

By: Senator(s) Harden

To: Finance

SENATE BILL NO. 2202

1 AN ACT TO AMEND SECTION 25-11-127, MISSISSIPPI CODE OF 1972,
 2 TO AUTHORIZE RETIREES TO BE EMPLOYED IN STATE SERVICE AND DRAW A
 3 RETIREMENT ALLOWANCE FOR A PERIOD OF TIME NOT TO EXCEED 195 DAYS
 4 IN ANY FISCAL YEAR; TO PROVIDE THAT ANY PERSON EMPLOYED PURSUANT
 5 TO THIS PROVISION SHALL NOT BE AN ACTIVE MEMBER OF THE RETIREMENT
 6 SYSTEM AND SHALL NOT RECEIVE ANY CREDITABLE SERVICE FOR THE PERIOD
 7 DURING WHICH HE IS EMPLOYED PURSUANT TO THIS PROVISION; TO PROVIDE
 8 THAT THE EMPLOYER OF A PERSON EMPLOYED PURSUANT TO SUCH PROVISION
 9 SHALL DEDUCT EMPLOYEE CONTRIBUTIONS AND MAKE EMPLOYER
 10 CONTRIBUTIONS ON BEHALF OF SUCH PERSON; TO PROVIDE THAT THE
 11 RETIREMENT ALLOWANCE OF SUCH PERSON SHALL NOT BE ENHANCED OR
 12 DIMINISHED AS A RESULT OF SUCH EMPLOYMENT; TO AMEND SECTION
 13 25-11-117, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A MEMBER
 14 EMPLOYED UNDER THE ABOVE PROVISION MAY NOT RECEIVE A REFUND OF THE
 15 AMOUNT OF EMPLOYEE CONTRIBUTIONS, OR INTEREST EARNED ON THOSE
 16 CONTRIBUTIONS THAT WERE MADE DURING ANY PERIOD WHEN HE WAS SO
 17 EMPLOYED; AND FOR RELATED PURPOSES.

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

19 **SECTION 1.** Section 25-11-127, Mississippi Code of 1972, is
 20 amended as follows:

21 25-11-127. (1) (a) No person who is being paid a
 22 retirement allowance or a pension after retirement under this
 23 article shall be employed or paid for any service by the State of
 24 Mississippi, except as provided in this section.

25 (b) No retiree of this retirement system who is
 26 reemployed or is reelected to office after retirement shall
 27 continue to draw retirement benefits while so reemployed, except
 28 as provided in this section.

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

32 (2) Any person who has been retired under the provisions of
 33 Article 3 and who is later reemployed in service covered by this
 34 article shall cease to receive benefits under this article and

35 shall again become a contributing member of the retirement system.
36 When the person retires again, if the reemployment exceeds six (6)
37 months, the person shall have his or her benefit recomputed,
38 including service after again becoming a member, provided that the
39 total retirement allowance paid to the retired member in his or
40 her previous retirement shall be deducted from the member's
41 retirement reserve and taken into consideration in recalculating
42 the retirement allowance under a new option selected.

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

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

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

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

56 To determine the normal working days for a position under
57 paragraph (a) of this subsection, the employer shall determine the
58 required number of working days for the position on a full-time
59 basis and the equivalent number of hours representing the
60 full-time position. The retiree then may work up to one-half
61 (1/2) of the required number of working days or up to one-half
62 (1/2) of the equivalent number of hours and receive up to one-half
63 (1/2) of the salary for the position. In the case of employment
64 with multiple employers, the limitation shall equal one-half (1/2)
65 of the number of days or hours for a single full-time position.

66 Notice shall be given in writing to the executive director,
67 setting forth the facts upon which the employment is being made,

68 and the notice shall be given within five (5) days from the date
69 of employment and also from the date of termination of the
70 employment.

71 (5) The provisions of this section shall not be construed to
72 prohibit any retirant, regardless of age, from being employed and
73 from drawing a retirement allowance for a period of time not to
74 exceed one hundred ninety-five (195) days in any fiscal year.
75 Such employment may begin at any time following the date of
76 retirement. Notice shall be given in writing to the executive
77 director of the system, setting forth the facts upon which the
78 employment is being made, and such notice shall be given within
79 five (5) days from the date of employment and also from the date
80 of termination of said employment. Any person employed pursuant
81 to this subsection shall not be an active member of the retirement
82 system and shall not receive any creditable service for the period
83 during which he is employed. The employer shall deduct employee
84 contributions for any person employed pursuant to this subsection
85 and shall make employer contributions on behalf of the person in
86 the same manner as provided in Section 25-1-123 for active members
87 for the period during which such person is employed, and the
88 employer shall pay the contributions to the retirement system.
89 The retirement allowance of any person employed pursuant to this
90 subsection shall not be enhanced or diminished as a result of such
91 employment.

92 (6) Any member may continue in municipal or county elected
93 office or be elected to a municipal or county office, provided
94 that the person:

95 (a) Files annually, in writing, in the office of the
96 employer and the office of the executive director of the system
97 before the person takes office or as soon as possible after
98 retirement, a waiver of all salary or compensation and elects to
99 receive in lieu of that salary or compensation a retirement
100 allowance as provided in this section, in which event no salary or

101 compensation shall thereafter be due or payable for those
102 services; however, any such officer or employee may receive, in
103 addition to the retirement allowance, office expense allowance,
104 mileage or travel expense authorized by any statute of the State
105 of Mississippi; or

106 (b) Elects to receive compensation for that elective
107 office in an amount not to exceed twenty-five percent (25%) of the
108 retiree's average compensation. As used in this paragraph, the
109 term "compensation" shall not include office expense allowance,
110 mileage or travel expense authorized by a statute of the State of
111 Mississippi. In order to receive compensation as allowed in this
112 paragraph, the member shall file annually, in writing, in the
113 office of the employer and the office of the executive director of
114 the system, an election to receive, in addition to a retirement
115 allowance, compensation as allowed in this paragraph.

