

By: Senator(s) Hamilton

To: Finance

SENATE BILL NO. 2595

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 SERVING AS SHERIFFS AFTER THEIR RETIREMENT, AND CERTAIN PERSONS
 5 SERVING AS SHERIFFS WHO ARE ELIGIBLE TO RECEIVE A RETIREMENT
 6 ALLOWANCE FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM, MAY
 7 RECEIVE A RETIREMENT ALLOWANCE DURING THEIR SERVICE AS SHERIFFS IN
 8 ADDITION TO RECEIVING A SHERIFF'S SALARY; TO PROVIDE THAT THOSE
 9 PERSONS SHALL NOT BE CONTRIBUTING MEMBERS OF THE RETIREMENT SYSTEM
 10 NOR RECEIVE ANY CREDITABLE SERVICE FOR THE PERIOD DURING WHICH
 11 THEY RECEIVE A RETIREMENT ALLOWANCE DURING THEIR SERVICE AS
 12 SHERIFFS; TO AMEND SECTIONS 25-11-103, 25-11-105 AND 25-11-127,
 13 MISSISSIPPI CODE OF 1972, IN CONFORMITY WITH THE PROVISIONS OF
 14 THIS ACT; AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** The following shall be codified as Section
 17 25-11-126, Mississippi Code of 1972:

18 25-11-126. (1) Any person who is serving as a sheriff who
 19 completes thirty (30) or more years of creditable service during
 20 his service as a sheriff may choose to receive a retirement
 21 allowance under this article during his service as a sheriff in
 22 addition to receiving the salary authorized under Section 25-3-5,
 23 in the manner provided in this section.

24 (2) Any person described in subsection (1) who chooses to
 25 receive a retirement allowance during his service as a sheriff
 26 shall make application to the executive director of the retirement
 27 system, and the retirement allowance shall begin on the first of
 28 the month following the date that the application is received by
 29 the executive director. Those persons shall not be required to
 30 withdraw from service in order to receive the retirement
 31 allowance.

32 (3) Any person to whom this section applies who receives or
 33 continues to receive a retirement allowance under this article



34 during his service as a sheriff shall not be a contributing member
35 of the retirement system nor receive any creditable service for
36 the period during which he receives a retirement allowance during
37 his service as a sheriff. Any person to whom this section applies
38 who chooses not to receive a retirement allowance during his
39 service as a sheriff shall be a contributing member of the
40 retirement system and shall receive creditable service for the
41 period during which he serves as a sheriff without receiving a
42 retirement allowance.

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

45 25-11-103. The following words and phrases as used in
46 Articles 1 and 3, unless a different meaning is plainly required
47 by the context, shall have the following meanings:

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

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

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

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

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



67 (f) "Average compensation" shall mean the average of
68 the four (4) highest years of earned compensation reported for an
69 employee in a fiscal or calendar year period, or combination
70 thereof which do not overlap, or the last forty-eight (48)
71 consecutive months of earned compensation reported for an
72 employee. The four (4) years need not be successive or joined
73 years of service. In no case shall the average compensation so
74 determined be in excess of One Hundred Fifty Thousand Dollars
75 (\$150,000.00). In computing the average compensation, any amount
76 paid in a lump sum for personal leave shall be included in the
77 calculation to the extent that such amount does not exceed an
78 amount which is equal to thirty (30) days of earned compensation
79 and to the extent that it does not cause the employees' earned
80 compensation to exceed the maximum reportable amount specified in
81 Section 25-11-103(k); however, this thirty-day limitation shall
82 not prevent the inclusion in the calculation of leave earned under
83 federal regulations prior to July 1, 1976, and frozen as of that
84 date as referred to in Section 25-3-99. Only the amount of lump
85 sum pay for personal leave due and paid upon the death of a member
86 attributable for up to one hundred fifty (150) days shall be used
87 in the deceased member's average compensation calculation in
88 determining the beneficiary's benefits. In computing the average
89 compensation, no amounts shall be used which are in excess of the
90 amount on which contributions were required and paid. If any
91 member who is or has been granted any increase in annual salary or
92 compensation of more than eight percent (8%) retires within
93 twenty-four (24) months from the date that such increase becomes
94 effective, then the board shall exclude that part of the increase
95 in salary or compensation that exceeds eight percent (8%) in
96 calculating that member's average compensation for retirement
97 purposes. The board may enforce this provision by rule or
98 regulation. However, increases in compensation in excess of eight
99 percent (8%) per year granted within twenty-four (24) months of



