

By: Representative Reeves

To: Fees and Salaries of
Public Officers;
Appropriations

HOUSE BILL NO. 505

1 AN ACT TO AMEND SECTION 41-29-107, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE THAT FULL-TIME AGENTS OF THE NARCOTICS BUREAU WHOSE
 3 PRIMARY DUTIES ARE THE ACTUAL, DIRECT ENFORCEMENT OF THE DRUG LAWS
 4 IN THE FIELD SHALL RECEIVE ADDITIONAL COMPENSATION FOR HAZARDOUS
 5 DUTY IN AN AMOUNT EQUAL TO 25% OF THEIR REGULAR ANNUAL SALARY; TO
 6 PROVIDE THAT AGENTS SHALL RECEIVE THE FULL AMOUNT OF THAT
 7 ADDITIONAL COMPENSATION, EVEN IF IT CAUSES THE TOTAL AMOUNT OF THE
 8 AGENT'S COMPENSATION TO EXCEED THE SALARY OF THE BUREAU DIRECTOR;
 9 TO PROVIDE THAT THE ADDITIONAL COMPENSATION SHALL BE CONSIDERED AS
 10 PART OF THE TOTAL COMPENSATION OF THE AGENT FOR RETIREMENT
 11 PURPOSES AND FOR ALL OTHER PURPOSES UNDER STATE LAW; TO AMEND
 12 SECTION 25-3-39, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE
 13 PRECEDING PROVISIONS; TO AMEND SECTION 25-11-103, MISSISSIPPI CODE
 14 OF 1972, TO PROVIDE THAT "EARNED COMPENSATION" FOR THE PURPOSES OF
 15 THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WILL INCLUDE ALL
 16 COMPENSATION RECEIVED BY AGENTS OF THE NARCOTICS BUREAU, INCLUDING
 17 ADDITIONAL COMPENSATION EARNED FOR WORKING OVERTIME AND ADDITIONAL
 18 COMPENSATION EARNED FOR HAZARDOUS DUTY; AND FOR RELATED PURPOSES.

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

20 **SECTION 1.** Section 41-29-107, Mississippi Code of 1972, is
 21 amended as follows:

22 41-29-107. (1) There is * * * created the Bureau of
 23 Narcotics within, and under the supervision of, the Mississippi
 24 Department of Public Safety. The * * * bureau shall have as chief
 25 administrative officer a director who shall be appointed by the
 26 Governor with the advice and consent of the Senate. The director
 27 is empowered to employ or appoint necessary agents. The * * *
 28 director may also employ such secretarial, clerical and
 29 administrative personnel, including a duly licensed attorney, as
 30 necessary for the operation of the bureau, and shall have such
 31 quarters, equipment and facilities as needed. The salary and
 32 qualifications of the attorney authorized by this section shall be
 33 fixed by the director, but the salary shall not exceed the salary
 34 authorized for an assistant attorney general who performs similar
 35 duties.



36 (2) The director and agents so appointed shall be citizens
37 of the United States and of the State of Mississippi, and of good
38 moral character. The agents shall be not less than twenty-one
39 (21) nor * * * have attained the age of thirty-six (36) years of
40 age at the time of their appointment. In addition thereto, those
41 appointed shall have satisfactorily completed at least two (2)
42 years of college studies. However, two (2) years of satisfactory
43 service as a law enforcement officer and the completion of the
44 prescribed course of study at a school operated by the Bureau of
45 Narcotics and Dangerous Drugs, United States Justice Department,
46 shall satisfy one (1) year of those college studies, and four (4)
47 years of satisfactory service as a law enforcement officer and the
48 completion of the prescribed course of study at that federal
49 bureau school as stated heretofore shall fully satisfy the two (2)
50 years of college requirement. The director shall also be required
51 to complete a prescribed course of study at a school operated by
52 the Bureau of Narcotics and Dangerous Drugs, United States Justice
53 Department.

54 (3) During the period of the first twelve (12) months after
55 appointment, any employee of the bureau shall be subject to
56 dismissal at the will of the director. After twelve (12) months'
57 service, no employee of the bureau shall be subject to dismissal
58 unless charges have been filed with the director, showing cause
59 for dismissal of the employee of the bureau. A date shall be set
60 for hearing before the director and the employee notified in
61 writing of the date of the hearing and of the charges filed. The
62 hearing shall be held not less than ten (10) days after
63 notification to the employee. After the hearing, at which the
64 employee shall be entitled to legal counsel, a written order of
65 the director shall be necessary for dismissal and the decision
66 shall be final. Any such order of the director shall be a public
67 record and subject to inspection as such.



