

By: Senator(s) Harden

To: Finance

SENATE BILL NO. 2189

1 AN ACT TO CREATE NEW SECTION 25-11-126, MISSISSIPPI CODE OF  
 2 1972, TO PROVIDE THAT CERTAIN PERSONS RECEIVING A RETIREMENT  
 3 ALLOWANCE FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO ARE  
 4 EMPLOYED AS TEACHERS IN THE PUBLIC SCHOOL SYSTEM AFTER THEIR  
 5 RETIREMENT, AND CERTAIN PERSONS EMPLOYED AS TEACHERS IN THE PUBLIC  
 6 SCHOOL SYSTEM WHO ARE ELIGIBLE TO RECEIVE A RETIREMENT ALLOWANCE  
 7 FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM, MAY RECEIVE A  
 8 RETIREMENT ALLOWANCE DURING THEIR EMPLOYMENT AS TEACHERS IN  
 9 ADDITION TO RECEIVING A TEACHER'S SALARY; TO PROVIDE THAT THOSE  
 10 PERSONS SHALL NOT BE CONTRIBUTING MEMBERS OF THE RETIREMENT SYSTEM  
 11 NOR RECEIVE ANY CREDITABLE SERVICE FOR THE PERIOD DURING WHICH  
 12 THEY RECEIVE A RETIREMENT ALLOWANCE DURING THEIR EMPLOYMENT AS  
 13 TEACHERS; TO AMEND SECTIONS 25-11-103, 25-11-105 AND 25-11-127,  
 14 MISSISSIPPI CODE OF 1972, IN CONFORMITY WITH THE PROVISIONS OF  
 15 THIS ACT; AND FOR RELATED PURPOSES.

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

17 **SECTION 1.** The following shall be codified as Section  
 18 25-11-126, Mississippi Code of 1972:

19 25-11-126. (1) (a) Any person who has completed  
 20 twenty-five (25) or more years of creditable service and is  
 21 receiving a retirement allowance under this article, who was  
 22 employed as a teacher in the public school system at the time of  
 23 his retirement and who is employed as a teacher in the public  
 24 school system after his retirement, may choose to continue  
 25 receiving the retirement allowance under this article during his  
 26 employment as a teacher after his retirement in addition to  
 27 receiving the salary authorized under Section 37-19-7(3), in the  
 28 manner provided in this section.

29 (b) Any person who is employed as a teacher in the  
 30 public school system who completes twenty-five (25) or more years  
 31 of creditable service during his employment as a teacher may  
 32 choose to receive a retirement allowance under this article during  
 33 his employment as a teacher in the public school system in

34 addition to receiving the salary authorized under Section  
35 37-19-7(3), in the manner provided in this section.

36 (2) Any person described in subsection (1)(a) of this  
37 section shall notify the executive director of the retirement  
38 system, before being employed as a teacher in the public school  
39 system after his retirement, about his choice on continuing to  
40 receive the retirement allowance during his employment as a  
41 teacher. If the person chooses not to continue receiving the  
42 retirement allowance during his employment as a teacher, the  
43 retirement allowance shall cease on the day that he begins  
44 employment as a teacher after his retirement. After the person  
45 leaves employment as a teacher that he began after his retirement,  
46 in order to begin receiving a retirement allowance under this  
47 article again, the person shall make application to the executive  
48 director of the retirement system, and the retirement allowance  
49 shall begin on the first of the month following the date that the  
50 application is received by the executive director.

51 (3) Any person described in subsection (1)(b) who chooses to  
52 receive a retirement allowance during his employment as a teacher  
53 in the public school system shall make application to the  
54 executive director of the retirement system, and the retirement  
55 allowance shall begin on the first of the month following the date  
56 that the application is received by the executive director. Those  
57 persons shall not be required to withdraw from service in order to  
58 receive the retirement allowance.

59 (4) Any person to whom this section applies who receives or  
60 continues to receive a retirement allowance under this article  
61 during his employment as a teacher shall not be a contributing  
62 member of the retirement system nor receive any creditable service  
63 for the period during which he receives a retirement allowance  
64 during his employment as a teacher. Any person to whom this  
65 section applies who chooses not to receive a retirement allowance  
66 during his employment as a teacher shall be a contributing member

67 of the retirement system and shall receive creditable service for  
68 the period during which he is employed as a teacher without  
69 receiving a retirement allowance. If the person has previously  
70 received a retirement allowance under this article and he is  
71 employed as a teacher for more than six (6) months without  
72 receiving a retirement allowance, he shall have his allowance  
73 recomputed when he retires again, which shall include the service  
74 after he again became a contributing member of the retirement  
75 system.

