board shall have final power to decide the questions.

Any actively contributing member participating in the School Administrator Sabbatical Program established in Section 37-9-7 shall qualify for continued participation under this subsection (9).

(10) Any member of the Public Employees' Retirement System who has at least four (4) years of credited membership service shall be entitled to receive a maximum of ten (10) years creditable service for:

(a) Any service rendered as an employee of any political subdivision of this state, or any instrumentality thereof, which does not participate in the Public Employees' Retirement System; or

(b) Any service rendered as an employee of any political subdivision of this state, or any instrumentality thereof, which participates in the Public Employees' Retirement System but did not elect retroactive coverage; or

(c) Any service rendered as an employee of any political subdivision of this state, or any instrumentality thereof, for which coverage of the employee's position was or is excluded; provided that the member pays into the retirement system the actuarial cost as determined by the actuary for each year, or portion thereof, of such service. Payment for such service may be made in increments of one-quarter-year of creditable service.

After a member has made full payment to the retirement system for all or any part of such service, the member shall receive creditable service for the period of such service for which full payment has been made to the retirement system.

SECTION 8. Section 25-11-117, Mississippi Code of 1972, is amended as follows:
25-11-117. (1) A member may be paid a refund of the amount of accumulated contributions to the credit of the member in the annuity savings account provided the member has withdrawn from state service and further provided the member has not returned to state service on the date the refund of the accumulated contributions would be paid. Such refund of the contributions to the credit of the member in the annuity savings account shall be paid within ninety (90) days from receipt in the office of the retirement system of the properly completed form requesting such payment. In the event of death prior to retirement of any member whose spouse and/or children are not entitled to a retirement allowance, the accumulated contributions to the credit of the deceased member in the annuity savings account or Deferred Retirement Option Plan Account shall be paid to the designated beneficiary on file in writing in the office of the executive director of the board of trustees within ninety (90) days from receipt of a properly completed form requesting such payment. If there is no such designated beneficiary on file for such deceased member in the office of the system, upon the filing of a proper request with the board, the contributions to the credit of the deceased member in the annuity savings account or Deferred Retirement Option Plan Account shall be refunded pursuant to Section 25-11-117.1(1). The payment of the refund shall discharge all obligations of the retirement system to the member on account of any creditable service rendered by the member prior to the receipt of the refund. By the acceptance of the refund, the member shall waive and relinquish all accrued rights in the system.

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

(3) If any person who has received a refund reenters the
state service and again becomes a member of the system, the member
may repay all or part of the amounts previously received as a
refund, together with regular interest covering the period from
the date of refund to the date of repayment; provided, however,
that the amounts that are repaid by the member and the creditable
service related thereto shall not be used in any benefit
calculation or determination until the member has remained a
contributor to the system for a period of at least four (4) years
subsequent to such member's reentry into state service. Repayment
for such time shall be made in increments of not less than
one-quarter (1/4) year of creditable service beginning with the
most recent service for which refund has been made. Upon the
repayment of all or part of such refund and interest, the member
shall again receive credit for the period of creditable service
for which full repayment has been made to the system.

SECTION 9. 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, unless such person was a
participant in the Deferred Retirement Option Plan Account, in
which case Section 6 of Senate Bill No. ____, 2002 Regular
Session, shall also apply. 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.

(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 and shall again become a contributing member of the retirement system. When the person retires again, if 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 10. This act shall take effect and be in force from and after July 1, 2002.