

By: Senator(s) Butler

To: Finance

SENATE BILL NO. 2259

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 (l) "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, 2006.