To: Finance

MISSISSIPPI LEGISLATURE REGULAR SESSION 2003

By: Senator(s) Harden

SENATE BILL NO. 2624

AN ACT TO AMEND SECTION 25-11-127, MISSISSIPPI CODE OF 1972, TO AUTHORIZE RETIREES TO BE EMPLOYED IN STATE SERVICE AND DRAW A RETIREMENT ALLOWANCE FOR A PERIOD OF TIME NOT TO EXCEED 195 DAYS IN ANY FISCAL YEAR; TO PROVIDE THAT ANY PERSON EMPLOYED PURSUANT TO THIS PROVISION SHALL NOT BE AN ACTIVE MEMBER OF THE RETIREMENT SYSTEM AND SHALL NOT RECEIVE ANY CREDITABLE SERVICE FOR THE PERIOD DURING WHICH HE IS EMPLOYED PURSUANT TO THIS PROVISION; TO PROVIDE THAT THE EMPLOYER OF A PERSON EMPLOYED PURSUANT TO SUCH PROVISION SHALL DEDUCT EMPLOYEE CONTRIBUTIONS AND MAKE EMPLOYER CONTRIBUTIONS ON BEHALF OF SUCH PERSON; TO PROVIDE THAT THE RETIREMENT ALLOWANCE OF SUCH PERSON SHALL NOT BE ENHANCED OR DIMINISHED AS A RESULT OF SUCH EMPLOYMENT; TO AMEND SECTION 25-11-117, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A MEMBER EMPLOYED UNDER THE ABOVE PROVISION MAY NOT RECEIVE A REFUND OF THE AMOUNT OF EMPLOYEE CONTRIBUTIONS, OR INTEREST EARNED ON THOSE CONTRIBUTIONS THAT WERE MADE DURING ANY PERIOD WHEN HE WAS SO EMPLOYED; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 25-11-127, Mississippi Code of 1972, is amended as follows:

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

(b) No retiree of this retirement system who is reemployed or is reelected to office after retirement shall continue to draw retirement benefits while so reemployed, except as provided in this section.

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

(2) Any person who has been retired under the provisions of Article 3 and who is later reemployed in service covered by this article shall cease to receive benefits under this article and
shall again become a contributing member of the retirement system. When the person retires again, if the reemployment exceeds six (6) months, the person shall have his or her benefit recomputed, including service after again becoming a member, provided that the total retirement allowance paid to the retired member in his or her previous retirement shall be deducted from the member's retirement reserve and taken into consideration in recalculating the retirement allowance under a new option selected.

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

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

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

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

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

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

(5) The provisions of this section shall not be construed to prohibit any retirant, regardless of age, from being employed and from drawing a retirement allowance for a period of time not to exceed one hundred ninety-five (195) days in any fiscal year. Such employment may begin at any time following the date of retirement. Notice shall be given in writing to the executive director of the system, setting forth the facts upon which the employment is being made, and such notice shall be given within five (5) days from the date of employment and also from the date of termination of said employment. Any person employed pursuant to this subsection shall not be an active member of the retirement system and shall not receive any creditable service for the period during which he is employed. The employer shall deduct employee contributions for any person employed pursuant to this subsection and shall make employer contributions on behalf of the person in the same manner as provided in Section 25-1-123 for active members for the period during which such person is employed, and the employer shall pay the contributions to the retirement system. The retirement allowance of any person employed pursuant to this subsection shall not be enhanced or diminished as a result of such employment.

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

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

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

SECTION 2. Section 25-11-117, Mississippi Code of 1972, is amended as follows:

25-11-117. (1) A member may be paid a refund of the amount of accumulated contributions to the credit of the member in the annuity savings account provided the member has withdrawn from state service and further provided the member has not returned to state service on the date the refund of the accumulated contributions would be paid. However, a member may not receive a refund of the amount of employee contributions, or interest earned on those contributions, that were made during any period when he was employed under the provisions of Section 25-11-127(5). Such refund of the contributions to the credit of the member in the annuity savings account shall be paid within ninety (90) days from receipt in the office of the retirement system of the properly completed form requesting such payment. In the event of death prior to retirement of any member whose spouse and/or children are not entitled to a retirement allowance, the accumulated contributions to the credit of the deceased member in the annuity savings account shall be paid within ninety (90) days from the member’s death.
Savings account shall be paid to the designated beneficiary on file in writing in the office of the executive director of the board of trustees within ninety (90) days from receipt of a properly completed form requesting such payment. However, the spouse and/or children of a deceased member may not receive a payment of the amount of employee contributions, or interest earned on those contributions, that were made during any period when the member was employed under the provisions of Section 25-11-127(3). If there is no such designated beneficiary on file for such deceased member in the office of the system, upon the filing of a proper request with the board, the contributions to the credit of the deceased member in the annuity savings account shall be refunded pursuant to Section 25-11-117.1(1). However, there shall be no refund of the amount of employee contributions, or interest earned on those contributions, that were made during any period when the member was employed under the provisions of Section 25-11-127(5). The payment of the refund shall discharge all obligations of the retirement system to the member on account of any creditable service rendered by the member prior to the receipt of the refund. By the acceptance of the refund, the member shall waive and relinquish all accrued rights in the system.

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

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

SECTION 3. This act shall take effect and be in force from
and after July 1, 2003.