

By: Senator(s) Burton

To: Education

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2693

1 AN ACT TO AMEND SECTION 37-7-301, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE LOCAL SCHOOL DISTRICTS TO CONTRACT WITH PRIVATE
3 ENTITIES TO PROVIDE NONINSTRUCTIONAL SERVICES TO PUPILS; TO AMEND
4 SECTIONS 25-11-103 AND 25-11-127, MISSISSIPPI CODE OF 1972, TO
5 PROVIDE THAT FOR PURPOSES OF THE RETIREMENT SYSTEM, EMPLOYEES OF
6 SUCH PRIVATE ENTITIES SHALL NOT BE CONSIDERED IN STATE SERVICE AND
7 SHALL BE PROHIBITED FROM RECEIVING RETIREMENT BENEFITS; AND FOR
8 RELATED PURPOSES.

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

10 **SECTION 1.** Section 37-7-301, Mississippi Code of 1972, is
11 amended as follows:

12 37-7-301. The school boards of all school districts shall
13 have the following powers, authority and duties in addition to all
14 others imposed or granted by law, to wit:

15 (a) To organize and operate the schools of the district
16 and to make such division between the high school grades and
17 elementary grades as, in their judgment, will serve the best
18 interests of the school;

19 (b) To introduce public school music, art, manual
20 training and other special subjects into either the elementary or
21 high school grades, as the board shall deem proper;

22 (c) To be the custodians of real and personal school
23 property and to manage, control and care for same, both during the
24 school term and during vacation;

25 (d) To have responsibility for the erection, repairing
26 and equipping of school facilities and the making of necessary
27 school improvements;

28 (e) To suspend or to expel a pupil or to change the
29 placement of a pupil to the school district's alternative school
30 or home-bound program for misconduct in the school or on school

31 property, as defined in Section 37-11-29, on the road to and from
32 school, or at any school-related activity or event, or for conduct
33 occurring on property other than school property or other than at
34 a school-related activity or event when such conduct by a pupil,
35 in the determination of the school superintendent or principal,
36 renders that pupil's presence in the classroom a disruption to the
37 educational environment of the school or a detriment to the best
38 interest and welfare of the pupils and teacher of such class as a
39 whole, and to delegate such authority to the appropriate officials
40 of the school district;

41 (f) To visit schools in the district, in their
42 discretion, in a body for the purpose of determining what can be
43 done for the improvement of the school in a general way;

44 (g) To support, within reasonable limits, the
45 superintendent, principal and teachers where necessary for the
46 proper discipline of the school;

47 (h) To exclude from the schools students with what
48 appears to be infectious or contagious diseases; provided,
49 however, such student may be allowed to return to school upon
50 presenting a certificate from a public health officer, duly
51 licensed physician or nurse practitioner that the student is free
52 from such disease;

53 (i) To require those vaccinations specified by the
54 State Health Officer as provided in Section 41-23-37, Mississippi
55 Code of 1972;

56 (j) To see that all necessary utilities and services
57 are provided in the schools at all times when same are needed;

58 (k) To authorize the use of the school buildings and
59 grounds for the holding of public meetings and gatherings of the
60 people under such regulations as may be prescribed by said board;

61 (l) To prescribe and enforce rules and regulations not
62 inconsistent with law or with the regulations of the State Board
63 of Education for their own government and for the government of

64 the schools, and to transact their business at regular and special
65 meetings called and held in the manner provided by law;

66 (m) To maintain and operate all of the schools under
67 their control for such length of time during the year as may be
68 required;

69 (n) To enforce in the schools the courses of study and
70 the use of the textbooks prescribed by the proper authorities;

71 (o) To make orders directed to the superintendent of
72 schools for the issuance of pay certificates for lawful purposes
73 on any available funds of the district and to have full control of
74 the receipt, distribution, allotment and disbursement of all funds
75 provided for the support and operation of the schools of such
76 school district whether such funds be derived from state
77 appropriations, local ad valorem tax collections, or otherwise;

