

By: Representative Johnson

To: Appropriations

HOUSE BILL NO. 1110

1 AN ACT TO AMEND SECTION 25-11-105, MISSISSIPPI CODE OF 1972,  
2 TO ALLOW CERTAIN COMMUNITY HOSPITALS TO HAVE RETIREMENT ANNUITY  
3 RETIREMENT COVERAGE UNDER THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
4 RESTRICTED TO EMPLOYEES WHO HAVE COMPLETED FOUR OR MORE YEARS OF  
5 CREDITABLE SERVICE AS OF JUNE 30, 2006; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 25-11-105, Mississippi Code of 1972, is  
8 amended as follows:

9 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

10 The membership of this retirement system shall be composed as  
11 follows:

12 (a) (i) All persons who become employees in the state  
13 service after January 31, 1953, and whose wages are subject to  
14 payroll taxes and are lawfully reported on IRS Form W-2, except  
15 those specifically excluded, or as to whom election is provided in  
16 Articles 1 and 3, shall become members of the retirement system as  
17 a condition of their employment.

18 (ii) From and after July 1, 2002, any individual  
19 who is employed by a governmental entity to perform professional  
20 services shall become a member of the system if the individual is  
21 paid regular periodic compensation for those services that is  
22 subject to payroll taxes, is provided all other employee benefits  
23 and meets the membership criteria established by the regulations  
24 adopted by the board of trustees that apply to all other members  
25 of the system; however, any active member employed in such a  
26 position on July 1, 2002, will continue to be an active member for  
27 as long as they are employed in any such position.

28           (b) All persons who become employees in the state  
29 service after January 31, 1953, except those specifically excluded  
30 or as to whom election is provided in Articles 1 and 3, unless  
31 they file with the board before the lapse of sixty (60) days of  
32 employment or sixty (60) days after the effective date of the  
33 cited articles, whichever is later, on a form prescribed by the  
34 board, a notice of election not to be covered by the membership of  
35 the retirement system and a duly executed waiver of all present  
36 and prospective benefits that would otherwise inure to them on  
37 account of their participation in the system, shall become members  
38 of the retirement system; however, no credit for prior service  
39 will be granted to members until they have contributed to Article  
40 3 of the retirement system for a minimum period of at least four  
41 (4) years. Those members shall receive credit for services  
42 performed before January 1, 1953, in employment now covered by  
43 Article 3, but no credit shall be granted for retroactive services  
44 between January 1, 1953, and the date of their entry into the  
45 retirement system, unless the employee pays into the retirement  
46 system both the employer's and the employee's contributions on  
47 wages paid him during the period from January 31, 1953, to the  
48 date of his becoming a contributing member, together with interest  
49 at the rate determined by the board of trustees. Members  
50 reentering after withdrawal from service shall qualify for prior  
51 service under the provisions of Section 25-11-117. From and after  
52 July 1, 1998, upon eligibility as noted above, the member may  
53 receive credit for such retroactive service provided:

54           (1) The member shall furnish proof satisfactory to  
55 the board of trustees of certification of that service from the  
56 covered employer where the services were performed; and

57           (2) The member shall pay to the retirement system  
58 on the date he or she is eligible for that credit or at any time  
59 thereafter before the date of retirement the actuarial cost for  
60 each year of that creditable service. The provisions of this

61 subparagraph (2) shall be subject to the limitations of Section  
62 415 of the Internal Revenue Code and regulations promulgated under  
63 Section 415.

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

68 (c) All persons who become employees in the state  
69 service after January 31, 1953, and who are eligible for  
70 membership in any other retirement system shall become members of  
71 this retirement system as a condition of their employment, unless  
72 they elect at the time of their employment to become a member of  
73 that other system.

74 (d) All persons who are employees in the state service  
75 on January 31, 1953, and who are members of any nonfunded  
76 retirement system operated by the State of Mississippi, or any of  
77 its departments or agencies, shall become members of this system  
78 with prior service credit unless, before February 1, 1953, they  
79 file a written notice with the board of trustees that they do not  
80 elect to become members.

81 (e) All persons who are employees in the state service  
82 on January 31, 1953, and who under existing laws are members of  
83 any fund operated for the retirement of employees by the State of  
84 Mississippi, or any of its departments or agencies, shall not be  
85 entitled to membership in this retirement system unless, before  
86 February 1, 1953, any such person indicates by a notice filed with  
87 the board, on a form prescribed by the board, his individual  
88 election and choice to participate in this system, but no such  
89 person shall receive prior service credit unless he becomes a  
90 member on or before February 1, 1953.

