

By: Senator(s) Lee (35th), Flowers, Doxey,  
Hewes, King, Kirby, Hyde-Smith, Simmons,  
Chaney, Wilemon, Ross, Morgan, Michel,  
Dearing

To: Finance

SENATE BILL NO. 2648

1 AN ACT TO CREATE NEW SECTION 25-11-126, MISSISSIPPI CODE OF  
2 1972, TO PROVIDE THAT RETIRED AGENTS OF THE MISSISSIPPI BUREAU OF  
3 NARCOTICS WHO RECEIVE A RETIREMENT ALLOWANCE FROM THE PUBLIC  
4 EMPLOYEES' RETIREMENT SYSTEM AND WHO ARE EMPLOYED AS LAW  
5 ENFORCEMENT OFFICERS IN ANOTHER AGENCY AFTER THEIR RETIREMENT, MAY  
6 RECEIVE A RETIREMENT ALLOWANCE DURING THEIR EMPLOYMENT AS LAW  
7 ENFORCEMENT OFFICERS IN ADDITION TO RECEIVING A SALARY AS A LAW  
8 ENFORCEMENT OFFICER; TO PROVIDE THAT THOSE PERSONS SHALL NOT BE  
9 CONTRIBUTING MEMBERS OF THE RETIREMENT SYSTEM NOR RECEIVE ANY  
10 CREDITABLE SERVICE FOR THE PERIOD DURING WHICH THEY RECEIVE A  
11 RETIREMENT ALLOWANCE DURING THEIR EMPLOYMENT AS LAW ENFORCEMENT  
12 OFFICERS; TO AMEND SECTIONS 25-11-103, 25-11-105 AND 25-11-127,  
13 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED  
14 PURPOSES.

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

16 **SECTION 1.** The following shall be codified as Section  
17 25-11-126, Mississippi Code of 1972:

18 25-11-126. (1) Any person who has completed twenty-five  
19 (25) or more years of creditable service and is receiving a  
20 retirement allowance under this article, who was employed as an  
21 agent with the Mississippi Bureau of Narcotics at the time of his  
22 retirement and who is employed as a law enforcement officer after  
23 his retirement with an agency other than the Mississippi Bureau of  
24 Narcotics, may choose to continue receiving the retirement  
25 allowance under this article during his employment as a law  
26 enforcement officer after his retirement in addition to receiving  
27 a salary for his employment as a law enforcement officer.

28 (2) Any person described in subsection (1) of this section  
29 shall notify the executive director of the retirement system,  
30 before being employed as a law enforcement officer after his  
31 retirement, about his choice on continuing to receive the  
32 retirement allowance during his employment as a law enforcement  
33 officer.

34           (3) Any person to whom this section applies who receives or  
35 continues to receive a retirement allowance under this article  
36 during his employment as a law enforcement officer shall not be a  
37 contributing member of the retirement system nor receive any  
38 creditable service for the period during which he receives a  
39 retirement allowance during his employment as a law enforcement  
40 officer; however, employer and employee contributions shall be  
41 made to the system as if he were a member of the system.

42           **SECTION 2.** Section 25-11-103, Mississippi Code of 1972, is  
43 amended as follows:

44           25-11-103. The following words and phrases as used in  
45 Articles 1 and 3, unless a different meaning is plainly required  
46 by the context, have the following meanings:

47           (a) "Accumulated contributions" means the sum of all  
48 the amounts deducted from the compensation of a member and  
49 credited to his individual account in the annuity savings account,  
50 together with regular interest as provided in Section 25-11-123.

51           (b) "Actuarial cost" means the amount of funds  
52 presently required to provide future benefits as determined by the  
53 board based on applicable tables and formulas provided by the  
54 actuary.