78 (p) To select all school district personnel in the
79 manner provided by law, and to provide for such employee fringe
80 benefit programs, including accident reimbursement plans, as may
81 be deemed necessary and appropriate by the board;

82 (q) To provide athletic programs and other school
83 activities and to regulate the establishment and operation of such
84 programs and activities;

85 (r) To join, in their discretion, any association of
86 school boards and other public school-related organizations, and
87 to pay from local funds other than minimum foundation funds, any
88 membership dues;

89 (s) To expend local school activity funds, or other
90 available school district funds, other than minimum education
91 program funds, for the purposes prescribed under this paragraph.
92 "Activity funds" shall mean all funds received by school officials
93 in all school districts paid or collected to participate in any
94 school activity, such activity being part of the school program
95 and partially financed with public funds or supplemented by public
96 funds. The term "activity funds" shall not include any funds

97 raised and/or expended by any organization unless commingled in a
98 bank account with existing activity funds, regardless of whether
99 the funds were raised by school employees or received by school
100 employees during school hours or using school facilities, and
101 regardless of whether a school employee exercises influence over
102 the expenditure or disposition of such funds. Organizations shall
103 not be required to make any payment to any school for the use of
104 any school facility if, in the discretion of the local school
105 governing board, the organization's function shall be deemed to be
106 beneficial to the official or extracurricular programs of the
107 school. For the purposes of this provision, the term
108 "organization" shall not include any organization subject to the
109 control of the local school governing board. Activity funds may
110 only be expended for any necessary expenses or travel costs,
111 including advances, incurred by students and their chaperons in
112 attending any in-state or out-of-state school-related programs,
113 conventions or seminars and/or any commodities, equipment, travel
114 expenses, purchased services or school supplies which the local
115 school governing board, in its discretion, shall deem beneficial
116 to the official or extracurricular programs of the district,
117 including items which may subsequently become the personal
118 property of individuals, including yearbooks, athletic apparel,
119 book covers and trophies. Activity funds may be used to pay
120 travel expenses of school district personnel. The local school
121 governing board shall be authorized and empowered to promulgate
122 rules and regulations specifically designating for what purposes
123 school activity funds may be expended. The local school governing
124 board shall provide (i) that such school activity funds shall be
125 maintained and expended by the principal of the school generating
126 the funds in individual bank accounts, or (ii) that such school
127 activity funds shall be maintained and expended by the
128 superintendent of schools in a central depository approved by the
129 board. The local school governing board shall provide that such

130 school activity funds be audited as part of the annual audit
131 required in Section 37-9-18. The State Auditor shall prescribe a
132 uniform system of accounting and financial reporting for all
133 school activity fund transactions;

134 (t) To contract, on a shared savings, lease or
135 lease-purchase basis, for energy efficiency services and/or
136 equipment as provided for in Section 31-7-14, not to exceed ten
137 (10) years;

138 (u) To maintain accounts and issue pay certificates on
139 school food service bank accounts;

140 (v) (i) To lease a school building from an individual,
141 partnership, nonprofit corporation or a private for-profit
142 corporation for the use of such school district, and to expend
143 funds therefor as may be available from any nonminimum program
144 sources. The school board of the school district desiring to
145 lease a school building shall declare by resolution that a need
146 exists for a school building and that the school district cannot
147 provide the necessary funds to pay the cost or its proportionate
148 share of the cost of a school building required to meet the
149 present needs. The resolution so adopted by the school board
150 shall be published once each week for three (3) consecutive weeks
151 in a newspaper having a general circulation in the school district
152 involved, with the first publication thereof to be made not less
153 than thirty (30) days prior to the date upon which the school
154 board is to act on the question of leasing a school building. If
155 no petition requesting an election is filed prior to such meeting
156 as hereinafter provided, then the school board may, by resolution
157 spread upon its minutes, proceed to lease a school building. If
158 at any time prior to said meeting a petition signed by not less
159 than twenty percent (20%) or fifteen hundred (1500), whichever is
160 less, of the qualified electors of the school district involved
161 shall be filed with the school board requesting that an election
162 be called on the question, then the school board shall, not later

