

By: Senator(s) Harden

To: Finance

SENATE BILL NO. 2201

1 AN ACT TO CREATE NEW SECTION 25-11-126, MISSISSIPPI CODE OF
2 1972, TO PROVIDE THAT CERTAIN PERSONS RECEIVING A RETIREMENT
3 ALLOWANCE FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO ARE
4 EMPLOYED AS TEACHERS IN THE PUBLIC SCHOOL SYSTEM AFTER THEIR
5 RETIREMENT, AND CERTAIN PERSONS EMPLOYED AS TEACHERS IN THE PUBLIC
6 SCHOOL SYSTEM WHO ARE ELIGIBLE TO RECEIVE A RETIREMENT ALLOWANCE
7 FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM, MAY RECEIVE A
8 RETIREMENT ALLOWANCE DURING THEIR EMPLOYMENT AS TEACHERS IN
9 ADDITION TO RECEIVING A TEACHER'S SALARY; TO PROVIDE THAT THOSE
10 PERSONS SHALL NOT BE CONTRIBUTING MEMBERS OF THE RETIREMENT SYSTEM
11 NOR RECEIVE ANY CREDITABLE SERVICE FOR THE PERIOD DURING WHICH
12 THEY RECEIVE A RETIREMENT ALLOWANCE DURING THEIR EMPLOYMENT AS
13 TEACHERS; TO AMEND SECTIONS 25-11-103, 25-11-105 AND 25-11-127,
14 MISSISSIPPI CODE OF 1972, IN CONFORMITY WITH THE PROVISIONS OF
15 THIS ACT; TO AMEND SECTION 37-19-7, MISSISSIPPI CODE OF 1972, TO
16 PROVIDE THAT THE TEACHERS' SALARIES OF THOSE PERSONS SHALL BE
17 EQUAL TO THE AMOUNT OF THE SALARY THAT THEY RECEIVED DURING THE
18 SCHOOL YEAR IMMEDIATELY PRECEDING THE DATE OF THEIR RETIREMENT OR
19 THE DATE THAT CURRENT TEACHERS BEGAN RECEIVING A RETIREMENT
20 ALLOWANCE; TO PROVIDE THAT THE TEACHERS' SALARIES OF THOSE PERSONS
21 SHALL NOT INCLUDE ANY INCREASE IN THE SALARIES FOR TEACHING
22 EXPERIENCE OBTAINED AFTER THE DATE OF THEIR EMPLOYMENT AS TEACHERS
23 AFTER THEIR RETIREMENT OR THE DATE THAT CURRENT TEACHERS BEGAN
24 RECEIVING A RETIREMENT ALLOWANCE; AND FOR RELATED PURPOSES.

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

26 **SECTION 1.** The following shall be codified as Section
27 25-11-126, Mississippi Code of 1972:

28 25-11-126. (1) (a) Any person who has completed
29 twenty-five (25) or more years of creditable service and is
30 receiving a retirement allowance under this article, who was
31 employed as a teacher in the public school system at the time of
32 his retirement and who is employed as a teacher in the public
33 school system after his retirement, may choose to continue
34 receiving the retirement allowance under this article during his
35 employment as a teacher after his retirement in addition to
36 receiving the salary authorized under Section 37-19-7(3), in the
37 manner provided in this section.



38 (b) Any person who is employed as a teacher in the
39 public school system who completes twenty-five (25) or more years
40 of creditable service during his employment as a teacher may
41 choose to receive a retirement allowance under this article during
42 his employment as a teacher in the public school system in
43 addition to receiving the salary authorized under Section
44 37-19-7(3), in the manner provided in this section.

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

60 (3) Any person described in subsection (1)(b) who chooses to
61 receive a retirement allowance during his employment as a teacher
62 in the public school system shall make application to the
63 executive director of the retirement system, and the retirement
64 allowance shall begin on the first of the month following the date
65 that the application is received by the executive director. Those
66 persons shall not be required to withdraw from service in order to
67 receive the retirement allowance.

