

By: Senator(s) Posey

To: Finance

SENATE BILL NO. 2856

1 AN ACT TO CREATE NEW SECTION 25-11-126, MISSISSIPPI CODE OF  
 2 1972, TO PROVIDE THAT CERTAIN PERSONS WHO WERE EMPLOYED AS  
 3 CONSERVATION OFFICERS OF THE DEPARTMENT OF WILDLIFE, FISHERIES AND  
 4 PARKS RECEIVING A RETIREMENT ALLOWANCE FROM THE PUBLIC EMPLOYEES'  
 5 RETIREMENT SYSTEM WHO ARE EMPLOYED AS LAW ENFORCEMENT OFFICERS  
 6 AFTER THEIR RETIREMENT, AND CERTAIN CONSERVATION OFFICERS OF THE  
 7 DEPARTMENT OF WILDLIFE, FISHERIES AND PARKS WHO ARE ELIGIBLE TO  
 8 RECEIVE A RETIREMENT ALLOWANCE FROM THE PUBLIC EMPLOYEES'  
 9 RETIREMENT SYSTEM, MAY RECEIVE A RETIREMENT ALLOWANCE DURING THEIR  
 10 EMPLOYMENT AS A LAW ENFORCEMENT OFFICER IN ADDITION TO RECEIVING A  
 11 SALARY FOR THEIR EMPLOYMENT AS A LAW ENFORCEMENT OFFICER; TO  
 12 PROVIDE THAT THOSE PERSONS SHALL NOT BE CONTRIBUTING MEMBERS OF  
 13 THE RETIREMENT SYSTEM NOR RECEIVE ANY CREDITABLE SERVICE FOR THE  
 14 PERIOD DURING WHICH THEY RECEIVE A RETIREMENT ALLOWANCE DURING  
 15 THEIR EMPLOYMENT AS LAW ENFORCEMENT OFFICERS; TO AMEND SECTIONS  
 16 25-11-103, 25-11-105 AND 25-11-127, MISSISSIPPI CODE OF 1972, IN  
 17 CONFORMITY WITH THE PROVISIONS OF THIS ACT; AND FOR RELATED  
 18 PURPOSES.

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

20 **SECTION 1.** The following shall be codified as Section  
 21 25-11-126, Mississippi Code of 1972:

22 25-11-126. (1) (a) Any person who has completed  
 23 twenty-five (25) or more years of creditable service and is  
 24 receiving a retirement allowance under this article, who was  
 25 employed as a conservation officer with the Department of  
 26 Wildlife, Fisheries and Parks at the time of his retirement and  
 27 who is employed as a law enforcement officer after his retirement,  
 28 may choose to continue receiving the retirement allowance under  
 29 this article during his employment as a law enforcement officer  
 30 after his retirement in addition to receiving a salary for his  
 31 employment as a law enforcement officer.

32 (b) Any person who is employed as a conservation  
 33 officer who completes twenty-five (25) or more years of creditable  
 34 service during his employment as a conservation officer may choose  
 35 to receive a retirement allowance under this article during his

36 employment as a law enforcement officer in addition to receiving a  
37 salary for his employment as a law enforcement officer.

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

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

63 (4) Any person to whom this section applies who receives or  
64 continues to receive a retirement allowance under this article  
65 during his employment as a law enforcement officer shall not be a  
66 contributing member of the retirement system nor receive any  
67 creditable service for the period during which he receives a  
68 retirement allowance during his employment as a law enforcement

69 officer. Any person to whom this section applies who chooses not  
70 to receive a retirement allowance during his employment as a law  
71 enforcement officer shall be a contributing member of the  
72 retirement system and shall receive creditable service for the  
73 period during which he is employed as a law enforcement officer  
74 without receiving a retirement allowance. If the person has  
75 previously received a retirement allowance under this article and  
76 he is employed as a law enforcement officer for more than six (6)  
77 months without receiving a retirement allowance, he shall have his  
78 allowance recomputed when he retires again, which shall include  
79 the service after he again became a contributing member of the  
80 retirement system.

