

By: Senator(s) Dearing

To: Finance

SENATE BILL NO. 2034

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.