68 (4) Any person to whom this section applies who receives or
69 continues to receive a retirement allowance under this article
70 during his employment as a teacher shall not be a contributing



71 member of the retirement system nor receive any creditable service
72 for the period during which he receives a retirement allowance
73 during his employment as a teacher. Any person to whom this
74 section applies who chooses not to receive a retirement allowance
75 during his employment as a teacher shall be a contributing member
76 of the retirement system and shall receive creditable service for
77 the period during which he is employed as a teacher without
78 receiving a retirement allowance. If the person has previously
79 received a retirement allowance under this article and he is
80 employed as a teacher for more than six (6) months without
81 receiving a retirement allowance, he shall have his allowance
82 recomputed when he retires again, which shall include the service
83 after he again became a contributing member of the retirement
84 system.

85 **SECTION 2.** Section 25-11-103, Mississippi Code of 1972, is
86 amended as follows:

87 25-11-103. The following words and phrases as used in
88 Articles 1 and 3, unless a different meaning is plainly required
89 by the context, shall have the following meanings:

90 (a) "Accumulated contributions" shall mean the sum of
91 all the amounts deducted from the compensation of a member and
92 credited to his individual account in the annuity savings account,
93 together with regular interest thereon as provided in Section
94 25-11-123.

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

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



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

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

109 (f) "Average compensation" shall mean the average of
110 the four (4) highest years of earned compensation reported for an
111 employee in a fiscal or calendar year period, or combination
112 thereof which do not overlap, or the last forty-eight (48)
113 consecutive months of earned compensation reported for an
114 employee. The four (4) years need not be successive or joined
115 years of service. In no case shall the average compensation so
116 determined be in excess of One Hundred Fifty Thousand Dollars
117 (\$150,000.00). In computing the average compensation, any amount
118 paid in a lump sum for personal leave shall be included in the
119 calculation to the extent that such amount does not exceed an
120 amount which is equal to thirty (30) days of earned compensation
121 and to the extent that it does not cause the employees' earned
122 compensation to exceed the maximum reportable amount specified in
123 Section 25-11-103(k); however, this thirty-day limitation shall
124 not prevent the inclusion in the calculation of leave earned under
125 federal regulations prior to July 1, 1976, and frozen as of that
126 date as referred to in Section 25-3-99. Only the amount of lump
127 sum pay for personal leave due and paid upon the death of a member
128 attributable for up to one hundred fifty (150) days shall be used
129 in the deceased member's average compensation calculation in
130 determining the beneficiary's benefits. In computing the average
131 compensation, no amounts shall be used which are in excess of the
132 amount on which contributions were required and paid. If any
133 member who is or has been granted any increase in annual salary or
134 compensation of more than eight percent (8%) retires within
135 twenty-four (24) months from the date that such increase becomes
136 effective, then the board shall exclude that part of the increase



137 in salary or compensation that exceeds eight percent (8%) in
138 calculating that member's average compensation for retirement
139 purposes. The board may enforce this provision by rule or
140 regulation. However, increases in compensation in excess of eight
141 percent (8%) per year granted within twenty-four (24) months of
142 the date of retirement may be included in such calculation of
143 average compensation if satisfactory proof is presented to the
144 board showing that the increase in compensation was the result of
145 an actual change in the position held or services rendered, or
146 that such compensation increase was authorized by the State
147 Personnel Board or was increased as a result of statutory
148 enactment, and the employer furnishes an affidavit stating that
149 such increase granted within the last twenty-four (24) months was
150 not contingent on a promise or agreement of the employee to
151 retire. Nothing in Section 25-3-31 shall affect the calculation
152 of the average compensation of any member for the purposes of this
153 article. The average compensation of any member who retires
154 before July 1, 1992, shall not exceed the annual salary of the
155 Governor.

156 (g) "Beneficiary" shall mean any person entitled to
157 receive a retirement allowance, an annuity or other benefit as
158 provided by Articles 1 and 3. In the event of the death prior to
159 retirement of any member whose spouse and/or children are not
160 entitled to a retirement allowance on the basis that the member
161 has less than four (4) years of service credit and/or has not been
162 married for a minimum of one (1) year or the spouse has waived his
163 or her entitlement to a retirement allowance pursuant to Section
164 25-11-114, the lawful spouse of a member at the time of the death
165 of such member shall be the beneficiary of such member unless the
166 member has designated another beneficiary subsequent to the date
167 of marriage in writing, and filed such writing in the office of
168 the executive director of the board of trustees. No designation
169 or change of beneficiary shall be made in any other manner.



