

By: Senator(s) Harden

To: Finance

SENATE BILL NO. 2176

1 AN ACT TO AMEND SECTION 25-11-127, MISSISSIPPI CODE OF 1972,
 2 TO AUTHORIZE RETIREES TO BE EMPLOYED IN STATE SERVICE AND DRAW A
 3 RETIREMENT ALLOWANCE FOR A PERIOD OF TIME NOT TO EXCEED 195 DAYS
 4 IN ANY FISCAL YEAR; TO PROVIDE THAT ANY PERSON EMPLOYED PURSUANT
 5 TO THIS PROVISION SHALL NOT BE AN ACTIVE MEMBER OF THE RETIREMENT
 6 SYSTEM AND SHALL NOT RECEIVE ANY CREDITABLE SERVICE FOR THE PERIOD
 7 DURING WHICH HE IS EMPLOYED PURSUANT TO THIS PROVISION; TO PROVIDE
 8 THAT THE EMPLOYER OF A PERSON EMPLOYED PURSUANT TO SUCH PROVISION
 9 SHALL DEDUCT EMPLOYEE CONTRIBUTIONS AND MAKE EMPLOYER
 10 CONTRIBUTIONS ON BEHALF OF SUCH PERSON; TO PROVIDE THAT THE
 11 RETIREMENT ALLOWANCE OF SUCH PERSON SHALL NOT BE ENHANCED OR
 12 DIMINISHED AS A RESULT OF SUCH EMPLOYMENT; TO AMEND SECTION
 13 25-11-117, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A MEMBER
 14 EMPLOYED UNDER THE ABOVE PROVISION MAY NOT RECEIVE A REFUND OF THE
 15 AMOUNT OF EMPLOYEE CONTRIBUTIONS, OR INTEREST EARNED ON THOSE
 16 CONTRIBUTIONS THAT WERE MADE DURING ANY PERIOD WHEN HE WAS SO
 17 EMPLOYED; AND FOR RELATED PURPOSES.

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

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

21 25-11-127. (1) (a) No person who is being paid a
 22 retirement allowance or a pension after retirement under this
 23 article shall be employed or paid for any service by the State of
 24 Mississippi, except as provided in this section.

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

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

32 (2) Any person who has been retired under the provisions of
 33 Article 3 and who is later reemployed in service covered by this
 34 article shall cease to receive benefits under this article and

35 shall again become a contributing member of the retirement system.
36 When the person retires again, if the reemployment exceeds six (6)
37 months, the person shall have his or her benefit recomputed,
38 including service after again becoming a member, provided that the
39 total retirement allowance paid to the retired member in his or
40 her previous retirement shall be deducted from the member's
41 retirement reserve and taken into consideration in recalculating
42 the retirement allowance under a new option selected.

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

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

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

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

56 To determine the normal working days for a position under
57 paragraph (a) of this subsection, the employer shall determine the
58 required number of working days for the position on a full-time
59 basis and the equivalent number of hours representing the
60 full-time position. The retiree then may work up to one-half
61 (1/2) of the required number of working days or up to one-half
62 (1/2) of the equivalent number of hours and receive up to one-half
63 (1/2) of the salary for the position. In the case of employment
64 with multiple employers, the limitation shall equal one-half (1/2)
65 of the number of days or hours for a single full-time position.

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

68 and the notice shall be given within five (5) days from the date
69 of employment and also from the date of termination of the
70 employment.

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

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

95 (a) Files annually, in writing, in the office of the
96 employer and the office of the executive director of the system
97 before the person takes office or as soon as possible after
98 retirement, a waiver of all salary or compensation and elects to
99 receive in lieu of that salary or compensation a retirement
100 allowance as provided in this section, in which event no salary or

101 compensation shall thereafter be due or payable for those
102 services; however, any such officer or employee may receive, in
103 addition to the retirement allowance, office expense allowance,
104 mileage or travel expense authorized by any statute of the State
105 of Mississippi; or

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

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

118 25-11-117. (1) A member may be paid a refund of the amount
119 of accumulated contributions to the credit of the member in the
120 annuity savings account provided the member has withdrawn from
121 state service and further provided the member has not returned to
122 state service on the date the refund of the accumulated
123 contributions would be paid. However, a member may not receive a
124 refund of the amount of employee contributions, or interest earned
125 on those contributions, that were made during any period when he
126 was employed under the provisions of Section 25-11-127(5). Such
127 refund of the contributions to the credit of the member in the
128 annuity savings account shall be paid within ninety (90) days from
129 receipt in the office of the retirement system of the properly
130 completed form requesting such payment. In the event of death
131 prior to retirement of any member whose spouse and/or children are
132 not entitled to a retirement allowance, the accumulated
133 contributions to the credit of the deceased member in the annuity

134 savings account shall be paid to the designated beneficiary on
135 file in writing in the office of the executive director of the
136 board of trustees within ninety (90) days from receipt of a
137 properly completed form requesting such payment. However, the
138 spouse and/or children of a deceased member may not receive a
139 payment of the amount of employee contributions, or interest
140 earned on those contributions, that were made during any period
141 when the member was employed under the provisions of Section
142 25-11-127(3). If there is no such designated beneficiary on file
143 for such deceased member in the office of the system, upon the
144 filing of a proper request with the board, the contributions to
145 the credit of the deceased member in the annuity savings account
146 shall be refunded pursuant to Section 25-11-117.1(1). However,
147 there shall be no refund of the amount of employee contributions,
148 or interest earned on those contributions, that were made during
149 any period when the member was employed under the provisions of
150 Section 25-11-127(5). The payment of the refund shall discharge
151 all obligations of the retirement system to the member on account
152 of any creditable service rendered by the member prior to the
153 receipt of the refund. By the acceptance of the refund, the
154 member shall waive and relinquish all accrued rights in the
155 system.

156 (2) Pursuant to the Unemployment Compensation Amendments of
157 1992 (Public Law 102-318 (UCA)), a member or the spouse of a
158 member who is an eligible beneficiary entitled to a refund under
159 this section may elect, on a form prescribed by the board under
160 rules and regulations established by the board, to have an
161 eligible rollover distribution of accumulated contributions
162 payable under this section paid directly to an eligible retirement
163 plan, as defined under applicable federal law, or an individual
164 retirement account. If the member or the spouse of a member who
165 is an eligible beneficiary makes such election and specifies the
166 eligible retirement plan or individual retirement account to which

167 such distribution is to be paid, the distribution will be made in
168 the form of a direct trustee-to-trustee transfer to the specified
169 eligible retirement plan. Flexible rollovers under this
170 subsection shall not be considered assignments under Section
171 25-11-129.

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

188 **SECTION 3.** This act shall take effect and be in force from
189 and after July 1, 2004.