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

78 25-11-103. The following words and phrases as used in  
79 Articles 1 and 3, unless a different meaning is plainly required  
80 by the context, shall have the following meanings:

81 (a) "Accumulated contributions" shall mean the sum of  
82 all the amounts deducted from the compensation of a member and  
83 credited to his individual account in the annuity savings account,  
84 together with regular interest thereon as provided in Section  
85 25-11-123.

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

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

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

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

100 (f) "Average compensation" shall mean the average of  
101 the four (4) highest years of earned compensation reported for an  
102 employee in a fiscal or calendar year period, or combination  
103 thereof which do not overlap, or the last forty-eight (48)  
104 consecutive months of earned compensation reported for an  
105 employee. The four (4) years need not be successive or joined  
106 years of service. In no case shall the average compensation so  
107 determined be in excess of One Hundred Fifty Thousand Dollars  
108 (\$150,000.00). In computing the average compensation, any amount  
109 paid in a lump sum for personal leave shall be included in the  
110 calculation to the extent that such amount does not exceed an  
111 amount which is equal to thirty (30) days of earned compensation  
112 and to the extent that it does not cause the employees' earned  
113 compensation to exceed the maximum reportable amount specified in  
114 Section 25-11-103(k); however, this thirty-day limitation shall  
115 not prevent the inclusion in the calculation of leave earned under  
116 federal regulations prior to July 1, 1976, and frozen as of that  
117 date as referred to in Section 25-3-99. Only the amount of lump  
118 sum pay for personal leave due and paid upon the death of a member  
119 attributable for up to one hundred fifty (150) days shall be used  
120 in the deceased member's average compensation calculation in  
121 determining the beneficiary's benefits. In computing the average  
122 compensation, no amounts shall be used which are in excess of the  
123 amount on which contributions were required and paid. If any  
124 member who is or has been granted any increase in annual salary or  
125 compensation of more than eight percent (8%) retires within  
126 twenty-four (24) months from the date that such increase becomes  
127 effective, then the board shall exclude that part of the increase  
128 in salary or compensation that exceeds eight percent (8%) in  
129 calculating that member's average compensation for retirement  
130 purposes. The board may enforce this provision by rule or  
131 regulation. However, increases in compensation in excess of eight  
132 percent (8%) per year granted within twenty-four (24) months of

133 the date of retirement may be included in such calculation of  
134 average compensation if satisfactory proof is presented to the  
135 board showing that the increase in compensation was the result of  
136 an actual change in the position held or services rendered, or  
137 that such compensation increase was authorized by the State  
138 Personnel Board or was increased as a result of statutory  
139 enactment, and the employer furnishes an affidavit stating that  
140 such increase granted within the last twenty-four (24) months was  
141 not contingent on a promise or agreement of the employee to  
142 retire. Nothing in Section 25-3-31 shall affect the calculation  
143 of the average compensation of any member for the purposes of this  
144 article. The average compensation of any member who retires  
145 before July 1, 1992, shall not exceed the annual salary of the  
146 Governor.

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

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

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

166 exceeding the accrual rates and limitations provided in Section  
167 25-3-91 et seq., as of the date of withdrawal from service plus  
168 "membership service" for which credit is allowable as provided in  
169 Section 25-11-109. Except to limit creditable service reported to  
170 the system for the purpose of computing an employee's retirement  
171 allowance or annuity or benefits provided in this article, nothing  
172 in this paragraph shall limit or otherwise restrict the power of  
173 the governing authority of a municipality or other political  
174 subdivision of the state to adopt such vacation and sick leave  
175 policies as it deems necessary.

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

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

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

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

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

208 (iii) In the case of members of the State  
209 Legislature, all remuneration or amounts paid, except mileage  
210 allowance, shall apply.

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

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

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

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

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

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

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

244           (o) "Fiscal year" shall mean the period beginning on  
245 July 1 of any year and ending on June 30 of the next succeeding  
246 year.

247           (p) "Medical board" shall mean the board of physicians  
248 or any governmental or nongovernmental disability determination  
249 service designated by the board of trustees that is qualified to  
250 make disability determinations as provided for in Section  
251 25-11-119.