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

83 25-11-103. The following words and phrases as used in  
84 Articles 1 and 3, unless a different meaning is plainly required  
85 by the context, shall have the following meanings:

86 (a) "Accumulated contributions" shall mean the sum of  
87 all the amounts deducted from the compensation of a member and  
88 credited to his individual account in the annuity savings account,  
89 together with regular interest thereon as provided in Section  
90 25-11-123.

91 (b) "Actuarial cost" shall mean the amount of funds  
92 presently required to provide future benefits as determined by the  
93 board based on applicable tables and formulas provided by the  
94 actuary.

95 (c) "Actuarial equivalent" shall mean a benefit of  
96 equal value to the accumulated contributions, annuity or benefit,  
97 as the case may be, when computed upon the basis of such mortality  
98 tables as shall be adopted by the board of trustees, and regular  
99 interest.

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

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

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

133 increase in salary or compensation that exceeds eight percent (8%)  
134 in calculating that member's average compensation for retirement  
135 purposes. The board may enforce this provision by rule or  
136 regulation. However, increases in compensation in excess of eight  
137 percent (8%) per year granted within twenty-four (24) months of  
138 the date of retirement may be included in such calculation of  
139 average compensation if satisfactory proof is presented to the  
140 board showing that the increase in compensation was the result of  
141 an actual change in the position held or services rendered, or  
142 that such compensation increase was authorized by the State  
143 Personnel Board or was increased as a result of statutory  
144 enactment, and the employer furnishes an affidavit stating that  
145 such increase granted within the last twenty-four (24) months was  
146 not contingent on a promise or agreement of the employee to  
147 retire. Nothing in Section 25-3-31 shall affect the calculation  
148 of the average compensation of any member for the purposes of this  
149 article. The average compensation of any member who retires  
150 before July 1, 1992, shall not exceed the annual salary of the  
151 Governor.

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

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

169           (i) "Creditable service" shall mean "prior service,"  
170 "retroactive service" and all lawfully credited unused leave not  
171 exceeding the accrual rates and limitations provided in Section  
172 25-3-91 et seq., as of the date of withdrawal from service plus  
173 "membership service" for which credit is allowable as provided in  
174 Section 25-11-109. Except to limit creditable service reported to  
175 the system for the purpose of computing an employee's retirement  
176 allowance or annuity or benefits provided in this article, nothing  
177 in this paragraph shall limit or otherwise restrict the power of  
178 the governing authority of a municipality or other political  
179 subdivision of the state to adopt such vacation and sick leave  
180 policies as it deems necessary.

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

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

199 and regulations, who is also employed by another covered agency or  
200 political subdivision shall have the earnings of that additional  
201 employment reported to the Public Employees' Retirement System  
202 regardless of whether the additional employment is sufficient in  
203 itself to be a covered position. In addition, computation of  
204 earned compensation shall be governed by the following:

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

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

213           (iii) In the case of members of the State  
214 Legislature, all remuneration or amounts paid, except mileage  
215 allowance, shall apply.

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

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

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

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

235 (l) "Employee" means any person legally occupying a  
236 position in the state service, and shall include the employees of  
237 the retirement system created hereunder.

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

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

249 (o) "Fiscal year" shall mean the period beginning on  
250 July 1 of any year and ending on June 30 of the next succeeding  
251 year.

252 (p) "Medical board" shall mean the board of physicians  
253 or any governmental or nongovernmental disability determination  
254 service designated by the board of trustees that is qualified to  
255 make disability determinations as provided for in Section  
256 25-11-119.

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

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

261 (s) "Position" means any office or any employment in  
262 the state service, or two (2) or more of them, the duties of which  
263 call for services to be rendered by one (1) person, including  
264 positions jointly employed by federal and state agencies

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

280 (t) "Prior service" shall mean service rendered before  
281 February 1, 1953, for which credit is allowable under Sections  
282 25-11-105 and 25-11-109, and which shall allow prior service for  
283 any person who is now or becomes a member of the Public Employees'  
284 Retirement System and who does contribute to the system for a  
285 minimum period of four (4) years.

