

By: Representative Snowden

To: Appropriations

HOUSE BILL NO. 1133

1 AN ACT TO AMEND SECTION 25-11-103, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT FOR PURPOSES OF THE PUBLIC EMPLOYEES' RETIREMENT
3 SYSTEM, THE TERM "EARNED COMPENSATION" FOR JUSTICES OF THE SUPREME
4 COURT AND JUDGES OF THE COURT OF APPEALS SHALL INCLUDE ALL
5 REMUNERATION AMOUNTS PAID, EXCEPT MILEAGE; TO AMEND SECTION
6 25-3-35, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO
7 AUTHORIZE JUSTICES OF THE SUPREME COURT AND JUDGES OF THE COURT OF
8 APPEALS TO CLAIM AS EARNED COMPENSATION THE EXPENSE ALLOWANCES
9 PAID TO THEM FROM AND AFTER DECEMBER 31, 2003, THAT WERE NOT
10 REPORTED AS A PART OF THEIR EARNED COMPENSATION TO THE PUBLIC
11 EMPLOYEES' RETIREMENT SYSTEM UNDER CERTAIN CONDITIONS; AND FOR
12 RELATED PURPOSES.

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

14 **SECTION 1.** Section 25-11-103, Mississippi Code of 1972, is
15 amended as follows:

16 25-11-103. The following words and phrases as used in
17 Articles 1 and 3, unless a different meaning is plainly required
18 by the context, have the following meanings:

19 (a) "Accumulated contributions" means the sum of all
20 the amounts deducted from the compensation of a member and
21 credited to his or her individual account in the annuity savings
22 account, together with regular interest as provided in Section
23 25-11-123.



24 (b) "Actuarial cost" means the amount of funds
25 presently required to provide future benefits as determined by the
26 board based on applicable tables and formulas provided by the
27 actuary.

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

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

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

37 (f) "Average compensation" means the average of the
38 four (4) highest years of earned compensation reported for an
39 employee in a fiscal or calendar year period, or combination
40 thereof that do not overlap, or the last forty-eight (48)
41 consecutive months of earned compensation reported for an
42 employee. The four (4) years need not be successive or joined
43 years of service. In computing the average compensation for
44 retirement, disability or survivor benefits, any amount lawfully
45 paid in a lump sum for personal leave or major medical leave shall
46 be included in the calculation to the extent that the amount does
47 not exceed an amount that is equal to thirty (30) days of earned
48 compensation and to the extent that it does not cause the



49 employee's earned compensation to exceed the maximum reportable
50 amount specified in paragraph (k) of this section; however, this
51 thirty-day limitation shall not prevent the inclusion in the
52 calculation of leave earned under federal regulations before July
53 1, 1976, and frozen as of that date as referred to in Section
54 25-3-99. In computing the average compensation, no amounts shall
55 be used that are in excess of the amount on which contributions
56 were required and paid, and no nontaxable amounts paid by the
57 employer for health or life insurance premiums for the employee
58 shall be used. If any member who is or has been granted any
59 increase in annual salary or compensation of more than eight
60 percent (8%) retires within twenty-four (24) months from the date
61 that the increase becomes effective, then the board shall exclude
62 that part of the increase in salary or compensation that exceeds
63 eight percent (8%) in calculating that member's average
64 compensation for retirement purposes. The board may enforce this
65 provision by rule or regulation. However, increases in
66 compensation in excess of eight percent (8%) per year granted
67 within twenty-four (24) months of the date of retirement may be
68 included in the calculation of average compensation if
69 satisfactory proof is presented to the board showing that the
70 increase in compensation was the result of an actual change in the
71 position held or services rendered, or that the compensation
72 increase was authorized by the State Personnel Board or was
73 increased as a result of statutory enactment, and the employer



furnishes an affidavit stating that the increase granted within the last twenty-four (24) months was not contingent on a promise or agreement of the employee to retire. Nothing in Section 25-3-31 shall affect the calculation of the average compensation of any member for the purposes of this article. The average compensation of any member who retires before July 1, 1992, shall not exceed the annual salary of the Governor.

(g) "Beneficiary" means any person entitled to receive a retirement allowance, an annuity or other benefit as provided by Articles 1 and 3. The term "beneficiary" may also include an organization, estate, trust or entity; however, a beneficiary designated or entitled to receive monthly payments under an optional settlement based on life contingency or under a statutory monthly benefit may only be a natural person. In the event of the death before retirement of any member who became a member of the system before July 1, 2007, and whose spouse and/or children are not entitled to a retirement allowance on the basis that the member has less than four (4) years of service credit, or who became a member of the system on or after July 1, 2007, and whose spouse and/or children are not entitled to a retirement allowance on the basis that the member has less than eight (8) years of service credit, and/or has not been married for a minimum of one (1) year or the spouse has waived his or her entitlement to a retirement allowance under Section 25-11-114, the lawful spouse of a member at the time of the death of the member shall be the



99 beneficiary of the member unless the member has designated another
100 beneficiary after the date of marriage in writing, and filed that
101 writing in the office of the executive director of the board of
102 trustees. No designation or change of beneficiary shall be made
103 in any other manner.

