

By: Senator(s) Harden

To: Finance

SENATE BILL NO. 2201

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, have the following meanings:

81 (a) "Accumulated contributions" means the sum of all
82 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 as provided in Section 25-11-123.

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

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

93 (d) "Actuarial tables" means such tables of mortality
94 and rates of interest as adopted by the board in accordance with
95 the recommendation of the actuary.

96 (e) "Agency" means any governmental body employing
97 persons in the state service.

98 (f) "Average compensation" means the average of the
99 four (4) highest years of earned compensation reported for an

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

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

147 (g) "Beneficiary" means any person entitled to receive
148 a retirement allowance, an annuity or other benefit as provided by
149 Articles 1 and 3. The term "beneficiary" may also include an
150 organization, estate, trust or entity; however, a beneficiary
151 designated or entitled to receive monthly payments under an
152 optional settlement based on life contingency or pursuant to a
153 statutory monthly benefit may only be a natural person. In the
154 event of the death before retirement of any member whose spouse
155 and/or children are not entitled to a retirement allowance on the
156 basis that the member has less than four (4) years of service
157 credit and/or has not been married for a minimum of one (1) year
158 or the spouse has waived his or her entitlement to a retirement
159 allowance under Section 25-11-114, the lawful spouse of a member
160 at the time of the death of the member shall be the beneficiary of
161 the member unless the member has designated another beneficiary
162 after the date of marriage in writing, and filed that writing in
163 the office of the executive director of the board of trustees. No
164 designation or change of beneficiary shall be made in any other
165 manner.

166 (h) "Board" means the board of trustees provided in
167 Section 25-11-15 to administer the retirement system created under
168 this article.

169 (i) "Creditable service" means "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" means the full amount earned
188 by an employee for a given pay period including any maintenance
189 furnished up to a maximum of One Hundred Fifty Thousand Dollars
190 (\$150,000.00) per year, and proportionately for less than one (1)
191 year of service. The value of that maintenance when not paid in
192 money shall be fixed by the employing state agency, and, in case
193 of doubt, by the board of trustees as defined in Section 25-11-15.
194 Earned compensation shall not include any nontaxable amounts paid
195 by the employer for health or life insurance premiums for an
196 employee. In any case, earned compensation shall be limited to
197 the regular periodic compensation paid, exclusive of litigation
198 fees, bond fees, and other similar extraordinary nonrecurring

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

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

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

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

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

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

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

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

237 (1) "Employee" means any person legally occupying a
238 position in the state service, and shall include the employees of
239 the retirement system created under this article.

240 (m) "Employer" means the State of Mississippi or any of
241 its departments, agencies or subdivisions from which any employee
242 receives his compensation.

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

251 (o) "Fiscal year" means the period beginning on July 1
252 of any year and ending on June 30 of the next succeeding year.

253 (p) "Medical board" means the board of physicians or
254 any governmental or nongovernmental disability determination
255 service designated by the board of trustees that is qualified to
256 make disability determinations as provided for in Section
257 25-11-119.

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

260 (r) "Membership service" means service as an employee
261 rendered while a member of the retirement system.

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

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

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

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

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

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

300 (w) "Retroactive service" means service rendered after
301 February 1, 1953, for which credit is allowable under Section
302 25-11-105(b) and Section 25-11-105(k).

303 (x) "System" means the Public Employees' Retirement
304 System of Mississippi established and described in Section
305 25-11-101.

306 (y) "State" means the State of Mississippi or any
307 political subdivision thereof or instrumentality of the state.

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

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

337 (bb) The masculine pronoun, wherever used, includes the
338 feminine pronoun.

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

341 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

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

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

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

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

389 (1) The member shall furnish proof satisfactory to
390 the board of trustees of certification of that 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 that credit or at any time
394 thereafter before the date of retirement the actuarial cost for
395 each year of that 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 under
398 Section 415.

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 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 that 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 file a written notice with the board of trustees that they do not
415 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 indicates by a notice filed with
422 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 authorized to submit, for approval by the board of trustees, a

429 plan for extending the benefits of this article to employees of
430 any such political subdivision or instrumentality. Each such plan
431 or any amendment to the plan for extending benefits thereof shall
432 be approved by the board of trustees if it finds that the plan, or
433 the plan as amended, is in conformity with such requirements as
434 are provided in Articles 1 and 3; however, upon approval of the
435 plan or any such plan previously approved by the board of
436 trustees, the approved plan shall not be subject to cancellation
437 or termination by the political subdivision or instrumentality,
438 except that any community hospital serving a municipality that
439 joined the Public Employees' Retirement System as of November 1,
440 1956, to offer social security coverage for its employees and
441 subsequently extended retirement annuity coverage to its employees
442 as of December 1, 1965, may, upon documentation of extreme
443 financial hardship, have future retirement annuity coverage
444 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 that 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 those sources will be adequate for that 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 the plan, the termination to take
470 effect at the expiration of such notice and on such conditions as
471 may be provided by regulations of the board and as may be
472 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 by the board's decision. The board's
478 decision in any such case shall be final, conclusive and binding
479 unless an appeal is taken by the political subdivision or
480 instrumentality aggrieved by the decision to the Circuit Court of
481 Hinds County, Mississippi, in accordance with the provisions of
482 law with respect to civil causes 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 of this section is authorized, in consideration of the employees'
493 retention in or entry upon employment after enactment of Articles
494 1 and 3, to impose upon its employees, as to services that are

495 covered by an approved plan, a contribution with respect to wages
496 (as defined in Section 25-11-5) not exceeding the amount provided
497 in Section 25-11-123(d) if those services constituted employment
498 within the meaning of Articles 1 and 3, and to deduct the amount
499 of the contribution from the wages as and when paid.

500 Contributions so collected shall be paid into the contribution
501 fund as partial discharge of the liability of the political
502 subdivisions or instrumentalities under paragraph (f)(5)B of this
503 section. Failure to deduct the contribution shall not relieve the
504 employee or employer of liability for the contribution.

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 delinquent
511 payments, assessed interest and any other amount certified by the
512 board as owed by an employer, may be recovered by action in a
513 court of competent jurisdiction against the reporting agency
514 liable therefor or may, upon due certification of delinquency and
515 at the request of the board of trustees, be deducted from any
516 other monies payable to the reporting agency by any department or
517 agency of the state.

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

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

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

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

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

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

556 (j) Wherever state employment is referred to in this
557 section, it includes joint employment by state and federal
558 agencies of all kinds.

559 (k) Employees of a political subdivision or
560 instrumentality who were employed by the political subdivision or

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

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

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

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

594 reporting errors or omissions based on the payment of employee and
595 employer contributions plus applicable interest. Payment for that
596 time shall be made in increments of not less than one-quarter
597 (1/4) year of creditable service beginning with the most recent
598 service. Upon the payment of all or part of the required
599 contributions, plus interest or the actuarial cost as provided
600 above, the member shall receive credit for the period of
601 creditable service for which full payment has been made to the
602 retirement system.

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

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

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

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

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

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

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

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

632 **III. TERMINATION OF MEMBERSHIP**

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

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

639 25-11-127. (1) (a) No person who is being paid a
640 retirement allowance or a pension after retirement under this
641 article shall be employed or paid for any service by the State of
642 Mississippi, except as provided in this section or in Section
643 25-11-126.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

717 **SECTION 5.** This act shall take effect and be in force from
718 and after July 1, 2005.