163 than the next regular meeting, adopt a resolution calling an
164 election to be held within such school district upon the question
165 of authorizing the school board to lease a school building. Such
166 election shall be called and held, and notice thereof shall be
167 given, in the same manner for elections upon the questions of the
168 issuance of the bonds of school districts, and the results thereof
169 shall be certified to the school board. If at least three-fifths
170 (3/5) of the qualified electors of the school district who voted
171 in such election shall vote in favor of the leasing of a school
172 building, then the school board shall proceed to lease a school
173 building. The term of the lease contract shall not exceed twenty
174 (20) years, and the total cost of such lease shall be either the
175 amount of the lowest and best bid accepted by the school board
176 after advertisement for bids or an amount not to exceed the
177 current fair market value of the lease as determined by the
178 averaging of at least two (2) appraisals by certified general
179 appraisers licensed by the State of Mississippi. The term "school
180 building" as used in this item (v) shall be construed to mean any
181 building or buildings used for classroom purposes in connection
182 with the operation of schools and shall include the site therefor,
183 necessary support facilities, and the equipment thereof and
184 appurtenances thereto such as heating facilities, water supply,
185 sewage disposal, landscaping, walks, drives and playgrounds. The
186 term "lease" as used in this item (v)(i) may include a
187 lease/purchase contract;

188 (ii) If two (2) or more school districts propose
189 to enter into a lease contract jointly, then joint meetings of the
190 school boards having control may be held but no action taken shall
191 be binding on any such school district unless the question of
192 leasing a school building is approved in each participating school
193 district under the procedure hereinabove set forth in item (v)(i).
194 All of the provisions of item (v)(i) regarding the term and amount
195 of the lease contract shall apply to the school boards of school

196 districts acting jointly. Any lease contract executed by two (2)
197 or more school districts as joint lessees shall set out the amount
198 of the aggregate lease rental to be paid by each, which may be
199 agreed upon, but there shall be no right of occupancy by any
200 lessee unless the aggregate rental is paid as stipulated in the
201 lease contract. All rights of joint lessees under the lease
202 contract shall be in proportion to the amount of lease rental paid
203 by each;

204 (w) To employ all noninstructional and noncertificated
205 employees and fix the duties and compensation of such personnel
206 deemed necessary pursuant to the recommendation of the
207 superintendent of schools;

208 (x) To employ and fix the duties and compensation of
209 such legal counsel as deemed necessary;

210 (y) Subject to rules and regulations of the State Board
211 of Education, to purchase, own and operate trucks, vans and other
212 motor vehicles, which shall bear the proper identification
213 required by law;

214 (z) To expend funds for the payment of substitute
215 teachers and to adopt reasonable regulations for the employment
216 and compensation of such substitute teachers;

217 (aa) To acquire in its own name by purchase all real
218 property which shall be necessary and desirable in connection with
219 the construction, renovation or improvement of any public school
220 building or structure. Whenever the purchase price for such real
221 property is greater than Fifty Thousand Dollars (\$50,000.00), the
222 school board shall not purchase the property for an amount
223 exceeding the fair market value of such property as determined by
224 the average of at least two (2) independent appraisals by
225 certified general appraisers licensed by the State of Mississippi.
226 If the board shall be unable to agree with the owner of any such
227 real property in connection with any such project, the board shall
228 have the power and authority to acquire any such real property by

229 condemnation proceedings pursuant to Section 11-27-1 et seq.,
230 Mississippi Code of 1972, and for such purpose, the right of
231 eminent domain is hereby conferred upon and vested in said board.
232 Provided further, that the local school board is authorized to
233 grant an easement for ingress and egress over sixteenth section
234 land or lieu land in exchange for a similar easement upon
235 adjoining land where the exchange of easements affords substantial
236 benefit to the sixteenth section land; provided, however, the
237 exchange must be based upon values as determined by a competent
238 appraiser, with any differential in value to be adjusted by cash
239 payment. Any easement rights granted over sixteenth section land
240 under such authority shall terminate when the easement ceases to
241 be used for its stated purpose. No sixteenth section or lieu land
242 which is subject to an existing lease shall be burdened by any
243 such easement except by consent of the lessee or unless the school
244 district shall acquire the unexpired leasehold interest affected
245 by the easement;

