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AMENDMENT No. 1 PROPOSED TO

Committee Sub. for SB NO. 2186

By Senator(s) Chaney, Harden

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

14 25-11-126. (1) Any person receiving a retirement allowance
15 under this article for at least thirty (30) days, who was employed
16 as a teacher in the public school system at the time of his
17 retirement and who is employed as a teacher in the public school
18 system after his retirement, may choose to continue receiving the
19 retirement allowance under this article during his employment as a
20 teacher after his retirement in addition to receiving the salary
21 authorized under Section 37-19-7, under the following conditions:

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

24 (b) The superintendent of schools of the employing
25 school district certifies in writing to the Executive Director of
26 the Public Employees' Retirement System and the State
27 Superintendent of Education that the retired member has the
28 requisite experience, training and expertise for the position to
29 be filled and that no other qualified persons are available to
30 fill the position because (i) the school district is located in a
31 geographic area of the state in which the State Board of Education

32 finds that there is a shortage of teachers, or (ii) the retired
33 member will teach in a subject area in which the State Board of
34 Education finds there is a shortage of teachers on a statewide
35 basis;

36 (c) The State Superintendent of Education certifies in
37 writing to the Public Employees' Retirement System that the
38 employing school system lacks qualified teachers to serve in the
39 position to be filled due to geographic location or subject area;

40 (d) The retired member shall be employed for at least
41 one hundred eighty-seven (187) full days during the next school
42 year;

43 (e) The retired member shall not be eligible to accrue
44 additional retirement benefits, accrue leave or receive health
45 insurance coverage as a result of such employment;

46 (f) The retired member shall not receive automatic
47 credit for years of experience in determining compensation.
48 Provided, however, the salary paid to such retired member for
49 performing the teaching services shall not be less than the rate
50 of compensation set by the school district for teachers with five
51 (5) years' experience filling similar positions, nor shall such
52 salary exceed the rate of compensation paid to the retired member
53 at the time of his retirement. Once such compensation is set, the
54 retired member shall not be entitled to any supplements, salary
55 increases or annual increments;

56 (g) The retired member's appointment to serve as
57 teacher cannot exceed one (1) year; however, the retired member
58 may be reappointed to additional one-year periods provided the
59 conditions contained in this section are met for each such
60 reappointment, including the certifications required in paragraphs
61 (b) and (c) of this section.

62 (2) To fund the additional pension liability created by this
63 act, the employing school district is directed to transfer to the
64 Mississippi Public Employees' Retirement System the following
65 funds: Adequate education program funds of local school districts
66 that on or after July 1, 2003, hire retired members who retired on

67 or after July 1, 2003, as teachers pursuant to the provisions of
68 this act and other funds which would have otherwise been payable
69 to the school districts had the school districts not taken
70 advantage of the provisions of this section, plus contributions to
71 be paid by the retired member in an amount determined by the
72 Public Employees' Retirement System.

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

75 25-11-103. The following words and phrases as used in
76 Articles 1 and 3, unless a different meaning is plainly required
77 by the context, shall have the following meanings:

78 (a) "Accumulated contributions" shall mean the sum of
79 all the amounts deducted from the compensation of a member and
80 credited to his individual account in the annuity savings account,
81 together with regular interest thereon as provided in Section
82 25-11-123.

83 (b) "Actuarial cost" shall mean the amount of funds
84 presently required to provide future benefits as determined by the
85 board based on applicable tables and formulas provided by the
86 actuary.

87 (c) "Actuarial equivalent" shall mean a benefit of
88 equal value to the accumulated contributions, annuity or benefit,
89 as the case may be, when computed upon the basis of such mortality
90 tables as shall be adopted by the board of trustees, and regular
91 interest.