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

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

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

64           (f) "Average compensation" means the average of the  
65 four (4) highest years of earned compensation reported for an  
66 employee in a fiscal or calendar year period, or combination

67 thereof that do not overlap, or the last forty-eight (48)  
68 consecutive months of earned compensation reported for an  
69 employee. The four (4) years need not be successive or joined  
70 years of service. In no case shall the average compensation so  
71 determined be in excess of One Hundred Fifty Thousand Dollars  
72 (\$150,000.00). In computing the average compensation, any amount  
73 lawfully paid in a lump sum for personal leave or major medical  
74 leave shall be included in the calculation to the extent that the  
75 amount does not exceed an amount that is equal to thirty (30) days  
76 of earned compensation and to the extent that it does not cause  
77 the employees' earned compensation to exceed the maximum  
78 reportable amount specified in Section 25-11-103(k); however, this  
79 thirty-day limitation shall not prevent the inclusion in the  
80 calculation of leave earned under federal regulations before July  
81 1, 1976, and frozen as of that date as referred to in Section  
82 25-3-99. Only the amount of lump-sum pay for personal leave due  
83 and paid upon the death of a member attributable for up to one  
84 hundred fifty (150) days shall be used in the deceased member's  
85 average compensation calculation in determining the beneficiary's  
86 benefits. In computing the average compensation, no amounts shall  
87 be used that are in excess of the amount on which contributions  
88 were required and paid, and no nontaxable amounts paid by the  
89 employer for health or life insurance premiums for the employee  
90 shall be used. If any member who is or has been granted any  
91 increase in annual salary or compensation of more than eight  
92 percent (8%) retires within twenty-four (24) months from the date  
93 that the increase becomes effective, then the board shall exclude  
94 that part of the increase in salary or compensation that exceeds  
95 eight percent (8%) in calculating that member's average  
96 compensation for retirement purposes. The board may enforce this  
97 provision by rule or regulation. However, increases in  
98 compensation in excess of eight percent (8%) per year granted  
99 within twenty-four (24) months of the date of retirement may be

100 included in the calculation of average compensation if  
101 satisfactory proof is presented to the board showing that the  
102 increase in compensation was the result of an actual change in the  
103 position held or services rendered, or that the compensation  
104 increase was authorized by the State Personnel Board or was  
105 increased as a result of statutory enactment, and the employer  
106 furnishes an affidavit stating that the increase granted within  
107 the last twenty-four (24) months was not contingent on a promise  
108 or agreement of the employee to retire. Nothing in Section  
109 25-3-31 shall affect the calculation of the average compensation  
110 of any member for the purposes of this article. The average  
111 compensation of any member who retires before July 1, 1992, shall  
112 not exceed the annual salary of the Governor.

113 (g) "Beneficiary" means any person entitled to receive  
114 a retirement allowance, an annuity or other benefit as provided by  
115 Articles 1 and 3. The term "beneficiary" may also include an  
116 organization, estate, trust or entity; however, a beneficiary  
117 designated or entitled to receive monthly payments under an  
118 optional settlement based on life contingency or pursuant to a  
119 statutory monthly benefit may only be a natural person. In the  
120 event of the death before retirement of any member whose spouse  
121 and/or children are not entitled to a retirement allowance on the  
122 basis that the member has less than four (4) years of service  
123 credit and/or has not been married for a minimum of one (1) year  
124 or the spouse has waived his or her entitlement to a retirement  
125 allowance under Section 25-11-114, the lawful spouse of a member  
126 at the time of the death of the member shall be the beneficiary of  
127 the member unless the member has designated another beneficiary  
128 after the date of marriage in writing, and filed that writing in  
129 the office of the executive director of the board of trustees. No  
130 designation or change of beneficiary shall be made in any other  
131 manner.

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

135           (i) "Creditable service" means "prior service,"  
136 "retroactive service" and all lawfully credited unused leave not  
137 exceeding the accrual rates and limitations provided in Section  
138 25-3-91 et seq., as of the date of withdrawal from service plus  
139 "membership service" for which credit is allowable as provided in  
140 Section 25-11-109. Except to limit creditable service reported to  
141 the system for the purpose of computing an employee's retirement  
142 allowance or annuity or benefits provided in this article, nothing  
143 in this paragraph shall limit or otherwise restrict the power of  
144 the governing authority of a municipality or other political  
145 subdivision of the state to adopt such vacation and sick leave  
146 policies as it deems necessary.