246 (bb) To charge reasonable fees related to the
247 educational programs of the district, in the manner prescribed in
248 Section 37-7-335;

249 (cc) Subject to rules and regulations of the State
250 Board of Education, to purchase relocatable classrooms for the use
251 of such school district, in the manner prescribed in Section
252 37-1-13;

253 (dd) Enter into contracts or agreements with other
254 school districts, political subdivisions or governmental entities
255 to carry out one or more of the powers or duties of the school
256 board, or to allow more efficient utilization of limited resources
257 for providing services to the public;

258 (ee) To provide for in-service training for employees
259 of the district. Until June 30, 1994, the school boards may
260 designate two (2) days of the minimum school term, as defined in
261 Section 37-19-1, for employee in-service training for

262 implementation of the new statewide testing system as developed by
263 the State Board of Education. Such designation shall be subject
264 to approval by the State Board of Education pursuant to uniform
265 rules and regulations;

266 (ff) As part of their duties to prescribe the use of
267 textbooks, to provide that parents and legal guardians shall be
268 responsible for the textbooks and for the compensation to the
269 school district for any books which are not returned to the proper
270 schools upon the withdrawal of their dependent child. If a
271 textbook is lost or not returned by any student who drops out of
272 the public school district, the parent or legal guardian shall
273 also compensate the school district for the fair market value of
274 the textbooks;

275 (gg) To conduct fund-raising activities on behalf of
276 the school district that the local school board, in its
277 discretion, deems appropriate or beneficial to the official or
278 extracurricular programs of the district; provided that:

279 (i) Any proceeds of the fund-raising activities
280 shall be treated as "activity funds" and shall be accounted for as
281 are other activity funds under this section; and

282 (ii) Fund-raising activities conducted or
283 authorized by the board for the sale of school pictures, the
284 rental of caps and gowns or the sale of graduation invitations for
285 which the school board receives a commission, rebate or fee shall
286 contain a disclosure statement advising that a portion of the
287 proceeds of the sales or rentals shall be contributed to the
288 student activity fund;

289 (hh) To allow individual lessons for music, art and
290 other curriculum-related activities for academic credit or
291 nonacademic credit during school hours and using school equipment
292 and facilities, subject to uniform rules and regulations adopted
293 by the school board;

294 (ii) To charge reasonable fees for participating in an
295 extracurricular activity for academic or nonacademic credit for
296 necessary and required equipment such as safety equipment, band
297 instruments and uniforms;

298 (jj) To conduct or participate in any fund-raising
299 activities on behalf of or in connection with a tax-exempt
300 charitable organization;

301 (kk) To exercise such powers as may be reasonably
302 necessary to carry out the provisions of this section; * * *

303 (ll) To expend funds for the services of nonprofit arts
304 organizations or other such nonprofit organizations who provide
305 performances or other services for the students of the school
306 district; and

307 (mm) To contract with private entities to lease
308 employees to provide noninstructional services to pupils. The
309 receipt of compensation shall not entitle any such contract
310 employee to receive or be eligible for any local school district
311 or state group insurance, retirement or other fringe benefits.

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

314 25-11-103. The following words and phrases as used in
315 Articles 1 and 3, unless a different meaning is plainly required
316 by the context, shall have the following meanings:

317 (a) "Accumulated contributions" shall mean the sum of
318 all the amounts deducted from the compensation of a member and
319 credited to his individual account in the annuity savings account,
320 together with regular interest thereon as provided in Section
321 25-11-123.

322 (b) "Actuarial cost" shall mean the amount of funds
323 presently required to provide future benefits as determined by the
324 board based on applicable tables and formulas provided by the
325 actuary.

