

By: Senator(s) Carmichael

To: Finance

SENATE BILL NO. 2234

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 MAY RECEIVE A RETIREMENT ALLOWANCE DURING THEIR
 6 EMPLOYMENT AS TEACHERS IN ADDITION TO RECEIVING A TEACHER'S
 7 SALARY; TO PROVIDE CONDITIONS FOR SUCH EMPLOYMENT; TO AMEND
 8 SECTIONS 25-11-103, 25-11-105 AND 25-11-127, MISSISSIPPI CODE OF
 9 1972, IN CONFORMITY WITH THE PROVISIONS OF THIS ACT; AND FOR
 10 RELATED PURPOSES.

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

12 **SECTION 1.** The following shall be codified as Section
 13 25-11-126, Mississippi Code of 1972:

14 25-11-126. Any person who has completed thirty (30) or more
 15 years of creditable service and is receiving a retirement
 16 allowance under this article for at least one (1) year, who was
 17 employed as a teacher in the public school system at the time of
 18 his retirement and who is employed as a teacher in the public
 19 school system after his retirement, may choose to continue
 20 receiving the retirement allowance under this article during his
 21 employment as a teacher after his retirement in addition to
 22 receiving the salary authorized for a teacher in the public school
 23 system, under the following conditions:

24 (a) The retired member holds any teacher's professional
 25 license or certificate as may be required in Section 37-3-2.

26 (b) The superintendent of schools of the employing
 27 school district certifies in writing to the Executive Director of
 28 the Public Employees' Retirement System and the State
 29 Superintendent of Education that the retired member has the
 30 requisite experience, training and expertise for the position to



31 be filled and that no other qualified persons are available to
32 fill the position.

33 (c) The State Superintendent of Education certifies in
34 writing to the Public Employees' Retirement System that the
35 employing school system serves an area that lacks qualified
36 teachers to serve in the position to be filled.

37 (d) Such retired member shall not be eligible to accrue
38 additional retirement benefits, accrue leave or receive medical
39 insurance coverage as a result of such employment.

40 (e) The retired member's appointment to serve as
41 teacher cannot exceed one (1) year. The retired member may be
42 reappointed to additional one-year periods provided the conditions
43 contained in this section are met for each such reappointment,
44 including the certifications required in paragraphs (b) and (c) of
45 this section.

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

48 25-11-103. The following words and phrases as used in
49 Articles 1 and 3, unless a different meaning is plainly required
50 by the context, shall have the following meanings:

51 (a) "Accumulated contributions" shall mean the sum of
52 all the amounts deducted from the compensation of a member and
53 credited to his individual account in the annuity savings account,
54 together with regular interest thereon as provided in Section
55 25-11-123.

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

60 (c) "Actuarial equivalent" shall mean a benefit of
61 equal value to the accumulated contributions, annuity or benefit,
62 as the case may be, when computed upon the basis of such mortality



63 tables as shall be adopted by the board of trustees, and regular
64 interest.

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

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

70 (f) "Average compensation" shall mean the average of
71 the four (4) highest years of earned compensation reported for an
72 employee in a fiscal or calendar year period, or combination
73 thereof which do not overlap, or the last forty-eight (48)
74 consecutive months of earned compensation reported for an
75 employee. The four (4) years need not be successive or joined
76 years of service. In no case shall the average compensation so
77 determined be in excess of One Hundred Fifty Thousand Dollars
78 (\$150,000.00). In computing the average compensation, any amount
79 paid in a lump sum for personal leave shall be included in the
80 calculation to the extent that such amount does not exceed an
81 amount which is equal to thirty (30) days of earned compensation
82 and to the extent that it does not cause the employees' earned
83 compensation to exceed the maximum reportable amount specified in
84 Section 25-11-103(k); however, this thirty-day limitation shall
85 not prevent the inclusion in the calculation of leave earned under
86 federal regulations prior to July 1, 1976, and frozen as of that
87 date as referred to in Section 25-3-99. Only the amount of lump
88 sum pay for personal leave due and paid upon the death of a member
89 attributable for up to one hundred fifty (150) days shall be used
90 in the deceased member's average compensation calculation in
91 determining the beneficiary's benefits. In computing the average
92 compensation, no amounts shall be used which are in excess of the
93 amount on which contributions were required and paid. If any
94 member who is or has been granted any increase in annual salary or
95 compensation of more than eight percent (8%) retires within



