

By: Senator(s) Burton

To: Education

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 INSTRUCTIONAL OR NONINSTRUCTIONAL SERVICES TO
 4 PUPILS; TO AMEND SECTIONS 25-11-103 AND 25-11-127, MISSISSIPPI
 5 CODE OF 1972, TO PROVIDE THAT FOR PURPOSES OF THE RETIREMENT
 6 SYSTEM, EMPLOYEES OF SUCH PRIVATE ENTITIES SHALL NOT BE CONSIDERED
 7 IN STATE SERVICE AND SHALL BE PROHIBITED FROM RECEIVING RETIREMENT
 8 BENEFITS; AND FOR 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 instructional or noninstructional services to
309 pupils. The receipt of compensation shall not entitle any such
310 contract employee to receive or be eligible for any local school
311 district or state group insurance, retirement or other fringe
312 benefits.

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

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

318 (a) "Accumulated contributions" shall mean the sum of
319 all the amounts deducted from the compensation of a member and
320 credited to his individual account in the annuity savings account,
321 together with regular interest thereon as provided in Section
322 25-11-123.

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

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

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

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

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

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

384 (g) "Beneficiary" shall mean any person entitled to
385 receive a retirement allowance, an annuity or other benefit as
386 provided by Articles 1 and 3. In the event of the death prior to
387 retirement of any member whose spouse and/or children are not
388 entitled to a retirement allowance on the basis that the member
389 has less than four (4) years of service credit and/or has not been
390 married for a minimum of one (1) year or the spouse has waived his
391 or her entitlement to a retirement allowance pursuant to Section
392 25-11-114, the lawful spouse of a member at the time of the death

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

487 (p) "Medical board" shall mean the board of physicians
488 or any governmental or nongovernmental disability determination
489 service designated by the board of trustees that is qualified to
490 make disability determinations as provided for in Section
491 25-11-119.

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

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

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

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

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

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

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

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

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

542 (z) "State service" shall mean all offices and
543 positions of trust or employment in the employ of the state, or
544 any political subdivision or instrumentality thereof, which elect
545 to participate as provided by Section 25-11-105(f), including the
546 position of elected or fee officials of the counties and their
547 deputies and employees performing public services or any
548 department, independent agency, board or commission thereof, and
549 shall also include all offices and positions of trust or
550 employment in the employ of joint state and federal agencies
551 administering state and federal funds and service rendered by
552 employees of the public schools. Effective July 1, 1973, all
553 nonprofessional public school employees, such as bus drivers,
554 janitors, maids, maintenance workers and cafeteria employees,
555 shall have the option to become members in accordance with Section
556 25-11-105(b), and shall be eligible to receive credit for services

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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