326 (c) "Actuarial equivalent" shall mean a benefit of
327 equal value to the accumulated contributions, annuity or benefit,
328 as the case may be, when computed upon the basis of such mortality
329 tables as shall be adopted by the board of trustees, and regular
330 interest.

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

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

336 (f) "Average compensation" shall mean the average of
337 the four (4) highest years of earned compensation reported for an
338 employee in a fiscal or calendar year period, or combination
339 thereof which do not overlap, or the last forty-eight (48)
340 consecutive months of earned compensation reported for an
341 employee. The four (4) years need not be successive or joined
342 years of service. In no case shall the average compensation so
343 determined be in excess of One Hundred Fifty Thousand Dollars
344 (\$150,000.00). In computing the average compensation, any amount
345 paid in a lump sum for personal leave shall be included in the
346 calculation to the extent that such amount does not exceed an
347 amount which is equal to thirty (30) days of earned compensation
348 and to the extent that it does not cause the employees' earned
349 compensation to exceed the maximum reportable amount specified in
350 Section 25-11-103(k); however, this thirty-day limitation shall
351 not prevent the inclusion in the calculation of leave earned under
352 federal regulations prior to July 1, 1976, and frozen as of that
353 date as referred to in Section 25-3-99. Only the amount of
354 lump-sum pay for personal leave due and paid upon the death of a
355 member attributable for up to one hundred fifty (150) days shall
356 be used in the deceased member's average compensation calculation
357 in determining the beneficiary's benefits. In computing the
358 average compensation, no amounts shall be used which are in excess

359 of the amount on which contributions were required and paid. If
360 any member who is or has been granted any increase in annual
361 salary or compensation of more than eight percent (8%) retires
362 within twenty-four (24) months from the date that such increase
363 becomes effective, then the board shall exclude that part of the
364 increase in salary or compensation that exceeds eight percent (8%)
365 in calculating that member's average compensation for retirement
366 purposes. The board may enforce this provision by rule or
367 regulation. However, increases in compensation in excess of eight
368 percent (8%) per year granted within twenty-four (24) months of
369 the date of retirement may be included in such calculation of
370 average compensation if satisfactory proof is presented to the
371 board showing that the increase in compensation was the result of
372 an actual change in the position held or services rendered, or
373 that such compensation increase was authorized by the State
374 Personnel Board or was increased as a result of statutory
375 enactment, and the employer furnishes an affidavit stating that
376 such increase granted within the last twenty-four (24) months was
377 not contingent on a promise or agreement of the employee to
378 retire. Nothing in Section 25-3-31 shall affect the calculation
379 of the average compensation of any member for the purposes of this
380 article. The average compensation of any member who retires
381 before July 1, 1992, shall not exceed the annual salary of the
382 Governor.

383 (g) "Beneficiary" shall mean any person entitled to
384 receive a retirement allowance, an annuity or other benefit as
385 provided by Articles 1 and 3. In the event of the death prior to
386 retirement of any member whose spouse and/or children are not
387 entitled to a retirement allowance on the basis that the member
388 has less than four (4) years of service credit and/or has not been
389 married for a minimum of one (1) year or the spouse has waived his
390 or her entitlement to a retirement allowance pursuant to Section
391 25-11-114, the lawful spouse of a member at the time of the death

392 of such member shall be the beneficiary of such member unless the
393 member has designated another beneficiary subsequent to the date
394 of marriage in writing, and filed such writing in the office of
395 the executive director of the board of trustees. No designation
396 or change of beneficiary shall be made in any other manner.

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

400 (i) "Creditable service" shall mean "prior service,"
401 "retroactive service" and all lawfully credited unused leave not
402 exceeding the accrual rates and limitations provided in Section
403 25-3-91 et seq., as of the date of withdrawal from service plus
404 "membership service" for which credit is allowable as provided in
405 Section 25-11-109. Except to limit creditable service reported to
406 the system for the purpose of computing an employee's retirement
407 allowance or annuity or benefits provided in this article, nothing
408 in this paragraph shall limit or otherwise restrict the power of
409 the governing authority of a municipality or other political
410 subdivision of the state to adopt such vacation and sick leave
411 policies as it deems necessary.