96 twenty-four (24) months from the date that such increase becomes
97 effective, then the board shall exclude that part of the increase
98 in salary or compensation that exceeds eight percent (8%) in
99 calculating that member's average compensation for retirement
100 purposes. The board may enforce this provision by rule or
101 regulation. However, increases in compensation in excess of eight
102 percent (8%) per year granted within twenty-four (24) months of
103 the date of retirement may be included in such calculation of
104 average compensation if satisfactory proof is presented to the
105 board showing that the increase in compensation was the result of
106 an actual change in the position held or services rendered, or
107 that such compensation increase was authorized by the State
108 Personnel Board or was increased as a result of statutory
109 enactment, and the employer furnishes an affidavit stating that
110 such increase granted within the last twenty-four (24) months was
111 not contingent on a promise or agreement of the employee to
112 retire. Nothing in Section 25-3-31 shall affect the calculation
113 of the average compensation of any member for the purposes of this
114 article. The average compensation of any member who retires
115 before July 1, 1992, shall not exceed the annual salary of the
116 Governor.

117 (g) "Beneficiary" shall mean any person entitled to
118 receive a retirement allowance, an annuity or other benefit as
119 provided by Articles 1 and 3. In the event of the death prior to
120 retirement of any member whose spouse and/or children are not
121 entitled to a retirement allowance on the basis that the member
122 has less than four (4) years of service credit and/or has not been
123 married for a minimum of one (1) year or the spouse has waived his
124 or her entitlement to a retirement allowance pursuant to Section
125 25-11-114, the lawful spouse of a member at the time of the death
126 of such member shall be the beneficiary of such member unless the
127 member has designated another beneficiary subsequent to the date
128 of marriage in writing, and filed such writing in the office of



129 the executive director of the board of trustees. No designation
130 or change of beneficiary shall be made in any other manner.

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

134 (i) "Creditable service" shall mean "prior service,"
135 "retroactive service" and all lawfully credited unused leave not
136 exceeding the accrual rates and limitations provided in Section
137 25-3-91 et seq., as of the date of withdrawal from service plus
138 "membership service" for which credit is allowable as provided in
139 Section 25-11-109. Except to limit creditable service reported to
140 the system for the purpose of computing an employee's retirement
141 allowance or annuity or benefits provided in this article, nothing
142 in this paragraph shall limit or otherwise restrict the power of
143 the governing authority of a municipality or other political
144 subdivision of the state to adopt such vacation and sick leave
145 policies as it deems necessary.

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

152 (k) "Earned compensation" shall mean the full amount
153 earned by an employee for a given pay period including any
154 maintenance furnished up to a maximum of One Hundred Fifty
155 Thousand Dollars (\$150,000.00) per year, and proportionately for
156 less than one (1) year of service. The value of such maintenance
157 when not paid in money shall be fixed by the employing state
158 agency, and, in case of doubt, by the board of trustees as defined
159 in Section 25-11-15. In any case, earned compensation shall be
160 limited to the regular periodic compensation paid, exclusive of
161 litigation fees, bond fees, and other similar extraordinary



162 nonrecurring payments. In addition, any member in a covered
163 position, as defined by Public Employees' Retirement System laws
164 and regulations, who is also employed by another covered agency or
165 political subdivision shall have the earnings of that additional
166 employment reported to the Public Employees' Retirement System
167 regardless of whether the additional employment is sufficient in
168 itself to be a covered position. In addition, computation of
169 earned compensation shall be governed by the following:

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

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

178 (iii) In the case of members of the State
179 Legislature, all remuneration or amounts paid, except mileage
180 allowance, shall apply.

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

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



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

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

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

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

206 (n) "Executive director" shall mean the secretary to
207 the board of trustees, as provided in Section 25-11-15(9), and the
208 administrator of the Public Employees' Retirement System and all
209 systems under the management of the board of trustees. Wherever
210 the term "Executive Secretary of the Public Employees' Retirement
211 System" or "executive secretary" appears in this article or in any
212 other provision of law, it shall be construed to mean the
213 Executive Director of the Public Employees' Retirement System.

214 (o) "Fiscal year" shall mean the period beginning on
215 July 1 of any year and ending on June 30 of the next succeeding
216 year.

217 (p) "Medical board" shall mean the board of physicians
218 or any governmental or nongovernmental disability determination
219 service designated by the board of trustees that is qualified to
220 make disability determinations as provided for in Section
221 25-11-119.