147           (j) "Child" means either a natural child of the member,  
148 a child that has been made a child of the member by applicable  
149 court action before the death of the member, or a child under the  
150 permanent care of the member at the time of the latter's death,  
151 which permanent care status shall be determined by evidence  
152 satisfactory to the board.

153           (k) "Earned compensation" means the full amount earned  
154 by an employee for a given pay period including any maintenance  
155 furnished up to a maximum of One Hundred Fifty Thousand Dollars  
156 (\$150,000.00) per year, and proportionately for less than one (1)  
157 year of service. The value of that maintenance when not paid in  
158 money shall be fixed by the employing state agency, and, in case  
159 of doubt, by the board of trustees as defined in Section 25-11-15.  
160 Earned compensation shall not include any nontaxable amounts paid  
161 by the employer for health or life insurance premiums for an  
162 employee. In any case, earned compensation shall be limited to  
163 the regular periodic compensation paid, exclusive of litigation  
164 fees, bond fees, and other similar extraordinary nonrecurring

165 payments. In addition, any member in a covered position, as  
166 defined by Public Employees' Retirement System laws and  
167 regulations, who is also employed by another covered agency or  
168 political subdivision shall have the earnings of that additional  
169 employment reported to the Public Employees' Retirement System  
170 regardless of whether the additional employment is sufficient in  
171 itself to be a covered position. In addition, computation of  
172 earned compensation shall be governed by the following:

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

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

181 (iii) In the case of members of the State  
182 Legislature, all remuneration or amounts paid, except mileage  
183 allowance, shall apply.

184 (iv) The amount by which an eligible employee's  
185 salary is reduced under a salary reduction agreement authorized  
186 under Section 25-17-5 shall be included as earned compensation  
187 under this paragraph, provided this inclusion does not conflict  
188 with federal law, including federal regulations and federal  
189 administrative interpretations under the federal law, pertaining  
190 to the Federal Insurance Contributions Act or to Internal Revenue  
191 Code Section 125 cafeteria plans.

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

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

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

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

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

209                   (n) "Executive director" means the secretary to the  
210 board of trustees, as provided in Section 25-11-15(9), and the  
211 administrator of the Public Employees' Retirement System and all  
212 systems under the management of the board of trustees. Wherever  
213 the term "Executive Secretary of the Public Employees' Retirement  
214 System" or "executive secretary" appears in this article or in any  
215 other provision of law, it shall be construed to mean the  
216 Executive Director of the Public Employees' Retirement System.

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

219                   (p) "Medical board" means the board of physicians or  
220 any governmental or nongovernmental disability determination  
221 service designated by the board of trustees that is qualified to  
222 make disability determinations as provided for in Section  
223 25-11-119.

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

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

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

231 positions jointly employed by federal and state agencies  
232 administering federal and state funds. The employer shall  
233 determine upon initial employment and during the course of  
234 employment of an employee who does not meet the criteria for  
235 coverage in the Public Employees' Retirement System based on the  
236 position held, whether the employee is or becomes eligible for  
237 coverage in the Public Employees' Retirement System based upon any  
238 other employment in a covered agency or political subdivision. If  
239 or when the employee meets the eligibility criteria for coverage  
240 in the other position, then the employer must withhold  
241 contributions and report wages from the noncovered position in  
242 accordance with the provisions for reporting of earned  
243 compensation. Failure to deduct and report those contributions  
244 shall not relieve the employee or employer of liability thereof.  
245 The board shall adopt such rules and regulations as necessary to  
246 implement and enforce this provision.

247 (t) "Prior service" means service rendered before  
248 February 1, 1953, for which credit is allowable under Sections  
249 25-11-105 and 25-11-109, and which shall allow prior service for  
250 any person who is now or becomes a member of the Public Employees'  
251 Retirement System and who does contribute to the system for a  
252 minimum period of four (4) years.

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

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

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

266 (w) "Retroactive service" means service rendered after  
267 February 1, 1953, for which credit is allowable under Section  
268 25-11-105(b) and Section 25-11-105(k).

269 (x) "System" means the Public Employees' Retirement  
270 System of Mississippi established and described in Section  
271 25-11-101.