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

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

97 (f) "Average compensation" shall mean the average of
98 the four (4) highest years of earned compensation reported for an
99 employee in a fiscal or calendar year period, or combination
100 thereof which do not overlap, or the last forty-eight (48)
101 consecutive months of earned compensation reported for an

102 employee. The four (4) years need not be successive or joined
103 years of service. In no case shall the average compensation so
104 determined be in excess of One Hundred Fifty Thousand Dollars
105 (\$150,000.00). In computing the average compensation, any amount
106 paid in a lump sum for personal leave shall be included in the
107 calculation to the extent that such amount does not exceed an
108 amount which is equal to thirty (30) days of earned compensation
109 and to the extent that it does not cause the employees' earned
110 compensation to exceed the maximum reportable amount specified in
111 Section 25-11-103(k); however, this thirty-day limitation shall
112 not prevent the inclusion in the calculation of leave earned under
113 federal regulations prior to July 1, 1976, and frozen as of that
114 date as referred to in Section 25-3-99. Only the amount of lump
115 sum pay for personal leave due and paid upon the death of a member
116 attributable for up to one hundred fifty (150) days shall be used
117 in the deceased member's average compensation calculation in
118 determining the beneficiary's benefits. In computing the average
119 compensation, no amounts shall be used which are in excess of the
120 amount on which contributions were required and paid. If any
121 member who is or has been granted any increase in annual salary or
122 compensation of more than eight percent (8%) retires within
123 twenty-four (24) months from the date that such increase becomes
124 effective, then the board shall exclude that part of the increase
125 in salary or compensation that exceeds eight percent (8%) in
126 calculating that member's average compensation for retirement
127 purposes. The board may enforce this provision by rule or
128 regulation. However, increases in compensation in excess of eight
129 percent (8%) per year granted within twenty-four (24) months of
130 the date of retirement may be included in such calculation of
131 average compensation if satisfactory proof is presented to the
132 board showing that the increase in compensation was the result of
133 an actual change in the position held or services rendered, or
134 that such compensation increase was authorized by the State
135 Personnel Board or was increased as a result of statutory
136 enactment, and the employer furnishes an affidavit stating that

137 such increase granted within the last twenty-four (24) months was
138 not contingent on a promise or agreement of the employee to
139 retire. Nothing in Section 25-3-31 shall affect the calculation
140 of the average compensation of any member for the purposes of this
141 article. The average compensation of any member who retires
142 before July 1, 1992, shall not exceed the annual salary of the
143 Governor.

144 (g) "Beneficiary" shall mean any person entitled to
145 receive a retirement allowance, an annuity or other benefit as
146 provided by Articles 1 and 3. In the event of the death prior to
147 retirement of any member whose spouse and/or children are not
148 entitled to a retirement allowance on the basis that the member
149 has less than four (4) years of service credit and/or has not been
150 married for a minimum of one (1) year or the spouse has waived his
151 or her entitlement to a retirement allowance pursuant to Section
152 25-11-114, the lawful spouse of a member at the time of the death
153 of such member shall be the beneficiary of such member unless the
154 member has designated another beneficiary subsequent to the date
155 of marriage in writing, and filed such writing in the office of
156 the executive director of the board of trustees. No designation
157 or change of beneficiary shall be made in any other manner.

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

161 (i) "Creditable service" shall mean "prior service,"
162 "retroactive service" and all lawfully credited unused leave not
163 exceeding the accrual rates and limitations provided in Section
164 25-3-91 et seq., as of the date of withdrawal from service plus
165 "membership service" for which credit is allowable as provided in
166 Section 25-11-109. Except to limit creditable service reported to
167 the system for the purpose of computing an employee's retirement
168 allowance or annuity or benefits provided in this article, nothing
169 in this paragraph shall limit or otherwise restrict the power of
170 the governing authority of a municipality or other political
171 subdivision of the state to adopt such vacation and sick leave

172 policies as it deems necessary.

173 (j) "Child" means either a natural child of the member,
174 a child that has been made a child of the member by applicable
175 court action before the death of the member, or a child under the
176 permanent care of the member at the time of the latter's death,
177 which permanent care status shall be determined by evidence
178 satisfactory to the board.

179 (k) "Earned compensation" shall mean the full amount
180 earned by an employee for a given pay period including any
181 maintenance furnished up to a maximum of One Hundred Fifty
182 Thousand Dollars (\$150,000.00) per year, and proportionately for
183 less than one (1) year of service. The value of such maintenance
184 when not paid in money shall be fixed by the employing state
185 agency, and, in case of doubt, by the board of trustees as defined
186 in Section 25-11-15. In any case, earned compensation shall be
187 limited to the regular periodic compensation paid, exclusive of
188 litigation fees, bond fees, and other similar extraordinary
189 nonrecurring payments. In addition, any member in a covered
190 position, as defined by Public Employees' Retirement System laws
191 and regulations, who is also employed by another covered agency or
192 political subdivision shall have the earnings of that additional
193 employment reported to the Public Employees' Retirement System
194 regardless of whether the additional employment is sufficient in
195 itself to be a covered position. In addition, computation of
196 earned compensation shall be governed by the following:

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

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

205 (iii) In the case of members of the State
206 Legislature, all remuneration or amounts paid, except mileage

207 allowance, shall apply.