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

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

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

263 coverage in the Public Employees' Retirement System based on the  
264 position held, whether the employee is or becomes eligible for  
265 coverage in the Public Employees' Retirement System based upon any  
266 other employment in a covered agency or political subdivision. If  
267 or when the employee meets the eligibility criteria for coverage  
268 in such other position, then the employer must withhold  
269 contributions and report wages from the noncovered position in  
270 accordance with the provisions for reporting of earned  
271 compensation. Failure to deduct and report those contributions  
272 shall not relieve the employee or employer of liability thereof.  
273 The board shall adopt such rules and regulations as necessary to  
274 implement and enforce this provision.

275           (t) "Prior service" shall mean service rendered before  
276 February 1, 1953, for which credit is allowable under Sections  
277 25-11-105 and 25-11-109, and which shall allow prior service for  
278 any person who is now or becomes a member of the Public Employees'  
279 Retirement System and who does contribute to the system for a  
280 minimum period of four (4) years.

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

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

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

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

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

302 (z) "State service" shall mean all offices and  
303 positions of trust or employment in the employ of the state, or  
304 any political subdivision or instrumentality thereof, which elect  
305 to participate as provided by Section 25-11-105(f), including the  
306 position of elected or fee officials of the counties and their  
307 deputies and employees performing public services or any  
308 department, independent agency, board or commission thereof, and  
309 shall also include all offices and positions of trust or  
310 employment in the employ of joint state and federal agencies  
311 administering state and federal funds and service rendered by  
312 employees of the public schools. Effective July 1, 1973, all  
313 nonprofessional public school employees, such as bus drivers,  
314 janitors, maids, maintenance workers and cafeteria employees,  
315 shall have the option to become members in accordance with Section  
316 25-11-105(b), and shall be eligible to receive credit for services  
317 before July 1, 1973, provided that the contributions and interest  
318 are paid by the employee in accordance with that section; in  
319 addition, the county or municipal separate school district may pay  
320 the employer contribution and pro rata share of interest of the  
321 retroactive service from available funds. From and after July 1,  
322 1998, retroactive service credit shall be purchased at the  
323 actuarial cost in accordance with Section 25-11-105(b).

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

327 except in the case of persons who become eligible to receive a  
328 retirement allowance under this article and who choose to receive  
329 the retirement allowance during their employment as teacher as  
330 authorized by Section 25-11-126.

331 (bb) The masculine pronoun, wherever used, shall  
332 include the feminine pronoun.

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

335 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

336 The membership of this retirement system shall be composed as  
337 follows:

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

347 (ii) From and after July 1, 2002, any individual  
348 who is employed by a governmental entity to perform professional  
349 services shall become a member of the system if the individual is  
350 paid regular periodic compensation for those services that is  
351 subject to payroll taxes, is provided all other employee benefits  
352 and meets the membership criteria established by the regulations  
353 adopted by the board of trustees that apply to all other members  
354 of the system; however, any active member employed in such a  
355 position on July 1, 2002, will continue to be an active member for  
356 as long as they are employed in any such position.

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

360 they shall file with the board prior to the lapse of sixty (60)  
361 days of employment or sixty (60) days after the effective date of  
362 the cited articles, whichever is later, on a form prescribed by  
363 the board, a notice of election not to be covered by the  
364 membership of the retirement system and a duly executed waiver of  
365 all present and prospective benefits which would otherwise inure  
366 to them on account of their participation in the system, shall  
367 become members of the retirement system; however, no credit for  
368 prior service will be granted to members until they have  
369 contributed to Article 3 of the retirement system for a minimum  
370 period of at least four (4) years. Such members shall receive  
371 credit for services performed prior to January 1, 1953, in  
372 employment now covered by Article 3, but no credit shall be  
373 granted for retroactive services between January 1, 1953, and the  
374 date of their entry into the retirement system unless the employee  
375 pays into the retirement system both the employer's and the  
376 employee's contributions on wages paid him during the period from  
377 January 31, 1953, to the date of his becoming a contributing  
378 member, together with interest at the rate determined by the board  
379 of trustees. Members reentering after withdrawal from service  
380 shall qualify for prior service under the provisions of Section  
381 25-11-117. From and after July 1, 1998, upon eligibility as noted  
382 above, the member may receive credit for such retroactive service  
383 provided:

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

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

392 415 of the Internal Revenue Code and regulations promulgated  
393 thereunder.