100 the date of retirement may be included in such calculation of
101 average compensation if satisfactory proof is presented to the
102 board showing that the increase in compensation was the result of
103 an actual change in the position held or services rendered, or
104 that such compensation increase was authorized by the State
105 Personnel Board or was increased as a result of statutory
106 enactment, and the employer furnishes an affidavit stating that
107 such increase granted within the last twenty-four (24) months was
108 not contingent on a promise or agreement of the employee to
109 retire. Nothing in Section 25-3-31 shall affect the calculation
110 of the average compensation of any member for the purposes of this
111 article. The average compensation of any member who retires
112 before July 1, 1992, shall not exceed the annual salary of the
113 Governor.

114 (g) "Beneficiary" shall mean any person entitled to
115 receive a retirement allowance, an annuity or other benefit as
116 provided by Articles 1 and 3. In the event of the death prior to
117 retirement of any member whose spouse and/or children are not
118 entitled to a retirement allowance on the basis that the member
119 has less than four (4) years of service credit and/or has not been
120 married for a minimum of one (1) year or the spouse has waived his
121 or her entitlement to a retirement allowance pursuant to Section
122 25-11-114, the lawful spouse of a member at the time of the death
123 of such member shall be the beneficiary of such member unless the
124 member has designated another beneficiary subsequent to the date
125 of marriage in writing, and filed such writing in the office of
126 the executive director of the board of trustees. No designation
127 or change of beneficiary shall be made in any other manner.

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

131 (i) "Creditable service" shall mean "prior service,"
132 "retroactive service" and all lawfully credited unused leave not



133 exceeding the accrual rates and limitations provided in Section
134 25-3-91 et seq., as of the date of withdrawal from service plus
135 "membership service" for which credit is allowable as provided in
136 Section 25-11-109. Except to limit creditable service reported to
137 the system for the purpose of computing an employee's retirement
138 allowance or annuity or benefits provided in this article, nothing
139 in this paragraph shall limit or otherwise restrict the power of
140 the governing authority of a municipality or other political
141 subdivision of the state to adopt such vacation and sick leave
142 policies as it deems necessary.

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

149 (k) "Earned compensation" shall mean the full amount
150 earned by an employee for a given pay period including any
151 maintenance furnished up to a maximum of One Hundred Fifty
152 Thousand Dollars (\$150,000.00) per year, and proportionately for
153 less than one (1) year of service. The value of such maintenance
154 when not paid in money shall be fixed by the employing state
155 agency, and, in case of doubt, by the board of trustees as defined
156 in Section 25-11-15. In any case, earned compensation shall be
157 limited to the regular periodic compensation paid, exclusive of
158 litigation fees, bond fees, and other similar extraordinary
159 nonrecurring payments. In addition, any member in a covered
160 position, as defined by Public Employees' Retirement System laws
161 and regulations, who is also employed by another covered agency or
162 political subdivision shall have the earnings of that additional
163 employment reported to the Public Employees' Retirement System
164 regardless of whether the additional employment is sufficient in



165 itself to be a covered position. In addition, computation of
166 earned compensation shall be governed by the following:

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

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

175 (iii) In the case of members of the State
176 Legislature, all remuneration or amounts paid, except mileage
177 allowance, shall apply.

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

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

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

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



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

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

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

211 (o) "Fiscal year" shall mean the period beginning on
212 July 1 of any year and ending on June 30 of the next succeeding
213 year.