91 (f) Each political subdivision of the state and each  
92 instrumentality of the state or a political subdivision, or both,  
93 is authorized to submit, for approval by the board of trustees, a

94 plan for extending the benefits of this article to employees of  
95 any such political subdivision or instrumentality. Each such plan  
96 or any amendment to the plan for extending benefits thereof shall  
97 be approved by the board of trustees if it finds that the plan, or  
98 the plan as amended, is in conformity with such requirements as  
99 are provided in Articles 1 and 3; however, upon approval of the  
100 plan or any such plan previously approved by the board of  
101 trustees, the approved plan shall not be subject to cancellation  
102 or termination by the political subdivision or instrumentality,  
103 except that any community hospital serving a municipality that  
104 joined the Public Employees' Retirement System as of November 1,  
105 1956, to offer social security coverage for its employees and  
106 subsequently extended retirement annuity coverage to its employees  
107 as of December 1, 1965, may, upon documentation of extreme  
108 financial hardship, have future retirement annuity coverage  
109 cancelled or terminated at the discretion of the board of  
110 trustees; and except that any community hospital serving a county  
111 that joined the Public Employees' Retirement System as of June 1,  
112 1965, to offer social security coverage for its employees and  
113 subsequently extended retirement annuity coverage to its employees  
114 as of January 1, 1975, may, upon documentation of extreme  
115 financial hardship, have future retirement annuity coverage  
116 restricted, at the discretion of the board of trustees, to those  
117 employees who as of June 30, 2006, shall have completed four (4)  
118 or more years of creditable service.

119 No \* \* \* plan shall be approved under this paragraph unless:

120 (1) It provides that all services that constitute  
121 employment as defined in Section 25-11-5 and are performed in the  
122 employ of the political subdivision or instrumentality, by any  
123 employees thereof, shall be covered by the plan, with the  
124 exception of municipal employees who are already covered by  
125 existing retirement plans; however, those employees in this class  
126 may elect to come under the provisions of this article;

127                   (2) It specifies the source or sources from which  
128 the funds necessary to make the payments required by paragraph (d)  
129 of Section 25-11-123 and of paragraph (f)(5)B and C of this  
130 section are expected to be derived and contains reasonable  
131 assurance that those sources will be adequate for that purpose;

132                   (3) It provides for such methods of administration  
133 of the plan by the political subdivision or instrumentality as are  
134 found by the board of trustees to be necessary for the proper and  
135 efficient administration thereof;

136                   (4) It provides that the political subdivision or  
137 instrumentality will make such reports, in such form and  
138 containing such information, as the board of trustees may from  
139 time to time require;

140                   (5) It authorizes the board of trustees to  
141 terminate the plan in its entirety in the discretion of the board  
142 if it finds that there has been a failure to comply substantially  
143 with any provision contained in the plan, the termination to take  
144 effect at the expiration of such notice and on such conditions as  
145 may be provided by regulations of the board and as may be  
146 consistent with applicable federal law.

147                   A. The board of trustees shall not finally  
148 refuse to approve a plan submitted under paragraph (f), and shall  
149 not terminate an approved plan without reasonable notice and  
150 opportunity for hearing to each political subdivision or  
151 instrumentality affected by the board's decision. The board's  
152 decision in any such case shall be final, conclusive and binding  
153 unless an appeal is taken by the political subdivision or  
154 instrumentality aggrieved by the decision to the Circuit Court of  
155 Hinds County, Mississippi, in accordance with the provisions of  
156 law with respect to civil causes by certiorari.

157                   B. Each political subdivision or  
158 instrumentality as to which a plan has been approved under this  
159 section shall pay into the contribution fund, with respect to

160 wages (as defined in Section 25-11-5), at such time or times as  
161 the board of trustees may by regulation prescribe, contributions  
162 in the amounts and at the rates specified in the applicable  
163 agreement entered into by the board.

164 C. Every political subdivision or  
165 instrumentality required to make payments under paragraph (f)(5)B  
166 of this section is authorized, in consideration of the employees'  
167 retention in or entry upon employment after enactment of Articles  
168 1 and 3, to impose upon its employees, as to services that are  
169 covered by an approved plan, a contribution with respect to wages  
170 (as defined in Section 25-11-5) not exceeding the amount provided  
171 in Section 25-11-123(d) if those services constituted employment  
172 within the meaning of Articles 1 and 3, and to deduct the amount  
173 of the contribution from the wages as and when paid.

174 Contributions so collected shall be paid into the contribution  
175 fund as partial discharge of the liability of the political  
176 subdivisions or instrumentalities under paragraph (f)(5)B of this  
177 section. Failure to deduct the contribution shall not relieve the  
178 employee or employer of liability for the contribution.

179 D. Any state agency, school, political  
180 subdivision, instrumentality or any employer that is required to  
181 submit contribution payments or wage reports under any section of  
182 this chapter shall be assessed interest on delinquent payments or  
183 wage reports as determined by the board of trustees in accordance  
184 with rules and regulations adopted by the board and delinquent  
185 payments, assessed interest and any other amount certified by the  
186 board as owed by an employer, may be recovered by action in a  
187 court of competent jurisdiction against the reporting agency  
188 liable therefor or may, upon due certification of delinquency and  
189 at the request of the board of trustees, be deducted from any  
190 other monies payable to the reporting agency by any department or  
191 agency of the state.