116 **SECTION 2.** Section 25-11-117, Mississippi Code of 1972, is
117 amended as follows:

118 25-11-117. (1) A member may be paid a refund of the amount
119 of accumulated contributions to the credit of the member in the
120 annuity savings account, provided that the member has withdrawn
121 from state service and has not returned to state service on the
122 date the refund of the accumulated contributions would be paid.
123 However, a member may not receive a refund of the amount of
124 employee contributions, or interest earned on those contributions,
125 that were made during any period when he was employed under the
126 provisions of Section 25-11-127(5). That refund of the
127 contributions to the credit of the member in the annuity savings
128 account shall be paid within ninety (90) days from receipt in the
129 office of the retirement system of the properly completed form
130 requesting the payment. In the event of death before retirement
131 of any member whose spouse and/or children are not entitled to a
132 retirement allowance, the accumulated contributions to the credit
133 of the deceased member in the annuity savings account shall be

134 paid to the designated beneficiary on file in writing in the
135 office of the executive director of the board of trustees within
136 ninety (90) days from receipt of a properly completed form
137 requesting the payment. However, the spouse and/or children of a
138 deceased member may not receive a payment of the amount of
139 employee contributions, or interest earned on those contributions,
140 that were made during any period when the member was employed
141 under the provisions of Section 25-11-127(3). If there is no such
142 designated beneficiary on file for the deceased member in the
143 office of the system, upon the filing of a proper request with the
144 board, the contributions to the credit of the deceased member in
145 the annuity savings account shall be refunded pursuant to Section
146 25-11-117.1(1). However, there shall be no refund of the amount
147 of employee contributions, or interest earned on those
148 contributions, that were made during any period when the member
149 was employed under the provisions of Section 25-11-127(5). The
150 payment of the refund shall discharge all obligations of the
151 retirement system to the member on account of any creditable
152 service rendered by the member prior to the receipt of the refund.
153 By the acceptance of the refund, the member shall waive and
154 relinquish all accrued rights in the system.

155 (2) Under the Unemployment Compensation Amendments of 1992
156 (Public Law 102-318 (UCA)), a member or the spouse of a member who
157 is an eligible beneficiary entitled to a refund under this section
158 may elect, on a form prescribed by the board under rules and
159 regulations established by the board, to have an eligible rollover
160 distribution of accumulated contributions payable under this
161 section paid directly to an eligible retirement plan, as defined
162 under applicable federal law, or an individual retirement account.
163 If the member or the spouse of a member who is an eligible
164 beneficiary makes that election and specifies the eligible
165 retirement plan or individual retirement account to which the
166 distribution is to be paid, the distribution will be made in the

167 form of a direct trustee-to-trustee transfer to the specified
168 eligible retirement plan. Flexible rollovers under this
169 subsection shall not be considered assignments under Section
170 25-11-129.

171 (3) If any person who has received a refund reenters the
172 state service and again becomes a member of the system, the member
173 may repay all or part of the amounts previously received as a
174 refund, together with regular interest covering the period from
175 the date of refund to the date of repayment; however, the amounts
176 that are repaid by the member and the creditable service related
177 thereto shall not be used in any benefit calculation or
178 determination until the member has remained a contributor to the
179 system for a period of at least four (4) years after the member's
180 reentry into state service. Repayment for that time shall be made
181 in increments of not less than one-quarter (1/4) year of
182 creditable service beginning with the most recent service for
183 which refund has been made. Upon the repayment of all or part of
184 that refund and interest, the member shall again receive credit
185 for the period of creditable service for which full repayment has
186 been made to the system.

187 (4) (a) In order to provide a source of income to members
188 who have applied for disability benefits under Section 25-11-113
189 or 25-11-114, the board may provide, at the employee's election, a
190 temporary benefit to be paid from the member's accumulated
191 contributions, if any, without forfeiting the right to pursue
192 disability benefits, provided that the member has exhausted all
193 personal and medical leave and has terminated his or her
194 employment. The board may prescribe rules and regulations for
195 carrying out the provisions of this subsection (4).

196 (b) If a member who has elected to receive temporary
197 benefits under this subsection later applies for a refund of his
198 or her accumulated contributions, all amounts paid under this
199 subsection shall be deducted from the accumulated contributions

200 and the balance will be paid to the member. If a member who has
201 elected to receive temporary benefits under this subsection is
202 later approved for a disability retirement allowance, and a
203 service retirement allowance or survivor benefits are paid on the
204 account, the board shall adjust the benefits in such a manner that
205 no more than the actuarial equivalent of the benefits to which the
206 member or beneficiary was or is entitled shall be paid.

207 (c) The board may study, develop and propose a
208 disability benefit structure, including short and long term
209 disability benefits, provided that it is the actuarial equivalent
210 of the benefits currently provided in Section 25-11-113 or
211 25-11-114.

212 **SECTION 3.** This act shall take effect and be in force from
213 and after July 1, 2005.