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

173 (i) "Creditable service" shall mean "prior service,"
174 "retroactive service" and all lawfully credited unused leave not
175 exceeding the accrual rates and limitations provided in Section
176 25-3-91 et seq., as of the date of withdrawal from service plus
177 "membership service" for which credit is allowable as provided in
178 Section 25-11-109. Except to limit creditable service reported to
179 the system for the purpose of computing an employee's retirement
180 allowance or annuity or benefits provided in this article, nothing
181 in this paragraph shall limit or otherwise restrict the power of
182 the governing authority of a municipality or other political
183 subdivision of the state to adopt such vacation and sick leave
184 policies as it deems necessary.

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

191 (k) "Earned compensation" shall mean the full amount
192 earned by an employee for a given pay period including any
193 maintenance furnished up to a maximum of One Hundred Fifty
194 Thousand Dollars (\$150,000.00) per year, and proportionately for
195 less than one (1) year of service. The value of such maintenance
196 when not paid in money shall be fixed by the employing state
197 agency, and, in case of doubt, by the board of trustees as defined
198 in Section 25-11-15. In any case, earned compensation shall be
199 limited to the regular periodic compensation paid, exclusive of
200 litigation fees, bond fees, and other similar extraordinary
201 nonrecurring payments. In addition, any member in a covered
202 position, as defined by Public Employees' Retirement System laws



203 and regulations, who is also employed by another covered agency or
204 political subdivision shall have the earnings of that additional
205 employment reported to the Public Employees' Retirement System
206 regardless of whether the additional employment is sufficient in
207 itself to be a covered position. In addition, computation of
208 earned compensation shall be governed by the following:

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

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

217 (iii) In the case of members of the State
218 Legislature, all remuneration or amounts paid, except mileage
219 allowance, shall apply.

220 (iv) The amount by which an eligible employee's
221 salary is reduced pursuant to a salary reduction agreement
222 authorized under Section 25-17-5 shall be included as earned
223 compensation under this paragraph, provided this inclusion does
224 not conflict with federal law, including federal regulations and
225 federal administrative interpretations thereunder, pertaining to
226 the Federal Insurance Contributions Act or to Internal Revenue
227 Code Section 125 cafeteria plans.

228 (v) Compensation in addition to an employee's base
229 salary that is paid to the employee pursuant to the vacation and
230 sick leave policies of a municipality or other political
231 subdivision of the state that employs him which exceeds the
232 maximums authorized by Section 25-3-91 et seq. shall be excluded
233 from the calculation of earned compensation under this article.

234 (vi) The maximum salary applicable for retirement
235 purposes before July 1, 1992, shall be the salary of the Governor.



236 (vii) Nothing in Section 25-3-31 shall affect the
237 determination of the earned compensation of any member for the
238 purposes of this article.

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

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

245 (n) "Executive director" shall mean the secretary to
246 the board of trustees, as provided in Section 25-11-15(9), and the
247 administrator of the Public Employees' Retirement System and all
248 systems under the management of the board of trustees. Wherever
249 the term "Executive Secretary of the Public Employees' Retirement
250 System" or "executive secretary" appears in this article or in any
251 other provision of law, it shall be construed to mean the
252 Executive Director of the Public Employees' Retirement System.

253 (o) "Fiscal year" shall mean the period beginning on
254 July 1 of any year and ending on June 30 of the next succeeding
255 year.

256 (p) "Medical board" shall mean the board of physicians
257 or any governmental or nongovernmental disability determination
258 service designated by the board of trustees that is qualified to
259 make disability determinations as provided for in Section
260 25-11-119.