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

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

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

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

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

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

233 (n) "Executive director" shall mean the secretary to
234 the board of trustees, as provided in Section 25-11-15(9), and the
235 administrator of the Public Employees' Retirement System and all
236 systems under the management of the board of trustees. Wherever
237 the term "Executive Secretary of the Public Employees' Retirement
238 System" or "executive secretary" appears in this article or in any
239 other provision of law, it shall be construed to mean the
240 Executive Director of the Public Employees' Retirement System.

241 (o) "Fiscal year" shall mean the period beginning on

242 July 1 of any year and ending on June 30 of the next succeeding
243 year.

244 (p) "Medical board" shall mean the board of physicians
245 or any governmental or nongovernmental disability determination
246 service designated by the board of trustees that is qualified to
247 make disability determinations as provided for in Section
248 25-11-119.

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

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

253 (s) "Position" means any office or any employment in
254 the state service, or two (2) or more of them, the duties of which
255 call for services to be rendered by one (1) person, including
256 positions jointly employed by federal and state agencies
257 administering federal and state funds. The employer shall
258 determine upon initial employment and during the course of
259 employment of an employee who does not meet the criteria for
260 coverage in the Public Employees' Retirement System based on the
261 position held, whether the employee is or becomes eligible for
262 coverage in the Public Employees' Retirement System based upon any
263 other employment in a covered agency or political subdivision. If
264 or when the employee meets the eligibility criteria for coverage
265 in such other position, then the employer must withhold
266 contributions and report wages from the noncovered position in
267 accordance with the provisions for reporting of earned
268 compensation. Failure to deduct and report those contributions
269 shall not relieve the employee or employer of liability thereof.
270 The board shall adopt such rules and regulations as necessary to
271 implement and enforce this provision.

272 (t) "Prior service" shall mean service rendered before
273 February 1, 1953, for which credit is allowable under Sections
274 25-11-105 and 25-11-109, and which shall allow prior service for
275 any person who is now or becomes a member of the Public Employees'
276 Retirement System and who does contribute to the system for a

277 minimum period of four (4) years.

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

281 (v) "Retirement allowance" shall mean an annuity for
282 life as provided in this article, payable each year in twelve (12)
283 equal monthly installments beginning as of the date fixed by the
284 board. The retirement allowance shall be calculated in accordance
285 with Section 25-11-111. However, any spouse who received a spouse
286 retirement benefit in accordance with Section 25-11-111(d) before
287 March 31, 1971, and those benefits were terminated because of
288 eligibility for a social security benefit, may again receive his
289 spouse retirement benefit from and after making application with
290 the board of trustees to reinstate the spouse retirement benefit.

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

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

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

299 (z) "State service" shall mean all offices and
300 positions of trust or employment in the employ of the state, or
301 any political subdivision or instrumentality thereof, which elect
302 to participate as provided by Section 25-11-105(f), including the
303 position of elected or fee officials of the counties and their
304 deputies and employees performing public services or any
305 department, independent agency, board or commission thereof, and
306 shall also include all offices and positions of trust or
307 employment in the employ of joint state and federal agencies
308 administering state and federal funds and service rendered by
309 employees of the public schools. Effective July 1, 1973, all
310 nonprofessional public school employees, such as bus drivers,
311 janitors, maids, maintenance workers and cafeteria employees,

312 shall have the option to become members in accordance with Section
313 25-11-105(b), and shall be eligible to receive credit for services
314 before July 1, 1973, provided that the contributions and interest
315 are paid by the employee in accordance with that section; in
316 addition, the county or municipal separate school district may pay
317 the employer contribution and pro rata share of interest of the
318 retroactive service from available funds. From and after July 1,
319 1998, retroactive service credit shall be purchased at the
320 actuarial cost in accordance with Section 25-11-105(b).

321 (aa) "Withdrawal from service" or "termination from
322 service" shall mean complete severance of employment in the state
323 service of any member by resignation, dismissal or discharge,
324 except in the case of persons who become eligible to receive a
325 retirement allowance under this article and who choose to receive
326 the retirement allowance during their employment as teachers as
327 authorized by Section 25-11-126.