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

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

297 spouse retirement benefit from and after making application with  
298 the board of trustees to reinstate the spouse retirement benefit.

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

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

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

307 (z) "State service" shall mean all offices and  
308 positions of trust or employment in the employ of the state, or  
309 any political subdivision or instrumentality thereof, which elect  
310 to participate as provided by Section 25-11-105(f), including the  
311 position of elected or fee officials of the counties and their  
312 deputies and employees performing public services or any  
313 department, independent agency, board or commission thereof, and  
314 shall also include all offices and positions of trust or  
315 employment in the employ of joint state and federal agencies  
316 administering state and federal funds and service rendered by  
317 employees of the public schools. Effective July 1, 1973, all  
318 nonprofessional public school employees, such as bus drivers,  
319 janitors, maids, maintenance workers and cafeteria employees,  
320 shall have the option to become members in accordance with Section  
321 25-11-105(b), and shall be eligible to receive credit for services  
322 before July 1, 1973, provided that the contributions and interest  
323 are paid by the employee in accordance with that section; in  
324 addition, the county or municipal separate school district may pay  
325 the employer contribution and pro rata share of interest of the  
326 retroactive service from available funds. From and after July 1,  
327 1998, retroactive service credit shall be purchased at the  
328 actuarial cost in accordance with Section 25-11-105(b).

329 (aa) "Withdrawal from service" or "termination from  
330 service" shall mean complete severance of employment in the state  
331 service of any member by resignation, dismissal or discharge,  
332 except in the case of persons who become eligible to receive a  
333 retirement allowance under this article and who choose to receive  
334 the retirement allowance during their employment as law  
335 enforcement officers as authorized by Section 25-11-126.

336 (bb) The masculine pronoun, wherever used, shall  
337 include the feminine pronoun.

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

340 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

341 The membership of this retirement system shall be composed as  
342 follows:

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

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

362 (b) All persons who shall become employees in the state  
363 service after January 31, 1953, except those specifically excluded  
364 or as to whom election is provided in Articles 1 and 3, unless  
365 they shall file with the board prior to the lapse of sixty (60)  
366 days of employment or sixty (60) days after the effective date of  
367 the cited articles, whichever is later, on a form prescribed by  
368 the board, a notice of election not to be covered by the  
369 membership of the retirement system and a duly executed waiver of  
370 all present and prospective benefits which would otherwise inure  
371 to them on account of their participation in the system, shall  
372 become members of the retirement system; however, no credit for  
373 prior service will be granted to members until they have  
374 contributed to Article 3 of the retirement system for a minimum  
375 period of at least four (4) years. Such members shall receive  
376 credit for services performed prior to January 1, 1953, in  
377 employment now covered by Article 3, but no credit shall be  
378 granted for retroactive services between January 1, 1953, and the  
379 date of their entry into the retirement system unless the employee  
380 pays into the retirement system both the employer's and the  
381 employee's contributions on wages paid him during the period from  
382 January 31, 1953, to the date of his becoming a contributing  
383 member, together with interest at the rate determined by the board  
384 of trustees. Members reentering after withdrawal from service  
385 shall qualify for prior service under the provisions of Section  
386 25-11-117. From and after July 1, 1998, upon eligibility as noted  
387 above, the member may receive credit for such retroactive service  
388 provided:

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

392 (2) The member shall pay to the retirement system  
393 on the date he or she is eligible for such credit or at any time  
394 thereafter prior to the date of retirement the actuarial cost for

395 each year of such creditable service. The provisions of this  
396 subparagraph (2) shall be subject to the limitations of Section  
397 415 of the Internal Revenue Code and regulations promulgated  
398 thereunder.