68 (4) In addition to receiving the regular annual salary and
69 any additional compensation earned for working overtime, each
70 full-time agent of the bureau whose primary duties are the actual,
71 direct enforcement of the drug laws in the field shall receive
72 additional compensation for hazardous duty in an amount equal to
73 twenty-five percent (25%) of the agent's regular annual salary.
74 This additional compensation for hazardous duty shall not be paid
75 to any agent or employee of the bureau whose primary duties are
76 administrative or clerical in nature. Any agent entitled to
77 receive additional compensation for hazardous duty shall receive
78 the full amount of that compensation, even if it causes the total
79 amount of the agent's compensation to exceed the salary of the
80 director of the bureau. The additional compensation for hazardous
81 duty shall be considered as part of the total compensation of the
82 agent for the purposes of the Public Employees' Retirement System
83 and the Highway Safety Patrol Retirement System, and for all other
84 purposes under state law.

85 (5) The Commissioner of Public Safety may assign members of
86 the Mississippi Highway Safety Patrol, regardless of age, to the
87 bureau at the request of the director of the bureau; however, when
88 any highway patrolman or other employee, agent or official of the
89 Mississippi Department of Public Safety is assigned to duty with,
90 or is employed by, the bureau, he shall not be subject to
91 assignment or transfer to any other bureau or department within
92 the Mississippi Department of Public Safety except by the
93 director. Any highway patrolman assigned to duty with the bureau
94 shall retain his status as a highway patrolman, but shall be under
95 the supervision of the director. For purposes of seniority within
96 the Highway Safety Patrol and for purposes of retirement under the
97 Mississippi Highway Safety Patrol Retirement System, highway
98 patrolmen assigned to the bureau will be credited as if performing
99 duty with the Highway Safety Patrol.



100 (6) The director may enter into contracts or agreements with
101 the State Board of Health for purposes of recruitment and
102 screening of applicants through the merit system.

103 (7) The director may enter into agreements with bureaus or
104 departments of other states or of the United States for the
105 exchange or temporary assignment of agents for special undercover
106 assignments and for performance of specific duties.

107 The director is * * * authorized to assign agents of the bureau
108 to that duty and to request and accept agents from those other
109 bureaus or departments for that duty.

110 **SECTION 2.** Section 25-3-39, Mississippi Code of 1972, is
111 amended as follows:

112 25-3-39. (1) No public officer, public employee,
113 administrator, or executive head of any arm or agency of the
114 state, in the executive branch of government, shall be paid a
115 salary or compensation, directly or indirectly, in excess of the
116 salary fixed in Section 25-3-31 for the Governor. All academic
117 officials, members of the teaching staffs and employees of the
118 state institutions of higher learning, the State Board for
119 Community and Junior Colleges, and community and junior colleges,
120 and licensed physicians who are public employees, shall be exempt
121 from this subsection. In addition, the Executive Director of the
122 Mississippi Development Authority and the Chief of Staff of the
123 Governor's Office shall be exempt from this subsection. The
124 Governor shall fix the annual salary of the Executive Director of
125 the Mississippi Development Authority and the annual salary of the
126 Chief of Staff of the Governor's Office, which salaries shall be
127 completely paid by the state and may not be supplemented with any
128 funds from any source, including federal or private funds. * * *
129 However, * * * the salary of the Executive Director of the
130 Mississippi Development Authority and the Governor's Chief of
131 Staff shall not be greater than fifty percent (50%) in excess of
132 the salary of the Governor.



133 (2) Except as otherwise provided in this subsection, no
134 public officer, employee or administrator shall be paid a salary
135 or compensation, directly or indirectly, in excess of the salary
136 of the executive head of the state agency or department in which
137 he is employed. The State Personnel Board, based upon its
138 findings of fact, may exempt physicians and actuaries from this
139 subsection when the acquisition of those professional services is
140 precluded based on the prevailing wage in the relevant labor
141 market. This subsection shall not prohibit agents of the
142 Mississippi Bureau of Narcotics from receiving the full amount of
143 any additional compensation earned for hazardous duty under
144 Section 41-29-107(4), even if that additional compensation causes
145 the total amount of the agent's compensation to exceed the salary
146 of the director of the bureau.

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

149 25-11-103. The following words and phrases as used in
150 Articles 1 and 3, unless a different meaning is plainly required
151 by the context, shall have the following meanings:

152 (a) "Accumulated contributions" shall mean the sum of
153 all the amounts deducted from the compensation of a member and
154 credited to his individual account in the annuity savings account,
155 together with regular interest thereon as provided in Section
156 25-11-123.