328 (bb) The masculine pronoun, wherever used, shall
329 include the feminine pronoun.

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

332 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

333 The membership of this retirement system shall be composed as
334 follows:

335 (a) (i) All persons who shall become employees in the
336 state service after January 31, 1953, and whose wages are subject
337 to payroll taxes and are lawfully reported on IRS Form W-2, except
338 those persons who are specifically excluded, those persons as to
339 whom election is provided in Articles 1 and 3, or those persons
340 who choose to receive or continue receiving a retirement allowance
341 during their employment as teachers as authorized by Section
342 25-11-126, shall become members of the retirement system as a
343 condition of their employment.

344 (ii) From and after July 1, 2002, any individual
345 who is employed by a governmental entity to perform professional
346 services shall become a member of the system if the individual is

347 paid regular periodic compensation for those services that is
348 subject to payroll taxes, is provided all other employee benefits
349 and meets the membership criteria established by the regulations
350 adopted by the board of trustees that apply to all other members
351 of the system; however, any active member employed in such a
352 position on July 1, 2002, will continue to be an active member for
353 as long as they are employed in any such position.

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

381 (1) The member shall furnish proof satisfactory to

382 the board of trustees of certification of such service from the
383 covered employer where the services were performed; and

384 (2) The member shall pay to the retirement system
385 on the date he or she is eligible for such credit or at any time
386 thereafter prior to the date of retirement the actuarial cost for
387 each year of such creditable service. The provisions of this
388 subparagraph (2) shall be subject to the limitations of Section
389 415 of the Internal Revenue Code and regulations promulgated
390 thereunder.

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

395 (c) All persons who shall become employees in the state
396 service after January 31, 1953, and who are eligible for
397 membership in any other retirement system shall become members of
398 this retirement system as a condition of their employment unless
399 they elect at the time of their employment to become a member of
400 such other system.

401 (d) All persons who are employees in the state service
402 on January 31, 1953, and who are members of any nonfunded
403 retirement system operated by the State of Mississippi, or any of
404 its departments or agencies, shall become members of this system
405 with prior service credit unless, before February 1, 1953, they
406 shall file a written notice with the board of trustees that they
407 do not elect to become members.

408 (e) All persons who are employees in the state service
409 on January 31, 1953, and who under existing laws are members of
410 any fund operated for the retirement of employees by the State of
411 Mississippi, or any of its departments or agencies, shall not be
412 entitled to membership in this retirement system unless, before
413 February 1, 1953, any such person shall indicate by a notice filed
414 with the board, on a form prescribed by the board, his individual
415 election and choice to participate in this system, but no such
416 person shall receive prior service credit unless he becomes a

417 member on or before February 1, 1953.

418 (f) Each political subdivision of the state and each
419 instrumentality of the state or a political subdivision, or both,
420 is hereby authorized to submit, for approval by the board of
421 trustees, a plan for extending the benefits of this article to
422 employees of any such political subdivision or instrumentality.
423 Each such plan or any amendment to the plan for extending benefits
424 thereof shall be approved by the board of trustees if it finds
425 that such plan, or such plan as amended, is in conformity with
426 such requirements as are provided in Articles 1 and 3; however,
427 upon approval of such plan or any such plan heretofore approved by
428 the board of trustees, the approved plan shall not be subject to
429 cancellation or termination by the political subdivision or
430 instrumentality, except that any community hospital serving a
431 municipality that joined the Public Employees' Retirement System
432 as of November 1, 1956, to offer social security coverage for its
433 employees and subsequently extended retirement annuity coverage to
434 its employees as of December 1, 1965, may, upon documentation of
435 extreme financial hardship, have future retirement annuity
436 coverage cancelled or terminated at the discretion of the board of
437 trustees. No such plan shall be approved unless:

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

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

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

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

454 (4) It provides that the political subdivision or
455 instrumentality will make such reports, in such form and
456 containing such information, as the board of trustees may from
457 time to time require;

458 (5) It authorizes the board of trustees to
459 terminate the plan in its entirety in the discretion of the board
460 if it finds that there has been a failure to comply substantially
461 with any provision contained in such plan, such termination to
462 take effect at the expiration of such notice and on such
463 conditions as may be provided by regulations of the board and as
464 may be consistent with applicable federal law.