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

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

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

223 (s) "Position" means any office or any employment in
224 the state service, or two (2) or more of them, the duties of which
225 call for services to be rendered by one (1) person, including
226 positions jointly employed by federal and state agencies
227 administering federal and state funds. The employer shall
228 determine upon initial employment and during the course of
229 employment of an employee who does not meet the criteria for



230 coverage in the Public Employees' Retirement System based on the
231 position held, whether the employee is or becomes eligible for
232 coverage in the Public Employees' Retirement System based upon any
233 other employment in a covered agency or political subdivision. If
234 or when the employee meets the eligibility criteria for coverage
235 in such other position, then the employer must withhold
236 contributions and report wages from the noncovered position in
237 accordance with the provisions for reporting of earned
238 compensation. Failure to deduct and report those contributions
239 shall not relieve the employee or employer of liability thereof.
240 The board shall adopt such rules and regulations as necessary to
241 implement and enforce this provision.

242 (t) "Prior service" shall mean service rendered before
243 February 1, 1953, for which credit is allowable under Sections
244 25-11-105 and 25-11-109, and which shall allow prior service for
245 any person who is now or becomes a member of the Public Employees'
246 Retirement System and who does contribute to the system for a
247 minimum period of four (4) years.

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

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



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

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

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

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

291 (aa) "Withdrawal from service" or "termination from
292 service" shall mean complete severance of employment in the state
293 service of any member by resignation, dismissal or discharge,



294 except in the case of persons who become eligible to receive a
295 retirement allowance under this article and who choose to receive
296 the retirement allowance during their service as sheriff as
297 authorized by Section 25-11-126.

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

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

302 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

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

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

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

324 (b) All persons who shall become employees in the state
325 service after January 31, 1953, except those specifically excluded
326 or as to whom election is provided in Articles 1 and 3, unless



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

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

354 (2) The member shall pay to the retirement system
355 on the date he or she is eligible for such credit or at any time
356 thereafter prior to the date of retirement the actuarial cost for
357 each year of such creditable service. The provisions of this
358 subparagraph (2) shall be subject to the limitations of Section



359 415 of the Internal Revenue Code and regulations promulgated
360 thereunder.

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

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

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

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

388 (f) Each political subdivision of the state and each
389 instrumentality of the state or a political subdivision, or both,
390 is hereby authorized to submit, for approval by the board of
391 trustees, a plan for extending the benefits of this article to



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

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

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

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



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

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

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

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

452 C. Every political subdivision or
453 instrumentality required to make payments under paragraph (f)(5)B
454 hereof is authorized, in consideration of the employees' retention
455 in or entry upon employment after enactment of Articles 1 and 3,
456 to impose upon its employees, as to services which are covered by



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

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

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

485 (g) The board may, in its discretion, deny the right of
486 membership in this system to any class of employees whose
487 compensation is only partly paid by the state or who are occupying
488 positions on a part-time or intermittent basis. The board may, in



489 its discretion, make optional with employees in any such classes
490 their individual entrance into this system.

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

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

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

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

520 (k) Employees of a political subdivision or
521 instrumentality who were employed by such political subdivision or



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

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

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

553 Nothing contained in this paragraph (k) shall be construed to
554 limit the authority of the board to allow the correction of



555 reporting errors or omissions based on the payment of employee and
556 employer contributions plus applicable interest. Payment for such
557 time shall be made in increments of not less than one-quarter
558 (1/4) year of creditable service beginning with the most recent
559 service. Upon the payment of all or part of such required
560 contributions, plus interest or the actuarial cost as provided
561 above, the member shall receive credit for the period of
562 creditable service for which full payment has been made to the
563 retirement system.

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

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

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

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

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

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



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

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

593 **III. TERMINATION OF MEMBERSHIP**

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

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

600 25-11-127. (1) (a) No person who is being paid a
601 retirement allowance or a pension after retirement under this
602 article shall be employed or paid for any service by the State of
603 Mississippi, except as provided in this section or in Section
604 25-11-126.

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

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

612 (2) Except as otherwise provided in Section 25-11-126, any
613 person who has been retired under the provisions of Article 3 and
614 who is later reemployed in service covered by this article shall
615 cease to receive benefits under this article and shall again
616 become a contributing member of the retirement system. When the
617 person retires again, if the person has been a contributing member
618 of the retirement system during his reemployment and the



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

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

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

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

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

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

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



652 of employment and also from the date of termination of the
653 employment.

654 (5) Any member may continue in municipal or county elected
655 office or be elected to a municipal or county office, provided
656 that the person:

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

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

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