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

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

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

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

421 (f) Each political subdivision of the state and each  
422 instrumentality of the state or a political subdivision, or both,  
423 is hereby authorized to submit, for approval by the board of  
424 trustees, a plan for extending the benefits of this article to

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

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

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

453           (3) It provides for such methods of administration  
454 of the plan by the political subdivision or instrumentality as are  
455 found by the board of trustees to be necessary for the proper and  
456 efficient administration thereof;

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

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

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

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

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

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

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

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

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

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

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

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

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

550 (j) Wherever herein state employment is referred to, it  
551 shall include joint employment by state and federal agencies of  
552 all kinds.

553 (k) Employees of a political subdivision or  
554 instrumentality who were employed by such political subdivision or

555 instrumentality prior to an agreement between such entity and the  
556 Public Employees' Retirement System to extend the benefits of this  
557 article to its employees, and which agreement provides for the  
558 establishment of retroactive service credit, and who have been  
559 members of the retirement system and have remained contributors to  
560 the retirement system for four (4) years, may receive credit for  
561 such retroactive service with such political subdivision or  
562 instrumentality, provided the employee and/or employer, as  
563 provided under the terms of the modification of the joinder  
564 agreement in allowing such coverage, pay into the retirement  
565 system the employer's and employee's contributions on wages paid  
566 the member during such previous employment, together with interest  
567 or actuarial cost as determined by the board covering the period  
568 from the date the service was rendered until the payment for the  
569 credit for such service was made. Such wages shall be verified by  
570 the Social Security Administration or employer payroll records.  
571 Effective July 1, 1998, upon eligibility as noted above, a member  
572 may receive credit for such retroactive service with such  
573 political subdivision or instrumentality provided:

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

579                   (2) The member shall pay to the retirement system  
580 on the date he or she is eligible for such credit or at any time  
581 thereafter prior to the date of retirement the actuarial cost for  
582 each year of such creditable service. The provisions of this  
583 subparagraph (2) shall be subject to the limitations of Section  
584 415 of the Internal Revenue Code and regulations promulgated  
585 thereunder.

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

588 reporting errors or omissions based on the payment of employee and  
589 employer contributions plus applicable interest. Payment for such  
590 time shall be made in increments of not less than one-quarter  
591 (1/4) year of creditable service beginning with the most recent  
592 service. Upon the payment of all or part of such required  
593 contributions, plus interest or the actuarial cost as provided  
594 above, the member shall receive credit for the period of  
595 creditable service for which full payment has been made to the  
596 retirement system.

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

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

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

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

614 (a) Patient or inmate help in state charitable, penal  
615 or correctional institutions;

616 (b) Students of any state educational institution  
617 employed by any agency of the state for temporary, part-time or  
618 intermittent work;

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

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

626 **III. TERMINATION OF MEMBERSHIP**

627 Membership in this system shall cease by a member withdrawing  
628 his accumulated contributions, or by a member withdrawing from  
629 active service with a retirement allowance, or by a member's  
630 death.

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

633 25-11-127. (1) (a) No person who is being paid a  
634 retirement allowance or a pension after retirement under this  
635 article shall be employed or paid for any service by the State of  
636 Mississippi, except as provided in this section or in Section  
637 25-11-126.

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

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

645 (2) Except as otherwise provided in Section 25-11-126, any  
646 person who has been retired under the provisions of Article 3 and  
647 who is later reemployed in service covered by this article shall  
648 cease to receive benefits under this article and shall again  
649 become a contributing member of the retirement system. When the  
650 person retires again, if the person has been a contributing member  
651 of the retirement system during his reemployment and the

652 reemployment exceeds six (6) months, the person shall have his or  
653 her benefit recomputed, including service after again becoming a  
654 member, provided that the total retirement allowance paid to the  
655 retired member in his or her previous retirement shall be deducted  
656 from the member's retirement reserve and taken into consideration  
657 in recalculating the retirement allowance under a new option  
658 selected.

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

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

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

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

672 To determine the normal working days for a position under  
673 paragraph (a) of this subsection, the employer shall determine the  
674 required number of working days for the position on a full-time  
675 basis and the equivalent number of hours representing the  
676 full-time position. The retiree then may work up to one-half  
677 (1/2) of the required number of working days or up to one-half  
678 (1/2) of the equivalent number of hours and receive up to one-half  
679 (1/2) of the salary for the position. In the case of employment  
680 with multiple employers, the limitation shall equal one-half (1/2)  
681 of the number of days or hours for a single full-time position.

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

685 of employment and also from the date of termination of the  
686 employment.

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

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

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

711 **SECTION 5.** This act shall take effect and be in force from  
712 and after July 1, 2004.