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

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



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

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

171 (f) "Average compensation" shall mean the average of
172 the four (4) highest years of earned compensation reported for an
173 employee in a fiscal or calendar year period, or combination
174 thereof which do not overlap, or the last forty-eight (48)
175 consecutive months of earned compensation reported for an
176 employee. The four (4) years need not be successive or joined
177 years of service. In no case shall the average compensation so
178 determined be in excess of One Hundred Fifty Thousand Dollars
179 (\$150,000.00). In computing the average compensation, any amount
180 paid in a lump sum for personal leave shall be included in the
181 calculation to the extent that such amount does not exceed an
182 amount which is equal to thirty (30) days of earned compensation
183 and to the extent that it does not cause the employees' earned
184 compensation to exceed the maximum reportable amount specified in
185 Section 25-11-103(k); however, this thirty-day limitation shall
186 not prevent the inclusion in the calculation of leave earned under
187 federal regulations prior to July 1, 1976, and frozen as of that
188 date as referred to in Section 25-3-99. Only the amount of lump
189 sum pay for personal leave due and paid upon the death of a member
190 attributable for up to one hundred fifty (150) days shall be used
191 in the deceased member's average compensation calculation in
192 determining the beneficiary's benefits. In computing the average
193 compensation, no amounts shall be used which are in excess of the
194 amount on which contributions were required and paid. If any
195 member who is or has been granted any increase in annual salary or
196 compensation of more than eight percent (8%) retires within
197 twenty-four (24) months from the date that such increase becomes
198 effective, then the board shall exclude that part of the increase



199 in salary or compensation that exceeds eight percent (8%) in
200 calculating that member's average compensation for retirement
201 purposes. The board may enforce this provision by rule or
202 regulation. However, increases in compensation in excess of eight
203 percent (8%) per year granted within twenty-four (24) months of
204 the date of retirement may be included in such calculation of
205 average compensation if satisfactory proof is presented to the
206 board showing that the increase in compensation was the result of
207 an actual change in the position held or services rendered, or
208 that such compensation increase was authorized by the State
209 Personnel Board or was increased as a result of statutory
210 enactment, and the employer furnishes an affidavit stating that
211 such increase granted within the last twenty-four (24) months was
212 not contingent on a promise or agreement of the employee to
213 retire. Nothing in Section 25-3-31 shall affect the calculation
214 of the average compensation of any member for the purposes of this
215 article. The average compensation of any member who retires
216 before July 1, 1992, shall not exceed the annual salary of the
217 Governor.

218 (g) "Beneficiary" shall mean any person entitled to
219 receive a retirement allowance, an annuity or other benefit as
220 provided by Articles 1 and 3. In the event of the death prior to
221 retirement of any member whose spouse and/or children are not
222 entitled to a retirement allowance on the basis that the member
223 has less than four (4) years of service credit and/or has not been
224 married for a minimum of one (1) year or the spouse has waived his
225 or her entitlement to a retirement allowance pursuant to Section
226 25-11-114, the lawful spouse of a member at the time of the death
227 of such member shall be the beneficiary of such member unless the
228 member has designated another beneficiary subsequent to the date
229 of marriage in writing, and filed such writing in the office of
230 the executive director of the board of trustees. No designation
231 or change of beneficiary shall be made in any other manner.



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

235 (i) "Creditable service" shall mean "prior service,"
236 "retroactive service" and all lawfully credited unused leave not
237 exceeding the accrual rates and limitations provided in Section
238 25-3-91 et seq., as of the date of withdrawal from service plus
239 "membership service" for which credit is allowable as provided in
240 Section 25-11-109. Except to limit creditable service reported to
241 the system for the purpose of computing an employee's retirement
242 allowance or annuity or benefits provided in this article, nothing
243 in this paragraph shall limit or otherwise restrict the power of
244 the governing authority of a municipality or other political
245 subdivision of the state to adopt such vacation and sick leave
246 policies as it deems necessary.

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

253 (k) "Earned compensation" shall mean the full amount
254 earned by an employee for a given pay period including any
255 maintenance furnished up to a maximum of One Hundred Fifty
256 Thousand Dollars (\$150,000.00) per year, and proportionately for
257 less than one (1) year of service. The value of such maintenance
258 when not paid in money shall be fixed by the employing state
259 agency, and, in case of doubt, by the board of trustees as defined
260 in Section 25-11-15. In any case, earned compensation shall be
261 limited to the regular periodic compensation paid, exclusive of
262 litigation fees, bond fees, and other similar extraordinary
263 nonrecurring payments, except as otherwise provided in this
264 paragraph (k). In addition, any member in a covered position, as



265 defined by Public Employees' Retirement System laws and
266 regulations, who is also employed by another covered agency or
267 political subdivision shall have the earnings of that additional
268 employment reported to the Public Employees' Retirement System
269 regardless of whether the additional employment is sufficient in
270 itself to be a covered position. In addition, computation of
271 earned compensation shall be governed by the following:

272 (i) In the case of constables, the net earnings
273 from their office after deduction of expenses shall apply, except
274 that in no case shall earned compensation be less than the total
275 direct payments made by the state or governmental subdivisions to
276 the official.