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

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

226 (s) "Position" means any office or any employment in
227 the state service, or two (2) or more of them, the duties of which



228 call for services to be rendered by one (1) person, including
229 positions jointly employed by federal and state agencies
230 administering federal and state funds. The employer shall
231 determine upon initial employment and during the course of
232 employment of an employee who does not meet the criteria for
233 coverage in the Public Employees' Retirement System based on the
234 position held, whether the employee is or becomes eligible for
235 coverage in the Public Employees' Retirement System based upon any
236 other employment in a covered agency or political subdivision. If
237 or when the employee meets the eligibility criteria for coverage
238 in such other position, then the employer must withhold
239 contributions and report wages from the noncovered position in
240 accordance with the provisions for reporting of earned
241 compensation. Failure to deduct and report those contributions
242 shall not relieve the employee or employer of liability thereof.
243 The board shall adopt such rules and regulations as necessary to
244 implement and enforce this provision.

245 (t) "Prior service" shall mean service rendered before
246 February 1, 1953, for which credit is allowable under Sections
247 25-11-105 and 25-11-109, and which shall allow prior service for
248 any person who is now or becomes a member of the Public Employees'
249 Retirement System and who does contribute to the system for a
250 minimum period of four (4) years.

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

254 (v) "Retirement allowance" shall mean an annuity for
255 life as provided in this article, payable each year in twelve (12)
256 equal monthly installments beginning as of the date fixed by the
257 board. The retirement allowance shall be calculated in accordance
258 with Section 25-11-111. However, any spouse who received a spouse
259 retirement benefit in accordance with Section 25-11-111(d) before
260 March 31, 1971, and those benefits were terminated because of



261 eligibility for a social security benefit, may again receive his
262 spouse retirement benefit from and after making application with
263 the board of trustees to reinstate the spouse retirement benefit.

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

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

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

272 (z) "State service" shall mean all offices and
273 positions of trust or employment in the employ of the state, or
274 any political subdivision or instrumentality thereof, which elect
275 to participate as provided by Section 25-11-105(f), including the
276 position of elected or fee officials of the counties and their
277 deputies and employees performing public services or any
278 department, independent agency, board or commission thereof, and
279 shall also include all offices and positions of trust or
280 employment in the employ of joint state and federal agencies
281 administering state and federal funds and service rendered by
282 employees of the public schools. Effective July 1, 1973, all
283 nonprofessional public school employees, such as bus drivers,
284 janitors, maids, maintenance workers and cafeteria employees,
285 shall have the option to become members in accordance with Section
286 25-11-105(b), and shall be eligible to receive credit for services
287 before July 1, 1973, provided that the contributions and interest
288 are paid by the employee in accordance with that section; in
289 addition, the county or municipal separate school district may pay
290 the employer contribution and pro rata share of interest of the
291 retroactive service from available funds. From and after July 1,
292 1998, retroactive service credit shall be purchased at the
293 actuarial cost in accordance with Section 25-11-105(b).



294 (aa) "Withdrawal from service" or "termination from
295 service" shall mean complete severance of employment in the state
296 service of any member by resignation, dismissal or discharge,
297 except in the case of persons who become eligible to receive a
298 retirement allowance under this article and who choose to receive
299 the retirement allowance during their employment as teachers as
300 authorized by Section 25-11-126.

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

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

305 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

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

308 (a) (i) All persons who shall become employees in the
309 state service after January 31, 1953, and whose wages are subject
310 to payroll taxes and are lawfully reported on IRS Form W-2, except
311 those persons who are specifically excluded, or as to whom
312 election is provided in Articles 1 and 3 or who choose to receive
313 or continue receiving a retirement allowance during their
314 employment as teachers as authorized by Section 25-11-126, shall
315 become members of the retirement system as a condition of their
316 employment.

317 (ii) From and after July 1, 2002, any individual
318 who is employed by a governmental entity to perform professional
319 services shall become a member of the system if the individual is
320 paid regular periodic compensation for those services that is
321 subject to payroll taxes, is provided all other employee benefits
322 and meets the membership criteria established by the regulations
323 adopted by the board of trustees that apply to all other members
324 of the system; however, any active member employed in such a
325 position on July 1, 2002, will continue to be an active member for
326 as long as they are employed in any such position.



327 (b) All persons who shall become employees in the state
328 service after January 31, 1953, except those specifically excluded
329 or as to whom election is provided in Articles 1 and 3, unless
330 they shall file with the board prior to the lapse of sixty (60)
331 days of employment or sixty (60) days after the effective date of
332 the cited articles, whichever is later, on a form prescribed by
333 the board, a notice of election not to be covered by the
334 membership of the retirement system and a duly executed waiver of
335 all present and prospective benefits which would otherwise inure
336 to them on account of their participation in the system, shall
337 become members of the retirement system; however, no credit for
338 prior service will be granted to members until they have
339 contributed to Article 3 of the retirement system for a minimum
340 period of at least four (4) years. Such members shall receive
341 credit for services performed prior to January 1, 1953, in
342 employment now covered by Article 3, but no credit shall be
343 granted for retroactive services between January 1, 1953, and the
344 date of their entry into the retirement system unless the employee
345 pays into the retirement system both the employer's and the
346 employee's contributions on wages paid him during the period from
347 January 31, 1953, to the date of his becoming a contributing
348 member, together with interest at the rate determined by the board
349 of trustees. Members reentering after withdrawal from service
350 shall qualify for prior service under the provisions of Section
351 25-11-117. From and after July 1, 1998, upon eligibility as noted
352 above, the member may receive credit for such retroactive service
353 provided:

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

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



360 each year of such creditable service. The provisions of this
361 subparagraph (2) shall be subject to the limitations of Section
362 415 of the Internal Revenue Code and regulations promulgated
363 thereunder.

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

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

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

381 (e) All persons who are employees in the state service
382 on January 31, 1953, and who under existing laws are members of
383 any fund operated for the retirement of employees by the State of
384 Mississippi, or any of its departments or agencies, shall not be
385 entitled to membership in this retirement system unless, before
386 February 1, 1953, any such person shall indicate by a notice filed
387 with the board, on a form prescribed by the board, his individual
388 election and choice to participate in this system, but no such
389 person shall receive prior service credit unless he becomes a
390 member on or before February 1, 1953.

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



393 is hereby authorized to submit, for approval by the board of
394 trustees, a plan for extending the benefits of this article to
395 employees of any such political subdivision or instrumentality.
396 Each such plan or any amendment to the plan for extending benefits
397 thereof shall be approved by the board of trustees if it finds
398 that such plan, or such plan as amended, is in conformity with
399 such requirements as are provided in Articles 1 and 3; however,
400 upon approval of such plan or any such plan heretofore approved by
401 the board of trustees, the approved plan shall not be subject to
402 cancellation or termination by the political subdivision or
403 instrumentality, except that any community hospital serving a
404 municipality that joined the Public Employees' Retirement System
405 as of November 1, 1956, to offer social security coverage for its
406 employees and subsequently extended retirement annuity coverage to
407 its employees as of December 1, 1965, may, upon documentation of
408 extreme financial hardship, have future retirement annuity
409 coverage cancelled or terminated at the discretion of the board of
410 trustees. No such plan shall be approved unless:

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

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

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



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

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

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

438 A. The board of trustees shall not finally
439 refuse to approve a plan submitted under paragraph (f), and shall
440 not terminate an approved plan without reasonable notice and
441 opportunity for hearing to each political subdivision or
442 instrumentality affected thereby. The board's decision in any
443 such case shall be final, conclusive and binding unless an appeal
444 be taken by the political subdivision or instrumentality aggrieved
445 thereby to the Circuit Court of Hinds County, Mississippi, in
446 accordance with the provisions of law with respect to civil causes
447 by certiorari.

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

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



458 in or entry upon employment after enactment of Articles 1 and 3,
459 to impose upon its employees, as to services which are covered by
460 an approved plan, a contribution with respect to wages (as defined
461 in Section 25-11-5) not exceeding the amount provided in Section
462 25-11-123(d) if such services constituted employment within the
463 meaning of Articles 1 and 3, and to deduct the amount of such
464 contribution from the wages as and when paid. Contributions so
465 collected shall be paid into the contribution fund as partial
466 discharge of the liability of such political subdivisions or
467 instrumentalities under paragraph (f)(5)B hereof. Failure to
468 deduct such contribution shall not relieve the employee or
469 employer of liability thereof.

470 D. Any state agency, school, political
471 subdivision, instrumentality or any employer that is required to
472 submit contribution payments or wage reports under any section of
473 this chapter shall be assessed interest on delinquent payments or
474 wage reports as determined by the board of trustees in accordance
475 with rules and regulations adopted by the board and such assessed
476 interest may be recovered by action in a court of competent
477 jurisdiction against such reporting agency liable therefor or may,
478 upon due certification of delinquency and at the request of the
479 board of trustees, be deducted from any other monies payable to
480 such reporting agency by any department or agency of the state.

481 E. Each political subdivision of the state
482 and each instrumentality of the state or a political subdivision
483 or subdivisions which submits a plan for approval of the board, as
484 provided in this section, shall reimburse the board for coverage
485 into the expense account, its pro rata share of the total expense
486 of administering Articles 1 and 3 as provided by regulations of
487 the board.