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

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

265 (s) "Position" means any office or any employment in
266 the state service, or two (2) or more of them, the duties of which
267 call for services to be rendered by one (1) person, including
268 positions jointly employed by federal and state agencies



269 administering federal and state funds. The employer shall
270 determine upon initial employment and during the course of
271 employment of an employee who does not meet the criteria for
272 coverage in the Public Employees' Retirement System based on the
273 position held, whether the employee is or becomes eligible for
274 coverage in the Public Employees' Retirement System based upon any
275 other employment in a covered agency or political subdivision. If
276 or when the employee meets the eligibility criteria for coverage
277 in such other position, then the employer must withhold
278 contributions and report wages from the noncovered position in
279 accordance with the provisions for reporting of earned
280 compensation. Failure to deduct and report those contributions
281 shall not relieve the employee or employer of liability thereof.
282 The board shall adopt such rules and regulations as necessary to
283 implement and enforce this provision.

284 (t) "Prior service" shall mean service rendered before
285 February 1, 1953, for which credit is allowable under Sections
286 25-11-105 and 25-11-109, and which shall allow prior service for
287 any person who is now or becomes a member of the Public Employees'
288 Retirement System and who does contribute to the system for a
289 minimum period of four (4) years.

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

293 (v) "Retirement allowance" shall mean an annuity for
294 life as provided in this article, payable each year in twelve (12)
295 equal monthly installments beginning as of the date fixed by the
296 board. The retirement allowance shall be calculated in accordance
297 with Section 25-11-111. However, any spouse who received a spouse
298 retirement benefit in accordance with Section 25-11-111(d) before
299 March 31, 1971, and those benefits were terminated because of
300 eligibility for a social security benefit, may again receive his



301 spouse retirement benefit from and after making application with
302 the board of trustees to reinstate the spouse retirement benefit.

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

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

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

311 (z) "State service" shall mean all offices and
312 positions of trust or employment in the employ of the state, or
313 any political subdivision or instrumentality thereof, which elect
314 to participate as provided by Section 25-11-105(f), including the
315 position of elected or fee officials of the counties and their
316 deputies and employees performing public services or any
317 department, independent agency, board or commission thereof, and
318 shall also include all offices and positions of trust or
319 employment in the employ of joint state and federal agencies
320 administering state and federal funds and service rendered by
321 employees of the public schools. Effective July 1, 1973, all
322 nonprofessional public school employees, such as bus drivers,
323 janitors, maids, maintenance workers and cafeteria employees,
324 shall have the option to become members in accordance with Section
325 25-11-105(b), and shall be eligible to receive credit for services
326 before July 1, 1973, provided that the contributions and interest
327 are paid by the employee in accordance with that section; in
328 addition, the county or municipal separate school district may pay
329 the employer contribution and pro rata share of interest of the
330 retroactive service from available funds. From and after July 1,
331 1998, retroactive service credit shall be purchased at the
332 actuarial cost in accordance with Section 25-11-105(b).



333 (aa) "Withdrawal from service" or "termination from
334 service" shall mean complete severance of employment in the state
335 service of any member by resignation, dismissal or discharge,
336 except in the case of persons who become eligible to receive a
337 retirement allowance under this article and who choose to receive
338 the retirement allowance during their employment as teacher as
339 authorized by Section 25-11-126.

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

342 **SECTION 3.** Section 25-11-105, Mississippi Code of 1972, is
343 amended as follows:

344 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

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

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

356 (ii) From and after July 1, 2002, any individual
357 who is employed by a governmental entity to perform professional
358 services shall become a member of the system if the individual is
359 paid regular periodic compensation for those services that is
360 subject to payroll taxes, is provided all other employee benefits
361 and meets the membership criteria established by the regulations
362 adopted by the board of trustees that apply to all other members
363 of the system; however, any active member employed in such a
364 position on July 1, 2002, will continue to be an active member for
365 as long as they are employed in any such position.