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

274 (z) "State service" means all offices and positions of  
275 trust or employment in the employ of the state, or any political  
276 subdivision or instrumentality of the state, that elect to  
277 participate as provided by Section 25-11-105(f), including the  
278 position of elected or fee officials of the counties and their  
279 deputies and employees performing public services or any  
280 department, independent agency, board or commission thereof, and  
281 also includes all offices and positions of trust or employment in  
282 the employ of joint state and federal agencies administering state  
283 and federal funds and service rendered by employees of the public  
284 schools. Effective July 1, 1973, all nonprofessional public  
285 school employees, such as bus drivers, janitors, maids,  
286 maintenance workers and cafeteria employees, shall have the option  
287 to become members in accordance with Section 25-11-105(b), and  
288 shall be eligible to receive credit for services before July 1,  
289 1973, provided that the contributions and interest are paid by the  
290 employee in accordance with that section; in addition, the county  
291 or municipal separate school district may pay the employer  
292 contribution and pro rata share of interest of the retroactive  
293 service from available funds. From and after July 1, 1998,  
294 retroactive service credit shall be purchased at the actuarial  
295 cost in accordance with Section 25-11-105(b).

296 (aa) "Withdrawal from service" or "termination from  
297 service" means complete severance of employment in the state  
298 service of any member by resignation, dismissal or discharge;  
299 except in the case of persons who become eligible to receive a  
300 retirement allowance under this article and who choose to receive  
301 the retirement allowance during their employment as law  
302 enforcement officers as authorized by Section 25-11-126.

303 (bb) The masculine pronoun, wherever used, includes the  
304 feminine pronoun.

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

307 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

308 The membership of this retirement system shall be composed as  
309 follows:

310 (a) (i) All persons who become employees in the state  
311 service after January 31, 1953, and whose wages are subject to  
312 payroll taxes and are lawfully reported on IRS Form W-2, except  
313 those persons who are specifically excluded, those persons as to  
314 whom election is provided in Articles 1 and 3, or those persons  
315 who choose to receive or continue receiving a retirement allowance  
316 during their employment as law enforcement officers as authorized  
317 by Section 25-11-126, shall become members of the retirement  
318 system as a condition of their employment.

319 (ii) From and after July 1, 2002, any individual  
320 who is employed by a governmental entity to perform professional  
321 services shall become a member of the system if the individual is  
322 paid regular periodic compensation for those services that is  
323 subject to payroll taxes, is provided all other employee benefits  
324 and meets the membership criteria established by the regulations  
325 adopted by the board of trustees that apply to all other members  
326 of the system; however, any active member employed in such a  
327 position on July 1, 2002, will continue to be an active member for  
328 as long as they are employed in any such position.

329           (b) All persons who become employees in the state  
330 service after January 31, 1953, except those specifically excluded  
331 or as to whom election is provided in Articles 1 and 3, unless  
332 they file with the board before the lapse of sixty (60) days of  
333 employment or sixty (60) days after the effective date of the  
334 cited articles, whichever is later, on a form prescribed by the  
335 board, a notice of election not to be covered by the membership of  
336 the retirement system and a duly executed waiver of all present  
337 and prospective benefits that would otherwise inure to them on  
338 account of their participation in the system, shall become members  
339 of the retirement system; however, no credit for prior service  
340 will be granted to members until they have contributed to Article  
341 3 of the retirement system for a minimum period of at least four  
342 (4) years. Those members shall receive credit for services  
343 performed before January 1, 1953, in employment now covered by  
344 Article 3, but no credit shall be granted for retroactive services  
345 between January 1, 1953, and the date of their entry into the  
346 retirement system, unless the employee pays into the retirement  
347 system both the employer's and the employee's contributions on  
348 wages paid him during the period from January 31, 1953, to the  
349 date of his becoming a contributing member, together with interest  
350 at the rate determined by the board of trustees. Members  
351 reentering after withdrawal from service shall qualify for prior  
352 service under the provisions of Section 25-11-117. From and after  
353 July 1, 1998, upon eligibility as noted above, the member may  
354 receive credit for such retroactive service provided:

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

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

362 subparagraph (2) shall be subject to the limitations of Section  
363 415 of the Internal Revenue Code and regulations promulgated under  
364 Section 415.