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



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

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

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

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

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



523 (k) Employees of a political subdivision or
524 instrumentality who were employed by such political subdivision or
525 instrumentality prior to an agreement between such entity and the
526 Public Employees' Retirement System to extend the benefits of this
527 article to its employees, and which agreement provides for the
528 establishment of retroactive service credit, and who have been
529 members of the retirement system and have remained contributors to
530 the retirement system for four (4) years, may receive credit for
531 such retroactive service with such political subdivision or
532 instrumentality, provided the employee and/or employer, as
533 provided under the terms of the modification of the joinder
534 agreement in allowing such coverage, pay into the retirement
535 system the employer's and employee's contributions on wages paid
536 the member during such previous employment, together with interest
537 or actuarial cost as determined by the board covering the period
538 from the date the service was rendered until the payment for the
539 credit for such service was made. Such wages shall be verified by
540 the Social Security Administration or employer payroll records.
541 Effective July 1, 1998, upon eligibility as noted above, a member
542 may receive credit for such retroactive service with such
543 political subdivision or instrumentality provided:

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

549 (2) The member shall pay to the retirement system
550 on the date he or she is eligible for such credit or at any time
551 thereafter prior to the date of retirement the actuarial cost for
552 each year of such creditable service. The provisions of this
553 subparagraph (2) shall be subject to the limitations of Section
554 415 of the Internal Revenue Code and regulations promulgated
555 thereunder.



556 Nothing contained in this paragraph (k) shall be construed to
557 limit the authority of the board to allow the correction of
558 reporting errors or omissions based on the payment of employee and
559 employer contributions plus applicable interest. Payment for such
560 time shall be made in increments of not less than one-quarter
561 (1/4) year of creditable service beginning with the most recent
562 service. Upon the payment of all or part of such required
563 contributions, plus interest or the actuarial cost as provided
564 above, the member shall receive credit for the period of
565 creditable service for which full payment has been made to the
566 retirement system.

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

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

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

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

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

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



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

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

596 **III. TERMINATION OF MEMBERSHIP**

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

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

603 25-11-127. (1) (a) No person who is being paid a
604 retirement allowance or a pension after retirement under this
605 article shall be employed or paid for any service by the State of
606 Mississippi, except as provided in this section or Section
607 25-11-126.

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

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

615 (2) Any person who has been retired under the provisions of
616 Article 3 and who is later reemployed in service covered by this
617 article shall cease to receive benefits under this article unless
618 he chooses to continue receiving a retirement allowance during his
619 employment as a teacher as authorized by Section 25-11-126, and
620 shall again become a contributing member of the retirement system.
621 When the person retires again, if he has been a contributing



622 member of the retirement system during his reemployment and his
623 reemployment exceeds six (6) months, the person shall have his or
624 her benefit recomputed, including service after again becoming a
625 member, provided that the total retirement allowance paid to the
626 retired member in his or her previous retirement shall be deducted
627 from the member's retirement reserve and taken into consideration
628 in recalculating the retirement allowance under a new option
629 selected.

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

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

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

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

643 To determine the normal working days for a position under
644 paragraph (a) of this subsection, the employer shall determine the
645 required number of working days for the position on a full-time
646 basis and the equivalent number of hours representing the
647 full-time position. The retiree then may work up to one-half
648 (1/2) of the required number of working days or up to one-half
649 (1/2) of the equivalent number of hours and receive up to one-half
650 (1/2) of the salary for the position. In the case of employment
651 with multiple employers, the limitation shall equal one-half (1/2)
652 of the number of days or hours for a single full-time position.

653 Notice shall be given in writing to the executive director,
654 setting forth the facts upon which the employment is being made,



655 and the notice shall be given within five (5) days from the date
656 of employment and also from the date of termination of the
657 employment.

658 (5) Any member may continue in municipal or county elected
659 office or be elected to a municipal or county office, provided
660 that the person:

661 (a) Files annually, in writing, in the office of the
662 employer and the office of the executive director of the system
663 before the person takes office or as soon as possible after
664 retirement, a waiver of all salary or compensation and elects to
665 receive in lieu of that salary or compensation a retirement
666 allowance as provided in this section, in which event no salary or
667 compensation shall thereafter be due or payable for those
668 services; however, any such officer or employee may receive, in
669 addition to the retirement allowance, office expense allowance,
670 mileage or travel expense authorized by any statute of the State
671 of Mississippi; or

672 (b) Elects to receive compensation for that elective
673 office in an amount not to exceed twenty-five percent (25%) of the
674 retiree's average compensation. As used in this paragraph, the
675 term "compensation" shall not include office expense allowance,
676 mileage or travel expense authorized by a statute of the State of
677 Mississippi. In order to receive compensation as allowed in this
678 paragraph, the member shall file annually, in writing, in the
679 office of the employer and the office of the executive director of
680 the system, an election to receive, in addition to a retirement
681 allowance, compensation as allowed in this paragraph.

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