412 (j) "Child" means either a natural child of the member,
413 a child that has been made a child of the member by applicable
414 court action before the death of the member, or a child under the
415 permanent care of the member at the time of the latter's death,
416 which permanent care status shall be determined by evidence
417 satisfactory to the board.

418 (k) "Earned compensation" shall mean the full amount
419 earned by an employee for a given pay period including any
420 maintenance furnished up to a maximum of One Hundred Fifty
421 Thousand Dollars (\$150,000.00) per year, and proportionately for
422 less than one (1) year of service. The value of such maintenance
423 when not paid in money shall be fixed by the employing state
424 agency, and, in case of doubt, by the board of trustees as defined

425 in Section 25-11-15. In any case, earned compensation shall be
426 limited to the regular periodic compensation paid, exclusive of
427 litigation fees, bond fees, and other similar extraordinary
428 nonrecurring payments. In addition, any member in a covered
429 position, as defined by Public Employees' Retirement System laws
430 and regulations, who is also employed by another covered agency or
431 political subdivision shall have the earnings of that additional
432 employment reported to the Public Employees' Retirement System
433 regardless of whether the additional employment is sufficient in
434 itself to be a covered position. In addition, computation of
435 earned compensation shall be governed by the following:

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

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

444 (iii) In the case of members of the State
445 Legislature, all remuneration or amounts paid, except mileage
446 allowance, shall apply.

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

455 (v) Compensation in addition to an employee's base
456 salary that is paid to the employee pursuant to the vacation and
457 sick leave policies of a municipality or other political

458 subdivision of the state that employs him which exceeds the
459 maximums authorized by Section 25-3-91 et seq. shall be excluded
460 from the calculation of earned compensation under this article.

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

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

466 (1) "Employee" means any person legally occupying a
467 position in the state service, and shall include the employees of
468 the retirement system created hereunder. The term "employee"
469 shall not include any employee of a private entity which leases
470 staff to a local school board to provide noninstructional services
471 pursuant to Section 37-7-301(mm).

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

475 (n) "Executive director" shall mean the secretary to
476 the board of trustees, as provided in Section 25-11-15(9), and the
477 administrator of the Public Employees' Retirement System and all
478 systems under the management of the board of trustees. Wherever
479 the term "Executive Secretary of the Public Employees' Retirement
480 System" or "executive secretary" appears in this article or in any
481 other provision of law, it shall be construed to mean the
482 Executive Director of the Public Employees' Retirement System.

483 (o) "Fiscal year" shall mean the period beginning on
484 July 1 of any year and ending on June 30 of the next succeeding
485 year.

486 (p) "Medical board" shall mean the board of physicians
487 or any governmental or nongovernmental disability determination
488 service designated by the board of trustees that is qualified to
489 make disability determinations as provided for in Section
490 25-11-119.

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

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

495 (s) "Position" means any office or any employment in
496 the state service, or two (2) or more of them, the duties of which
497 call for services to be rendered by one (1) person, including
498 positions jointly employed by federal and state agencies
499 administering federal and state funds. The employer shall
500 determine upon initial employment and during the course of
501 employment of an employee who does not meet the criteria for
502 coverage in the Public Employees' Retirement System based on the
503 position held, whether the employee is or becomes eligible for
504 coverage in the Public Employees' Retirement System based upon any
505 other employment in a covered agency or political subdivision. If
506 or when the employee meets the eligibility criteria for coverage
507 in such other position, then the employer must withhold
508 contributions and report wages from the noncovered position in
509 accordance with the provisions for reporting of earned
510 compensation. Failure to deduct and report those contributions
511 shall not relieve the employee or employer of liability thereof.
512 The board shall adopt such rules and regulations as necessary to
513 implement and enforce this provision.