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

369       (c) All persons who become employees in the state  
370 service after January 31, 1953, and who are eligible for  
371 membership in any other retirement system shall become members of  
372 this retirement system as a condition of their employment, unless  
373 they elect at the time of their employment to become a member of  
374 that other system.

375       (d) All persons who are employees in the state service  
376 on January 31, 1953, and who are members of any nonfunded  
377 retirement system operated by the State of Mississippi, or any of  
378 its departments or agencies, shall become members of this system  
379 with prior service credit unless, before February 1, 1953, they  
380 file a written notice with the board of trustees that they do not  
381 elect to become members.

382       (e) All persons who are employees in the state service  
383 on January 31, 1953, and who under existing laws are members of  
384 any fund operated for the retirement of employees by the State of  
385 Mississippi, or any of its departments or agencies, shall not be  
386 entitled to membership in this retirement system unless, before  
387 February 1, 1953, any such person indicates by a notice filed with  
388 the board, on a form prescribed by the board, his individual  
389 election and choice to participate in this system, but no such  
390 person shall receive prior service credit unless he becomes a  
391 member on or before February 1, 1953.

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

395 plan for extending the benefits of this article to employees of  
396 any such political subdivision or instrumentality. Each such plan  
397 or any amendment to the plan for extending benefits thereof shall  
398 be approved by the board of trustees if it finds that the plan, or  
399 the plan as amended, is in conformity with such requirements as  
400 are provided in Articles 1 and 3; however, upon approval of the  
401 plan or any such plan previously approved by the board of  
402 trustees, the approved plan shall not be subject to cancellation  
403 or termination by the political subdivision or instrumentality,  
404 except that any community hospital serving a municipality that  
405 joined the Public Employees' Retirement System as of November 1,  
406 1956, to offer social security coverage for its employees and  
407 subsequently extended retirement annuity coverage to its employees  
408 as of December 1, 1965, may, upon documentation of extreme  
409 financial hardship, have future retirement annuity coverage  
410 cancelled or terminated at the discretion of the board of  
411 trustees. No such plan shall be approved unless:

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

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

424 (3) It provides for such methods of administration  
425 of the plan by the political subdivision or instrumentality as are  
426 found by the board of trustees to be necessary for the proper and  
427 efficient administration thereof;

428                   (4) It provides that the political subdivision or  
429 instrumentality will make such reports, in such form and  
430 containing such information, as the board of trustees may from  
431 time to time require;

432                   (5) It authorizes the board of trustees to  
433 terminate the plan in its entirety in the discretion of the board  
434 if it finds that there has been a failure to comply substantially  
435 with any provision contained in the plan, the termination to take  
436 effect at the expiration of such notice and on such conditions as  
437 may be provided by regulations of the board and as may be  
438 consistent with applicable federal law.

439                   A. The board of trustees shall not finally  
440 refuse to approve a plan submitted under paragraph (f), and shall  
441 not terminate an approved plan without reasonable notice and  
442 opportunity for hearing to each political subdivision or  
443 instrumentality affected by the board's decision. The board's  
444 decision in any such case shall be final, conclusive and binding  
445 unless an appeal is taken by the political subdivision or  
446 instrumentality aggrieved by the decision to the Circuit Court of  
447 Hinds County, Mississippi, in accordance with the provisions of  
448 law with respect to civil causes by certiorari.

449                   B. Each political subdivision or  
450 instrumentality as to which a plan has been approved under this  
451 section shall pay into the contribution fund, with respect to  
452 wages (as defined in Section 25-11-5), at such time or times as  
453 the board of trustees may by regulation prescribe, contributions  
454 in the amounts and at the rates specified in the applicable  
455 agreement entered into by the board.

456                   C. Every political subdivision or  
457 instrumentality required to make payments under paragraph (f)(5)B  
458 of this section is authorized, in consideration of the employees'  
459 retention in or entry upon employment after enactment of Articles  
460 1 and 3, to impose upon its employees, as to services that are

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

466 Contributions so collected shall be paid into the contribution  
467 fund as partial discharge of the liability of the political  
468 subdivisions or instrumentalities under paragraph (f)(5)B of this  
469 section. Failure to deduct the contribution shall not relieve the  
470 employee or employer of liability for the contribution.