366 (b) All persons who shall become employees in the state
367 service after January 31, 1953, except those specifically excluded
368 or as to whom election is provided in Articles 1 and 3, unless
369 they shall file with the board prior to the lapse of sixty (60)
370 days of employment or sixty (60) days after the effective date of
371 the cited articles, whichever is later, on a form prescribed by
372 the board, a notice of election not to be covered by the
373 membership of the retirement system and a duly executed waiver of
374 all present and prospective benefits which would otherwise inure
375 to them on account of their participation in the system, shall
376 become members of the retirement system; however, no credit for
377 prior service will be granted to members until they have
378 contributed to Article 3 of the retirement system for a minimum
379 period of at least four (4) years. Such members shall receive
380 credit for services performed prior to January 1, 1953, in
381 employment now covered by Article 3, but no credit shall be
382 granted for retroactive services between January 1, 1953, and the
383 date of their entry into the retirement system unless the employee
384 pays into the retirement system both the employer's and the
385 employee's contributions on wages paid him during the period from
386 January 31, 1953, to the date of his becoming a contributing
387 member, together with interest at the rate determined by the board
388 of trustees. Members reentering after withdrawal from service
389 shall qualify for prior service under the provisions of Section
390 25-11-117. From and after July 1, 1998, upon eligibility as noted
391 above, the member may receive credit for such retroactive service
392 provided:

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

396 (2) The member shall pay to the retirement system
397 on the date he or she is eligible for such credit or at any time
398 thereafter prior to the date of retirement the actuarial cost for



399 each year of such creditable service. The provisions of this
400 subparagraph (2) shall be subject to the limitations of Section
401 415 of the Internal Revenue Code and regulations promulgated
402 thereunder.

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

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

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

420 (e) All persons who are employees in the state service
421 on January 31, 1953, and who under existing laws are members of
422 any fund operated for the retirement of employees by the State of
423 Mississippi, or any of its departments or agencies, shall not be
424 entitled to membership in this retirement system unless, before
425 February 1, 1953, any such person shall indicate by a notice filed
426 with the board, on a form prescribed by the board, his individual
427 election and choice to participate in this system, but no such
428 person shall receive prior service credit unless he becomes a
429 member on or before February 1, 1953.

430 (f) Each political subdivision of the state and each
431 instrumentality of the state or a political subdivision, or both,



432 is hereby authorized to submit, for approval by the board of
433 trustees, a plan for extending the benefits of this article to
434 employees of any such political subdivision or instrumentality.
435 Each such plan or any amendment to the plan for extending benefits
436 thereof shall be approved by the board of trustees if it finds
437 that such plan, or such plan as amended, is in conformity with
438 such requirements as are provided in Articles 1 and 3; however,
439 upon approval of such plan or any such plan heretofore approved by
440 the board of trustees, the approved plan shall not be subject to
441 cancellation or termination by the political subdivision or
442 instrumentality, except that any community hospital serving a
443 municipality that joined the Public Employees' Retirement System
444 as of November 1, 1956, to offer social security coverage for its
445 employees and subsequently extended retirement annuity coverage to
446 its employees as of December 1, 1965, may, upon documentation of
447 extreme financial hardship, have future retirement annuity
448 coverage cancelled or terminated at the discretion of the board of
449 trustees. No such plan shall be approved unless:

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

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

462 (3) It provides for such methods of administration
463 of the plan by the political subdivision or instrumentality as are



464 found by the board of trustees to be necessary for the proper and
465 efficient administration thereof;

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

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

477 A. The board of trustees shall not finally
478 refuse to approve a plan submitted under paragraph (f), and shall
479 not terminate an approved plan without reasonable notice and
480 opportunity for hearing to each political subdivision or
481 instrumentality affected thereby. The board's decision in any
482 such case shall be final, conclusive and binding unless an appeal
483 be taken by the political subdivision or instrumentality aggrieved
484 thereby to the Circuit Court of Hinds County, Mississippi, in
485 accordance with the provisions of law with respect to civil causes
486 by certiorari.

487 B. Each political subdivision or
488 instrumentality as to which a plan has been approved under this
489 section shall pay into the contribution fund, with respect to
490 wages (as defined in Section 25-11-5), at such time or times as
491 the board of trustees may by regulation prescribe, contributions
492 in the amounts and at the rates specified in the applicable
493 agreement entered into by the board.