514 (t) "Prior service" shall mean service rendered before
515 February 1, 1953, for which credit is allowable under Sections
516 25-11-105 and 25-11-109, and which shall allow prior service for
517 any person who is now or becomes a member of the Public Employees'
518 Retirement System and who does contribute to the system for a
519 minimum period of four (4) years.

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

523 (v) "Retirement allowance" shall mean an annuity for
524 life as provided in this article, payable each year in twelve (12)
525 equal monthly installments beginning as of the date fixed by the
526 board. The retirement allowance shall be calculated in accordance
527 with Section 25-11-111. However, any spouse who received a spouse
528 retirement benefit in accordance with Section 25-11-111(d) before
529 March 31, 1971, and those benefits were terminated because of
530 eligibility for a social security benefit, may again receive his
531 spouse retirement benefit from and after making application with
532 the board of trustees to reinstate the spouse retirement benefit.

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

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

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

541 (z) "State service" shall mean all offices and
542 positions of trust or employment in the employ of the state, or
543 any political subdivision or instrumentality thereof, which elect
544 to participate as provided by Section 25-11-105(f), including the
545 position of elected or fee officials of the counties and their
546 deputies and employees performing public services or any
547 department, independent agency, board or commission thereof, and
548 shall also include all offices and positions of trust or
549 employment in the employ of joint state and federal agencies
550 administering state and federal funds and service rendered by
551 employees of the public schools. Effective July 1, 1973, all
552 nonprofessional public school employees, such as bus drivers,
553 janitors, maids, maintenance workers and cafeteria employees,
554 shall have the option to become members in accordance with Section
555 25-11-105(b), and shall be eligible to receive credit for services

556 before July 1, 1973, provided that the contributions and interest
557 are paid by the employee in accordance with that section; in
558 addition, the county or municipal separate school district may pay
559 the employer contribution and pro rata share of interest of the
560 retroactive service from available funds. From and after July 1,
561 1998, retroactive service credit shall be purchased at the
562 actuarial cost in accordance with Section 25-11-105(b).

563 (aa) "Withdrawal from service" or "termination from
564 service" shall mean complete severance of employment in the state
565 service of any member by resignation, dismissal or discharge.

566 (bb) The masculine pronoun, wherever used, shall
567 include the feminine pronoun.

568 **SECTION 3.** Section 25-11-127, Mississippi Code of 1972, is
569 amended as follows:

570 25-11-127. (1) (a) No person who is being paid a
571 retirement allowance or a pension after retirement under this
572 article shall be employed or paid for any service by the State of
573 Mississippi, except as provided in this section.

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

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

581 (2) Any person who has been retired under the provisions of
582 Article 3 and who is later reemployed in service covered by this
583 article shall cease to receive benefits under this article and
584 shall again become a contributing member of the retirement system.
585 When the person retires again, if the reemployment exceeds six (6)
586 months, the person shall have his or her benefit recomputed,
587 including service after again becoming a member, provided that the
588 total retirement allowance paid to the retired member in his or

589 her previous retirement shall be deducted from the member's
590 retirement reserve and taken into consideration in recalculating
591 the retirement allowance under a new option selected.

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

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

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

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

605 To determine the normal working days for a position under
606 paragraph (a) of this subsection, the employer shall determine the
607 required number of working days for the position on a full-time
608 basis and the equivalent number of hours representing the
609 full-time position. The retiree then may work up to one-half
610 (1/2) of the required number of working days or up to one-half
611 (1/2) of the equivalent number of hours and receive up to one-half
612 (1/2) of the salary for the position. In the case of employment
613 with multiple employers, the limitation shall equal one-half (1/2)
614 of the number of days or hours for a single full-time position.

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

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

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

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

644 This section shall not be construed to mean that any employee
645 of a private entity which leases staff to local school boards to
646 provide noninstructional services as authorized in Section
647 37-7-301(mm) shall become a member of the retirement system.

648 **SECTION 4.** This act shall take effect and be in force from
649 and after July 1, 2004.