471 D. Any state agency, school, political  
472 subdivision, instrumentality or any employer that is required to  
473 submit contribution payments or wage reports under any section of  
474 this chapter shall be assessed interest on delinquent payments or  
475 wage reports as determined by the board of trustees in accordance  
476 with rules and regulations adopted by the board and delinquent  
477 payments, assessed interest and any other amount certified by the  
478 board as owed by an employer, may be recovered by action in a  
479 court of competent jurisdiction against the reporting agency  
480 liable therefor or may, upon due certification of delinquency and  
481 at the request of the board of trustees, be deducted from any  
482 other monies payable to the reporting agency by any department or  
483 agency of the state.

484 E. Each political subdivision of the state  
485 and each instrumentality of the state or a political subdivision  
486 or subdivisions that submit a plan for approval of the board, as  
487 provided in this section, shall reimburse the board for coverage  
488 into the expense account, its pro rata share of the total expense  
489 of administering Articles 1 and 3 as provided by regulations of  
490 the board.

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

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

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

503 (i) If any member of this system changes his employment  
504 to any agency of the state having an actuarially funded retirement  
505 system, the board of trustees may authorize the transfer of the  
506 member's creditable service and of the present value of the  
507 member's employer's accumulation account and of the present value  
508 of the member's accumulated membership contributions to that other  
509 system, provided that the employee agrees to the transfer of his  
510 accumulated membership contributions and provided that the other  
511 system is authorized to receive and agrees to make the transfer.

512 If any member of any other actuarially funded system  
513 maintained by an agency of the state changes his employment to an  
514 agency covered by this system, the board of trustees may authorize  
515 the receipt of the transfer of the member's creditable service and  
516 of the present value of the member's employer's accumulation  
517 account and of the present value of the member's accumulated  
518 membership contributions from the other system, provided that the  
519 employee agrees to the transfer of his accumulated membership  
520 contributions to this system and provided that the other system is  
521 authorized and agrees to make the transfer.

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

525 (k) Employees of a political subdivision or  
526 instrumentality who were employed by the political subdivision or

527 instrumentality before an agreement between the entity and the  
528 Public Employees' Retirement System to extend the benefits of this  
529 article to its employees, and which agreement provides for the  
530 establishment of retroactive service credit, and who have been  
531 members of the retirement system and have remained contributors to  
532 the retirement system for four (4) years, may receive credit for  
533 that retroactive service with the political subdivision or  
534 instrumentality, provided that the employee and/or employer, as  
535 provided under the terms of the modification of the joinder  
536 agreement in allowing that coverage, pay into the retirement  
537 system the employer's and employee's contributions on wages paid  
538 the member during the previous employment, together with interest  
539 or actuarial cost as determined by the board covering the period  
540 from the date the service was rendered until the payment for the  
541 credit for the service was made. Those wages shall be verified by  
542 the Social Security Administration or employer payroll records.  
543 Effective July 1, 1998, upon eligibility as noted above, a member  
544 may receive credit for that retroactive service with the political  
545 subdivision or instrumentality provided:

546                   (1) The member shall furnish proof satisfactory to  
547 the board of trustees of certification of those services from the  
548 political subdivision or instrumentality where the services were  
549 rendered or verification by the Social Security Administration;  
550 and

551                   (2) The member shall pay to the retirement system  
552 on the date he or she is eligible for that credit or at any time  
553 thereafter before the date of retirement the actuarial cost for  
554 each year of that creditable service. The provisions of this  
555 subparagraph (2) shall be subject to the limitations of Section  
556 415 of the Internal Revenue Code and regulations promulgated under  
557 Section 415.

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

560 reporting errors or omissions based on the payment of employee and  
561 employer contributions plus applicable interest. Payment for that  
562 time shall be made in increments of not less than one-quarter  
563 (1/4) year of creditable service beginning with the most recent  
564 service. Upon the payment of all or part of the required  
565 contributions, plus interest or the actuarial cost as provided  
566 above, the member shall receive credit for the period of  
567 creditable service for which full payment has been made to the  
568 retirement system.