277 (ii) In the case of chancery or circuit clerks,
278 the net earnings from their office after deduction of expenses
279 shall apply as expressed in Section 25-11-123(f)(4).

280 (iii) In the case of members of the State
281 Legislature, all remuneration or amounts paid, except mileage
282 allowance, shall apply.

283 (iv) In the case of agents of the Mississippi
284 Bureau of Narcotics, earned compensation shall include all
285 compensation received, including additional compensation earned
286 for working overtime and additional compensation earned for
287 hazardous duty under Section 41-29-107(4).

288 (v) The amount by which an eligible employee's
289 salary is reduced pursuant to a salary reduction agreement
290 authorized under Section 25-17-5 shall be included as earned
291 compensation under this paragraph, provided this inclusion does
292 not conflict with federal law, including federal regulations and
293 federal administrative interpretations thereunder, pertaining to
294 the Federal Insurance Contributions Act or to Internal Revenue
295 Code Section 125 cafeteria plans.

296 (vi) Compensation in addition to an employee's
297 base salary that is paid to the employee pursuant to the vacation



298 and sick leave policies of a municipality or other political
299 subdivision of the state that employs him which exceeds the
300 maximums authorized by Section 25-3-91 et seq. shall be excluded
301 from the calculation of earned compensation under this article.

302 (vii) The maximum salary applicable for retirement
303 purposes before July 1, 1992, shall be the salary of the Governor.

304 (viii) Nothing in Section 25-3-31 shall affect the
305 determination of the earned compensation of any member for the
306 purposes of this article.

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

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

313 (n) "Executive director" shall mean the secretary to
314 the board of trustees, as provided in Section 25-11-15(9), and the
315 administrator of the Public Employees' Retirement System and all
316 systems under the management of the board of trustees. Wherever
317 the term "Executive Secretary of the Public Employees' Retirement
318 System" or "executive secretary" appears in this article or in any
319 other provision of law, it shall be construed to mean the
320 Executive Director of the Public Employees' Retirement System.

321 (o) "Fiscal year" shall mean the period beginning on
322 July 1 of any year and ending on June 30 of the next succeeding
323 year.

324 (p) "Medical board" shall mean the board of physicians
325 or any governmental or nongovernmental disability determination
326 service designated by the board of trustees that is qualified to
327 make disability determinations as provided for in Section
328 25-11-119.

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



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

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

352 (t) "Prior service" shall mean service rendered before
353 February 1, 1953, for which credit is allowable under Sections
354 25-11-105 and 25-11-109, and which shall allow prior service for
355 any person who is now or becomes a member of the Public Employees'
356 Retirement System and who does contribute to the system for a
357 minimum period of four (4) years.

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

361 (v) "Retirement allowance" shall mean an annuity for
362 life as provided in this article, payable each year in twelve (12)
363 equal monthly installments beginning as of the date fixed by the



364 board. The retirement allowance shall be calculated in accordance
365 with Section 25-11-111. However, any spouse who received a spouse
366 retirement benefit in accordance with Section 25-11-111(d) before
367 March 31, 1971, and those benefits were terminated because of
368 eligibility for a social security benefit, may again receive his
369 spouse retirement benefit from and after making application with
370 the board of trustees to reinstate the spouse retirement benefit.

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

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

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

379 (z) "State service" shall mean all offices and
380 positions of trust or employment in the employ of the state, or
381 any political subdivision or instrumentality thereof, which elect
382 to participate as provided by Section 25-11-105(f), including the
383 position of elected or fee officials of the counties and their
384 deputies and employees performing public services or any
385 department, independent agency, board or commission thereof, and
386 shall also include all offices and positions of trust or
387 employment in the employ of joint state and federal agencies
388 administering state and federal funds and service rendered by
389 employees of the public schools. Effective July 1, 1973, all
390 nonprofessional public school employees, such as bus drivers,
391 janitors, maids, maintenance workers and cafeteria employees,
392 shall have the option to become members in accordance with Section
393 25-11-105(b), and shall be eligible to receive credit for services
394 before July 1, 1973, provided that the contributions and interest
395 are paid by the employee in accordance with that section; in
396 addition, the county or municipal separate school district may pay



397 the employer contribution and pro rata share of interest of the
398 retroactive service from available funds. From and after July 1,
399 1998, retroactive service credit shall be purchased at the
400 actuarial cost in accordance with Section 25-11-105(b).

401 (aa) "Withdrawal from service" or "termination from
402 service" shall mean complete severance of employment in the state
403 service of any member by resignation, dismissal or discharge.

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

406 **SECTION 4.** This act shall take effect and be in force from
407 and after July 1, 2003.

