

By: Representative Cockerham

To: Appropriations

HOUSE BILL NO. 1310

1 AN ACT TO AMEND SECTION 25-11-105, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE CERTAIN COMMUNITY HOSPITALS TO HAVE FUTURE RETIREMENT
3 ANNUITY COVERAGE UNDER THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM
4 RESTRICTED TO THOSE HOSPITAL EMPLOYEES WHO BECAME MEMBERS OF THE
5 SYSTEM BEFORE JULY 1, 2007; 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 (i) 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 (ii) 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 (ii) 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 1966, shall, upon documentation of extreme financial hardship,
113 have future retirement annuity coverage restricted to those
114 hospital employees who joined the system and became members of the
115 system before July 1, 2007.

116 No * * * plan shall be approved under this paragraph unless:

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

124 (ii) It specifies the source or sources from which
125 the funds necessary to make the payments required by paragraph (d)
126 of Section 25-11-123 and of paragraph (f)(v)2 and 3 of this

127 section are expected to be derived and contains reasonable
128 assurance that those sources will be adequate for that purpose;

129 (iii) It provides for such methods of
130 administration of the plan by the political subdivision or
131 instrumentality as are found by the board of trustees to be
132 necessary for the proper and efficient administration thereof;

133 (iv) It provides that the political subdivision or
134 instrumentality will make such reports, in such form and
135 containing such information, as the board of trustees may from
136 time to time require;

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

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

154 2. Each political subdivision or
155 instrumentality as to which a plan has been approved under this
156 section shall pay into the contribution fund, with respect to
157 wages (as defined in Section 25-11-5), at such time or times as
158 the board of trustees may by regulation prescribe, contributions

159 in the amounts and at the rates specified in the applicable
160 agreement entered into by the board.

161 3. Every political subdivision or
162 instrumentality required to make payments under paragraph (f)(v)2
163 of this section is authorized, in consideration of the employees'
164 retention in or entry upon employment after enactment of Articles
165 1 and 3, to impose upon its employees, as to services that are
166 covered by an approved plan, a contribution with respect to wages
167 (as defined in Section 25-11-5) not exceeding the amount provided
168 in Section 25-11-123(d) if those services constituted employment
169 within the meaning of Articles 1 and 3, and to deduct the amount
170 of the contribution from the wages as and when paid.

171 Contributions so collected shall be paid into the contribution
172 fund as partial discharge of the liability of the political
173 subdivisions or instrumentalities under paragraph (f)(v)2 of this
174 section. Failure to deduct the contribution shall not relieve the
175 employee or employer of liability for the contribution.

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

189 5. Each political subdivision of the state
190 and each instrumentality of the state or a political subdivision
191 or subdivisions that submit a plan for approval of the board, as

192 provided in this section, shall reimburse the board for coverage
193 into the expense account, its pro rata share of the total expense
194 of administering Articles 1 and 3 as provided by regulations of
195 the board.

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

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

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

217 If any member of any other actuarially funded system
218 maintained by an agency of the state changes his employment to an
219 agency covered by this system, the board of trustees may authorize
220 the receipt of the transfer of the member's creditable service and
221 of the present value of the member's employer's accumulation
222 account and of the present value of the member's accumulated
223 membership contributions from the other system, provided that the
224 employee agrees to the transfer of his accumulated membership

225 contributions to this system and provided that the other system is
226 authorized and agrees to make the transfer.

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

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

251 (i) The member shall furnish proof satisfactory to
252 the board of trustees of certification of those services from the
253 political subdivision or instrumentality where the services were
254 rendered or verification by the Social Security Administration;
255 and

256 (ii) The member shall pay to the retirement system
257 on the date he or she is eligible for that credit or at any time

258 thereafter before the date of retirement the actuarial cost for
259 each year of that creditable service. The provisions of this
260 subparagraph (ii) shall be subject to the limitations of Section
261 415 of the Internal Revenue Code and regulations promulgated under
262 Section 415.

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

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

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

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

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

291 (a) Patient or inmate help in state charitable, penal
292 or correctional institutions;

293 (b) Students of any state educational institution
294 employed by any agency of the state for temporary, part-time or
295 intermittent work;

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

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

303 **III. TERMINATION OF MEMBERSHIP**

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

308 **SECTION 2.** This act shall take effect and be in force from
309 and after July 1, 2007.