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

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

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

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

426 (f) Each political subdivision of the state and each  
427 instrumentality of the state or a political subdivision, or both,

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

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

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

458           (3) It provides for such methods of administration  
459 of the plan by the political subdivision or instrumentality as are

460 found by the board of trustees to be necessary for the proper and  
461 efficient administration thereof;

462 (4) It provides that the political subdivision or  
463 instrumentality will make such reports, in such form and  
464 containing such information, as the board of trustees may from  
465 time to time require;

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

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

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

490 C. Every political subdivision or  
491 instrumentality required to make payments under paragraph (f)(5)B  
492 hereof is authorized, in consideration of the employees' retention

493 in or entry upon employment after enactment of Articles 1 and 3,  
494 to impose upon its employees, as to services which are covered by  
495 an approved plan, a contribution with respect to wages (as defined  
496 in Section 25-11-5) not exceeding the amount provided in Section  
497 25-11-123(d) if such services constituted employment within the  
498 meaning of Articles 1 and 3, and to deduct the amount of such  
499 contribution from the wages as and when paid. Contributions so  
500 collected shall be paid into the contribution fund as partial  
501 discharge of the liability of such political subdivisions or  
502 instrumentalities under paragraph (f)(5)B hereof. Failure to  
503 deduct such contribution shall not relieve the employee or  
504 employer of liability thereof.

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

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

523           (g) The board may, in its discretion, deny the right of  
524 membership in this system to any class of employees whose  
525 compensation is only partly paid by the state or who are occupying

526 positions on a part-time or intermittent basis. The board may, in  
527 its discretion, make optional with employees in any such classes  
528 their individual entrance into this system.

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

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

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

555 (j) Wherever herein state employment is referred to, it  
556 shall include joint employment by state and federal agencies of  
557 all kinds.

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

579 (1) The member shall furnish proof satisfactory to  
580 the board of trustees of certification of such services from the  
581 political subdivision or instrumentality where the services were  
582 rendered or verification by the Social Security Administration;  
583 and

584 (2) The member shall pay to the retirement system  
585 on the date he or she is eligible for such credit or at any time  
586 thereafter prior to the date of retirement the actuarial cost for  
587 each year of such creditable service. The provisions of this  
588 subparagraph (2) shall be subject to the limitations of Section  
589 415 of the Internal Revenue Code and regulations promulgated  
590 thereunder.

591 Nothing contained in this paragraph (k) shall be construed to  
592 limit the authority of the board to allow the correction of  
593 reporting errors or omissions based on the payment of employee and  
594 employer contributions plus applicable interest. Payment for such  
595 time shall be made in increments of not less than one-quarter  
596 (1/4) year of creditable service beginning with the most recent  
597 service. Upon the payment of all or part of such required  
598 contributions, plus interest or the actuarial cost as provided  
599 above, the member shall receive credit for the period of  
600 creditable service for which full payment has been made to the  
601 retirement system.

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

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

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

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

619 (a) Patient or inmate help in state charitable, penal  
620 or correctional institutions;

621 (b) Students of any state educational institution  
622 employed by any agency of the state for temporary, part-time or  
623 intermittent work;

624 (c) Participants of Comprehensive Employment and  
625 Training Act of 1973 (CETA) being Public Law 93-203, who enroll on  
626 or after July 1, 1979;

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

631 **III. TERMINATION OF MEMBERSHIP**

632 Membership in this system shall cease by a member withdrawing  
633 his accumulated contributions, or by a member withdrawing from  
634 active service with a retirement allowance, or by a member's  
635 death.

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

638 25-11-127. (1) (a) No person who is being paid a  
639 retirement allowance or a pension after retirement under this  
640 article shall be employed or paid for any service by the State of  
641 Mississippi, except as provided in this section or in Section  
642 25-11-126.

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

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

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

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

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

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

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

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

677 To determine the normal working days for a position under  
678 paragraph (a) of this subsection, the employer shall determine the  
679 required number of working days for the position on a full-time  
680 basis and the equivalent number of hours representing the  
681 full-time position. The retiree then may work up to one-half  
682 (1/2) of the required number of working days or up to one-half  
683 (1/2) of the equivalent number of hours and receive up to one-half  
684 (1/2) of the salary for the position. In the case of employment  
685 with multiple employers, the limitation shall equal one-half (1/2)  
686 of the number of days or hours for a single full-time position.

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

690 of employment and also from the date of termination of the  
691 employment.

692 (5) Any member may continue in municipal or county elected  
693 office or be elected to a municipal or county office, provided  
694 that the person:

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

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

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