569 (1) Through June 30, 1998, any state service eligible  
570 for retroactive service credit, no part of which has ever been  
571 reported, and requiring the payment of employee and employer  
572 contributions plus interest, or, from and after July 1, 1998, any  
573 state service eligible for retroactive service credit, no part of  
574 which has ever been reported to the retirement system, and  
575 requiring the payment of the actuarial cost for that creditable  
576 service, may, at the member's option, be purchased in quarterly  
577 increments as provided above at the time that its purchase is  
578 otherwise allowed.

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

## 582 **II. THOSE WHO ARE NOT ELIGIBLE FOR MEMBERSHIP**

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

586 (a) Patient or inmate help in state charitable, penal  
587 or correctional institutions;

588 (b) Students of any state educational institution  
589 employed by any agency of the state for temporary, part-time or  
590 intermittent work;

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

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

598 **III. TERMINATION OF MEMBERSHIP**

599 Membership in this system shall cease by a member withdrawing  
600 his accumulated contributions, or by a member withdrawing from  
601 active service with a retirement allowance, or by a member's  
602 death.

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

605 25-11-127. (1) (a) No person who is being paid a  
606 retirement allowance or a pension after retirement under this  
607 article shall be employed or paid for any service by the State of  
608 Mississippi, except as provided in this section or in Section  
609 25-11-126.

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

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

617 (2) Except as otherwise provided in Section 25-11-126, any  
618 person who has been retired under the provisions of Article 3 and  
619 who is later reemployed in service covered by this article shall  
620 cease to receive benefits under this article and shall again  
621 become a contributing member of the retirement system. When the  
622 person retires again, if the person is a contributing member of  
623 the retirement system during his reemployment and the reemployment

624 exceeds six (6) months, the person shall have his or her benefit  
625 recomputed, including service after again becoming a member,  
626 provided that the total retirement allowance paid to the retired  
627 member in his or her previous retirement shall be deducted from  
628 the member's retirement reserve and taken into consideration in  
629 recalculating the retirement allowance under a new option  
630 selected.

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

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

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

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

644 To determine the normal working days for a position under  
645 paragraph (a) of this subsection, the employer shall determine the  
646 required number of working days for the position on a full-time  
647 basis and the equivalent number of hours representing the  
648 full-time position. The retiree then may work up to one-half  
649 (1/2) of the required number of working days or up to one-half  
650 (1/2) of the equivalent number of hours and receive up to one-half  
651 (1/2) of the salary for the position. In the case of employment  
652 with multiple employers, the limitation shall equal one-half (1/2)  
653 of the number of days or hours for a single full-time position.

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

657 of employment and also from the date of termination of the  
658 employment.

659 (5) Any member may continue in municipal or county elected  
660 office or be elected to a municipal or county office, provided  
661 that the person:

662 (a) Files annually, in writing, in the office of the  
663 employer and the office of the executive director of the system  
664 before the person takes office or as soon as possible after  
665 retirement, a waiver of all salary or compensation and elects to  
666 receive in lieu of that salary or compensation a retirement  
667 allowance as provided in this section, in which event no salary or  
668 compensation shall thereafter be due or payable for those  
669 services; however, any such officer or employee may receive, in  
670 addition to the retirement allowance, office expense allowance,  
671 mileage or travel expense authorized by any statute of the State  
672 of Mississippi; or

673 (b) Elects to receive compensation for that elective  
674 office in an amount not to exceed twenty-five percent (25%) of the  
675 retiree's average compensation. As used in this paragraph, the  
676 term "compensation" shall not include office expense allowance,  
677 mileage or travel expense authorized by a statute of the State of  
678 Mississippi. In order to receive compensation as allowed in this  
679 paragraph, the member shall file annually, in writing, in the  
680 office of the employer and the office of the executive director of  
681 the system, an election to receive, in addition to a retirement  
682 allowance, compensation as allowed in this paragraph.

683 **SECTION 5.** This act shall take effect and be in force from  
684 and after July 1, 2006.