494 C. Every political subdivision or
495 instrumentality required to make payments under paragraph (f)(5)B
496 hereof is authorized, in consideration of the employees' retention



497 in or entry upon employment after enactment of Articles 1 and 3,
498 to impose upon its employees, as to services which are covered by
499 an approved plan, a contribution with respect to wages (as defined
500 in Section 25-11-5) not exceeding the amount provided in Section
501 25-11-123(d) if such services constituted employment within the
502 meaning of Articles 1 and 3, and to deduct the amount of such
503 contribution from the wages as and when paid. Contributions so
504 collected shall be paid into the contribution fund as partial
505 discharge of the liability of such political subdivisions or
506 instrumentalities under paragraph (f)(5)B hereof. Failure to
507 deduct such contribution shall not relieve the employee or
508 employer of liability thereof.

509 D. Any state agency, school, political
510 subdivision, instrumentality or any employer that is required to
511 submit contribution payments or wage reports under any section of
512 this chapter shall be assessed interest on delinquent payments or
513 wage reports as determined by the board of trustees in accordance
514 with rules and regulations adopted by the board and such assessed
515 interest may be recovered by action in a court of competent
516 jurisdiction against such reporting agency liable therefor or may,
517 upon due certification of delinquency and at the request of the
518 board of trustees, be deducted from any other monies payable to
519 such reporting agency by any department or agency of the state.

520 E. Each political subdivision of the state
521 and each instrumentality of the state or a political subdivision
522 or subdivisions which submits a plan for approval of the board, as
523 provided in this section, shall reimburse the board for coverage
524 into the expense account, its pro rata share of the total expense
525 of administering Articles 1 and 3 as provided by regulations of
526 the board.

527 (g) The board may, in its discretion, deny the right of
528 membership in this system to any class of employees whose
529 compensation is only partly paid by the state or who are occupying



530 positions on a part-time or intermittent basis. The board may, in
531 its discretion, make optional with employees in any such classes
532 their individual entrance into this system.

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

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

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

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



562 (k) Employees of a political subdivision or
563 instrumentality who were employed by such political subdivision or
564 instrumentality prior to an agreement between such entity and the
565 Public Employees' Retirement System to extend the benefits of this
566 article to its employees, and which agreement provides for the
567 establishment of retroactive service credit, and who have been
568 members of the retirement system and have remained contributors to
569 the retirement system for four (4) years, may receive credit for
570 such retroactive service with such political subdivision or
571 instrumentality, provided the employee and/or employer, as
572 provided under the terms of the modification of the joinder
573 agreement in allowing such coverage, pay into the retirement
574 system the employer's and employee's contributions on wages paid
575 the member during such previous employment, together with interest
576 or actuarial cost as determined by the board covering the period
577 from the date the service was rendered until the payment for the
578 credit for such service was made. Such wages shall be verified by
579 the Social Security Administration or employer payroll records.
580 Effective July 1, 1998, upon eligibility as noted above, a member
581 may receive credit for such retroactive service with such
582 political subdivision or instrumentality provided:

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

588 (2) The member shall pay to the retirement system
589 on the date he or she is eligible for such credit or at any time
590 thereafter prior to the date of retirement the actuarial cost for
591 each year of such creditable service. The provisions of this
592 subparagraph (2) shall be subject to the limitations of Section
593 415 of the Internal Revenue Code and regulations promulgated
594 thereunder.



595 Nothing contained in this paragraph (k) shall be construed to
596 limit the authority of the board to allow the correction of
597 reporting errors or omissions based on the payment of employee and
598 employer contributions plus applicable interest. Payment for such
599 time shall be made in increments of not less than one-quarter
600 (1/4) year of creditable service beginning with the most recent
601 service. Upon the payment of all or part of such required
602 contributions, plus interest or the actuarial cost as provided
603 above, the member shall receive credit for the period of
604 creditable service for which full payment has been made to the
605 retirement system.

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

616 (m) All rights to purchase retroactive service credit
617 or repay a refund as provided in Section 25-11-101 et seq. shall
618 terminate upon retirement.