192                   E. Each political subdivision of the state  
193 and each instrumentality of the state or a political subdivision  
194 or subdivisions that submit a plan for approval of the board, as  
195 provided in this section, shall reimburse the board for coverage  
196 into the expense account, its pro rata share of the total expense  
197 of administering Articles 1 and 3 as provided by regulations of  
198 the board.

199                   (g) The board may, in its discretion, deny the right of  
200 membership in this system to any class of employees whose  
201 compensation is only partly paid by the state or who are occupying  
202 positions on a part-time or intermittent basis. The board may, in  
203 its discretion, make optional with employees in any such classes  
204 their individual entrance into this system.

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

211                   (i) If any member of this system changes his employment  
212 to any agency of the state having an actuarially funded retirement  
213 system, the board of trustees may authorize the transfer of the  
214 member's creditable service and of the present value of the  
215 member's employer's accumulation account and of the present value  
216 of the member's accumulated membership contributions to that other  
217 system, provided that the employee agrees to the transfer of his  
218 accumulated membership contributions and provided that the other  
219 system is authorized to receive and agrees to make the transfer.

220                   If any member of any other actuarially funded system  
221 maintained by an agency of the state changes his employment to an  
222 agency covered by this system, the board of trustees may authorize  
223 the receipt of the transfer of the member's creditable service and  
224 of the present value of the member's employer's accumulation

225 account and of the present value of the member's accumulated  
226 membership contributions from the other system, provided that the  
227 employee agrees to the transfer of his accumulated membership  
228 contributions to this system and provided that the other system is  
229 authorized and agrees to make the transfer.

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

233 (k) Employees of a political subdivision or  
234 instrumentality who were employed by the political subdivision or  
235 instrumentality before an agreement between the entity and the  
236 Public Employees' Retirement System to extend the benefits of this  
237 article to its employees, and which agreement provides for the  
238 establishment of retroactive service credit, and who have been  
239 members of the retirement system and have remained contributors to  
240 the retirement system for four (4) years, may receive credit for  
241 that retroactive service with the political subdivision or  
242 instrumentality, provided that the employee and/or employer, as  
243 provided under the terms of the modification of the joinder  
244 agreement in allowing that coverage, pay into the retirement  
245 system the employer's and employee's contributions on wages paid  
246 the member during the previous employment, together with interest  
247 or actuarial cost as determined by the board covering the period  
248 from the date the service was rendered until the payment for the  
249 credit for the service was made. Those wages shall be verified by  
250 the Social Security Administration or employer payroll records.  
251 Effective July 1, 1998, upon eligibility as noted above, a member  
252 may receive credit for that retroactive service with the political  
253 subdivision or instrumentality provided:

254 (1) The member shall furnish proof satisfactory to  
255 the board of trustees of certification of those services from the  
256 political subdivision or instrumentality where the services were

257 rendered or verification by the Social Security Administration;  
258 and

259                   (2) The member shall pay to the retirement system  
260 on the date he or she is eligible for that credit or at any time  
261 thereafter before the date of retirement the actuarial cost for  
262 each year of that creditable service. The provisions of this  
263 subparagraph (2) shall be subject to the limitations of Section  
264 415 of the Internal Revenue Code and regulations promulgated under  
265 Section 415.

266           Nothing contained in this paragraph (k) shall be construed to  
267 limit the authority of the board to allow the correction of  
268 reporting errors or omissions based on the payment of employee and  
269 employer contributions plus applicable interest. Payment for that  
270 time shall be made in increments of not less than one-quarter  
271 (1/4) year of creditable service beginning with the most recent  
272 service. Upon the payment of all or part of the required  
273 contributions, plus interest or the actuarial cost as provided  
274 above, the member shall receive credit for the period of  
275 creditable service for which full payment has been made to the  
276 retirement system.

277           (1) Through June 30, 1998, any state service eligible  
278 for retroactive service credit, no part of which has ever been  
279 reported, and requiring the payment of employee and employer  
280 contributions plus interest, or, from and after July 1, 1998, any  
281 state service eligible for retroactive service credit, no part of  
282 which has ever been reported to the retirement system, and  
283 requiring the payment of the actuarial cost for that creditable  
284 service, may, at the member's option, be purchased in quarterly  
285 increments as provided above at the time that its purchase is  
286 otherwise allowed.

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

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

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

294                   (a) Patient or inmate help in state charitable, penal  
295 or correctional institutions;

296                   (b) Students of any state educational institution  
297 employed by any agency of the state for temporary, part-time or  
298 intermittent work;

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

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

306                   **III. TERMINATION OF MEMBERSHIP**

307           Membership in this system shall cease by a member withdrawing  
308 his accumulated contributions, or by a member withdrawing from  
309 active service with a retirement allowance, or by a member's  
310 death.

311           **SECTION 2.** This act shall take effect and be in force from  
312 and after its passage.