

By: Senator(s) Butler, Dearing, Walls,
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(32nd)

To: Finance

SENATE BILL NO. 2726

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 teachers 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.