619 **II. THOSE WHO ARE NOT ELIGIBLE FOR MEMBERSHIP**

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

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

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



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

631 (d) From and after July 1, 2002, individuals who are
632 employed by a governmental entity to perform professional service
633 on less than a full-time basis who do not meet the criteria
634 established in I(a)(ii) of this section.

635 **III. TERMINATION OF MEMBERSHIP**

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

640 **SECTION 4.** Section 25-11-127, Mississippi Code of 1972, is
641 amended as follows:

642 25-11-127. (1) (a) No person who is being paid a
643 retirement allowance or a pension after retirement under this
644 article shall be employed or paid for any service by the State of
645 Mississippi, except as provided in this section or in Section
646 25-11-126.

647 (b) No retiree of this retirement system who is
648 reemployed or is reelected to office after retirement shall
649 continue to draw retirement benefits while so reemployed, except
650 as provided in this section or in Section 25-11-126.

651 (c) No person employed or elected under the exceptions
652 provided for in this section shall become a member under Article 3
653 of the retirement system.

654 (2) Except as otherwise provided in Section 25-11-126, any
655 person who has been retired under the provisions of Article 3 and
656 who is later reemployed in service covered by this article shall
657 cease to receive benefits under this article and shall again
658 become a contributing member of the retirement system. When the
659 person retires again, if the person has been a contributing member
660 of the retirement system during his reemployment and the



661 reemployment exceeds six (6) months, the person shall have his or
662 her benefit recomputed, including service after again becoming a
663 member, provided that the total retirement allowance paid to the
664 retired member in his or her previous retirement shall be deducted
665 from the member's retirement reserve and taken into consideration
666 in recalculating the retirement allowance under a new option
667 selected.

668 (3) The board shall have the right to prescribe rules and
669 regulations for carrying out the provisions of this section.

670 (4) The provisions of this section shall not be construed to
671 prohibit any retiree, regardless of age, from being employed and
672 drawing a retirement allowance either:

673 (a) For a period of time not to exceed one-half (1/2)
674 of the normal working days for the position in any fiscal year
675 during which the retiree will receive no more than one-half (1/2)
676 of the salary in effect for the position at the time of
677 employment, or

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

681 To determine the normal working days for a position under
682 paragraph (a) of this subsection, the employer shall determine the
683 required number of working days for the position on a full-time
684 basis and the equivalent number of hours representing the
685 full-time position. The retiree then may work up to one-half
686 (1/2) of the required number of working days or up to one-half
687 (1/2) of the equivalent number of hours and receive up to one-half
688 (1/2) of the salary for the position. In the case of employment
689 with multiple employers, the limitation shall equal one-half (1/2)
690 of the number of days or hours for a single full-time position.

691 Notice shall be given in writing to the executive director,
692 setting forth the facts upon which the employment is being made,
693 and the notice shall be given within five (5) days from the date



694 of employment and also from the date of termination of the
695 employment.

696 (5) Any member may continue in municipal or county elected
697 office or be elected to a municipal or county office, provided
698 that the person:

699 (a) Files annually, in writing, in the office of the
700 employer and the office of the executive director of the system
701 before the person takes office or as soon as possible after
702 retirement, a waiver of all salary or compensation and elects to
703 receive in lieu of that salary or compensation a retirement
704 allowance as provided in this section, in which event no salary or
705 compensation shall thereafter be due or payable for those
706 services; however, any such officer or employee may receive, in
707 addition to the retirement allowance, office expense allowance,
708 mileage or travel expense authorized by any statute of the State
709 of Mississippi; or

710 (b) Elects to receive compensation for that elective
711 office in an amount not to exceed twenty-five percent (25%) of the
712 retiree's average compensation. As used in this paragraph, the
713 term "compensation" shall not include office expense allowance,
714 mileage or travel expense authorized by a statute of the State of
715 Mississippi. In order to receive compensation as allowed in this
716 paragraph, the member shall file annually, in writing, in the
717 office of the employer and the office of the executive director of
718 the system, an election to receive, in addition to a retirement
719 allowance, compensation as allowed in this paragraph.

720 **SECTION 5.** This act shall take effect and be in force from
721 and after July 1, 2003.