465 A. The board of trustees shall not finally
466 refuse to approve a plan submitted under paragraph (f), and shall
467 not terminate an approved plan without reasonable notice and
468 opportunity for hearing to each political subdivision or
469 instrumentality affected thereby. The board's decision in any
470 such case shall be final, conclusive and binding unless an appeal
471 be taken by the political subdivision or instrumentality aggrieved
472 thereby to the Circuit Court of Hinds County, Mississippi, in
473 accordance with the provisions of law with respect to civil causes
474 by certiorari.

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

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

487 an approved plan, a contribution with respect to wages (as defined
488 in Section 25-11-5) not exceeding the amount provided in Section
489 25-11-123(d) if such services constituted employment within the
490 meaning of Articles 1 and 3, and to deduct the amount of such
491 contribution from the wages as and when paid. Contributions so
492 collected shall be paid into the contribution fund as partial
493 discharge of the liability of such political subdivisions or
494 instrumentalities under paragraph (f)(5)B hereof. Failure to
495 deduct such contribution shall not relieve the employee or
496 employer of liability thereof.

497 D. Any state agency, school, political
498 subdivision, instrumentality or any employer that is required to
499 submit contribution payments or wage reports under any section of
500 this chapter shall be assessed interest on delinquent payments or
501 wage reports as determined by the board of trustees in accordance
502 with rules and regulations adopted by the board and such assessed
503 interest may be recovered by action in a court of competent
504 jurisdiction against such reporting agency liable therefor or may,
505 upon due certification of delinquency and at the request of the
506 board of trustees, be deducted from any other monies payable to
507 such reporting agency by any department or agency of the state.

508 E. Each political subdivision of the state
509 and each instrumentality of the state or a political subdivision
510 or subdivisions which submits a plan for approval of the board, as
511 provided in this section, shall reimburse the board for coverage
512 into the expense account, its pro rata share of the total expense
513 of administering Articles 1 and 3 as provided by regulations of
514 the board.

515 (g) The board may, in its discretion, deny the right of
516 membership in this system to any class of employees whose
517 compensation is only partly paid by the state or who are occupying
518 positions on a part-time or intermittent basis. The board may, in
519 its discretion, make optional with employees in any such classes
520 their individual entrance into this system.

521 (h) An employee whose membership in this system is

522 contingent on his own election, and who elects not to become a
523 member, may thereafter apply for and be admitted to membership;
524 but no such employee shall receive prior service credit unless he
525 becomes a member prior to July 1, 1953, except as provided in
526 paragraph (b).

527 (i) In the event any member of this system should
528 change his employment to any agency of the state having an
529 actuarially funded retirement system, the board of trustees may
530 authorize the transfer of the member's creditable service and of
531 the present value of the member's employer's accumulation account
532 and of the present value of the member's accumulated membership
533 contributions to such other system, provided the employee agrees
534 to the transfer of his accumulated membership contributions and
535 provided such other system is authorized to receive and agrees to
536 make such transfer.

537 In the event any member of any other actuarially funded
538 system maintained by an agency of the state changes his employment
539 to an agency covered by this system, the board of trustees may
540 authorize the receipt of the transfer of the member's creditable
541 service and of the present value of the member's employer's
542 accumulation account and of the present value of the member's
543 accumulated membership contributions from such other system,
544 provided the employee agrees to the transfer of his accumulated
545 membership contributions to this system and provided the other
546 system is authorized and agrees to make such transfer.

547 (j) Wherever herein state employment is referred to, it
548 shall include joint employment by state and federal agencies of
549 all kinds.

550 (k) Employees of a political subdivision or
551 instrumentality who were employed by such political subdivision or
552 instrumentality prior to an agreement between such entity and the
553 Public Employees' Retirement System to extend the benefits of this
554 article to its employees, and which agreement provides for the
555 establishment of retroactive service credit, and who have been
556 members of the retirement system and have remained contributors to

557 the retirement system for four (4) years, may receive credit for
558 such retroactive service with such political subdivision or
559 instrumentality, provided the employee and/or employer, as
560 provided under the terms of the modification of the joinder
561 agreement in allowing such coverage, pay into the retirement
562 system the employer's and employee's contributions on wages paid
563 the member during such previous employment, together with interest
564 or actuarial cost as determined by the board covering the period
565 from the date the service was rendered until the payment for the
566 credit for such service was made. Such wages shall be verified by
567 the Social Security Administration or employer payroll records.
568 Effective July 1, 1998, upon eligibility as noted above, a member
569 may receive credit for such retroactive service with such
570 political subdivision or instrumentality provided:

571 (1) The member shall furnish proof satisfactory to
572 the board of trustees of certification of such services from the
573 political subdivision or instrumentality where the services were
574 rendered or verification by the Social Security Administration;
575 and

576 (2) The member shall pay to the retirement system
577 on the date he or she is eligible for such credit or at any time
578 thereafter prior to the date of retirement the actuarial cost for
579 each year of such creditable service. The provisions of this
580 subparagraph (2) shall be subject to the limitations of Section
581 415 of the Internal Revenue Code and regulations promulgated
582 thereunder.

583 Nothing contained in this paragraph (k) shall be construed to
584 limit the authority of the board to allow the correction of
585 reporting errors or omissions based on the payment of employee and
586 employer contributions plus applicable interest. Payment for such
587 time shall be made in increments of not less than one-quarter
588 (1/4) year of creditable service beginning with the most recent
589 service. Upon the payment of all or part of such required
590 contributions, plus interest or the actuarial cost as provided
591 above, the member shall receive credit for the period of

592 creditable service for which full payment has been made to the
593 retirement system.

594 (l) Through June 30, 1998, any state service eligible
595 for retroactive service credit, no part of which has ever been
596 reported, and requiring the payment of employee and employer
597 contributions plus interest, or, from and after July 1, 1998, any
598 state service eligible for retroactive service credit, no part of
599 which has ever been reported to the retirement system, and
600 requiring the payment of the actuarial cost for such creditable
601 service, may, at the member's option, be purchased in quarterly
602 increments as provided above at such time as its purchase is
603 otherwise allowed.

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

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

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

611 (a) Patient or inmate help in state charitable, penal
612 or correctional institutions;

613 (b) Students of any state educational institution
614 employed by any agency of the state for temporary, part-time or
615 intermittent work;

616 (c) Participants of Comprehensive Employment and
617 Training Act of 1973 (CETA) being Public Law 93-203, who enroll on
618 or after July 1, 1979; and

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

623 **III. TERMINATION OF MEMBERSHIP**

624 Membership in this system shall cease by a member withdrawing
625 his accumulated contributions, or by a member withdrawing from
626 active service with a retirement allowance, or by a member's

627 death.

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

630 25-11-127. (1) (a) No person who is being paid a
631 retirement allowance or a pension after retirement under this
632 article shall be employed or paid for any service by the State of
633 Mississippi, except as provided in this section or in Section
634 25-11-126.

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

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

642 (2) Except as otherwise provided in Section 25-11-126, any
643 person who has been retired under the provisions of Article 3 and
644 who is later reemployed in service covered by this article shall
645 cease to receive benefits under this article and shall again
646 become a contributing member of the retirement system. When the
647 person retires again, if the person has been a contributing member
648 of the retirement system during his reemployment and the
649 reemployment exceeds six (6) months, the person shall have his or
650 her benefit recomputed, including service after again becoming a
651 member, provided that the total retirement allowance paid to the
652 retired member in his or her previous retirement shall be deducted
653 from the member's retirement reserve and taken into consideration
654 in recalculating the retirement allowance under a new option
655 selected.

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

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

661 (a) For a period of time not to exceed one-half (1/2)

662 of the normal working days for the position in any fiscal year
663 during which the retiree will receive no more than one-half (1/2)
664 of the salary in effect for the position at the time of
665 employment, or

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

669 To determine the normal working days for a position under
670 paragraph (a) of this subsection, the employer shall determine the
671 required number of working days for the position on a full-time
672 basis and the equivalent number of hours representing the
673 full-time position. The retiree then may work up to one-half
674 (1/2) of the required number of working days or up to one-half
675 (1/2) of the equivalent number of hours and receive up to one-half
676 (1/2) of the salary for the position. In the case of employment
677 with multiple employers, the limitation shall equal one-half (1/2)
678 of the number of days or hours for a single full-time position.

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

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

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

697 of Mississippi; or

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

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

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO CREATE NEW SECTION 25-11-126, MISSISSIPPI CODE OF
2 1972, TO PROVIDE THAT CERTAIN TEACHERS 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.