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

107 (i) "Creditable service" means "prior service,"
108 "retroactive service" and all lawfully credited unused leave not
109 exceeding the accrual rates and limitations provided in Section
110 25-3-91 et seq., as of the date of withdrawal from service plus
111 "membership service" and other service for which credit is
112 allowable as provided in Section 25-11-109. Except to limit
113 creditable service reported to the system for the purpose of
114 computing an employee's retirement allowance or annuity or
115 benefits provided in this article, nothing in this paragraph shall
116 limit or otherwise restrict the power of the governing authority
117 of a municipality or other political subdivision of the state to
118 adopt such vacation and sick leave policies as it deems necessary.

119 (j) "Child" means either a natural child of the member,
120 a child that has been made a child of the member by applicable
121 court action before the death of the member, or a child under the
122 permanent care of the member at the time of the latter's death,



which permanent care status shall be determined by evidence
satisfactory to the board.

(k) "Earned compensation" means the full amount earned
during a fiscal year by an employee including any maintenance
furnished not to exceed the employee compensation limit set
pursuant to Section 401(a)(17) of the Internal Revenue Code for
the calendar year in which the fiscal year begins and
proportionately for less than one (1) year of service. The value
of that maintenance when not paid in money shall be fixed by the
employing state agency, and, in case of doubt, by the board of
trustees as defined in Section 25-11-15. Earned compensation
shall not include any nontaxable amounts paid by the employer for
health or life insurance premiums for an employee. In any case,
earned compensation shall be limited to the regular periodic
compensation paid, exclusive of litigation fees, bond fees, and
other similar extraordinary nonrecurring payments. In addition,
any member in a covered position, as defined by Public Employees'
Retirement System laws and regulations, who is also employed by
another covered agency or political subdivision shall have the
earnings of that additional employment reported to the Public
Employees' Retirement System regardless of whether the additional
employment is sufficient in itself to be a covered position. In
addition, computation of earned compensation shall be governed by
the following:



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

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

(iii) In the case of members of the State Legislature, Justices of the Supreme Court and Judges of the Court of Appeals, all remuneration or amounts paid, except mileage allowance, shall apply.

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

(v) Compensation in addition to an employee's base salary that is paid to the employee under the vacation and sick leave policies of a municipality or other political subdivision of the state that employs him or her that exceeds the maximums



171 authorized by Section 25-3-91 et seq. shall be excluded from the
172 calculation of earned compensation under this article.

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

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

178 (l) "Employee" means any person legally occupying a
179 position in the state service, and shall include the employees of
180 the retirement system created under this article.

181 (m) "Employer" means the State of Mississippi or any of
182 its departments, agencies or subdivisions from which any employee
183 receives his or her compensation.

184 (n) "Executive director" means the secretary to the
185 board of trustees, as provided in Section 25-11-15(9), and the
186 administrator of the Public Employees' Retirement System and all
187 systems under the management of the board of trustees. Wherever
188 the term "Executive Secretary of the Public Employees' Retirement
189 System" or "executive secretary" appears in this article or in any
190 other provision of law, it shall be construed to mean the
191 Executive Director of the Public Employees' Retirement System.

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

194 (p) "Medical board" means the board of physicians or
195 any governmental or nongovernmental disability determination



196 service designated by the board of trustees that is qualified to
197 make disability determinations as provided for in Section
198 25-11-119.

199 (q) "Member" means any person included in the
200 membership of the system as provided in Section 25-11-105. For
201 purposes of Sections 25-11-103, 25-11-105, 25-11-109, 25-11-111,
202 25-11-113, 25-11-114, 25-11-115 and 25-11-117, if a member of the
203 system withdrew from state service and received a refund of the
204 amount of the accumulated contributions to the credit of the
205 member in the annuity savings account before July 1, 2007, and the
206 person reenters state service and becomes a member of the system
207 again on or after July 1, 2007, and repays all or part of the
208 amount received as a refund and interest in order to receive
209 creditable service for service rendered before July 1, 2007, the
210 member shall be considered to have become a member of the system
211 on or after July 1, 2007, subject to the eight-year membership
212 service requirement, as applicable in those sections. For
213 purposes of Sections 25-11-103, 25-11-111, 25-11-114 and
214 25-11-115, if a member of the system withdrew from state service
215 and received a refund of the amount of the accumulated
216 contributions to the credit of the member in the annuity savings
217 account before July 1, 2011, and the person reenters state service
218 and becomes a member of the system again on or after July 1, 2011,
219 and repays all or part of the amount received as a refund and
220 interest in order to receive creditable service for service



rendered before July 1, 2011, the member shall be considered to have become a member of the system on or after July 1, 2011.

(r) "Membership service" means service as an employee in a covered position rendered while a contributing member of the retirement system.

(s) "Position" means any office or any employment in the state service, or two (2) or more of them, the duties of which call for services to be rendered by one (1) person, including positions jointly employed by federal and state agencies administering federal and state funds. The employer shall determine upon initial employment and during the course of employment of an employee who does not meet the criteria for coverage in the Public Employees' Retirement System based on the position held, whether the employee is or becomes eligible for coverage in the Public Employees' Retirement System based upon any other employment in a covered agency or political subdivision. If or when the employee meets the eligibility criteria for coverage in the other position, then the employer must withhold contributions and report wages from the noncovered position in accordance with the provisions for reporting of earned compensation. Failure to deduct and report those contributions shall not relieve the employee or employer of liability thereof. The board shall adopt such rules and regulations as necessary to implement and enforce this provision.

(t) "Prior service" means:



(i) For persons who became members of the system before July 1, 2007, service rendered before February 1, 1953, for which credit is allowable under Sections 25-11-105 and 25-11-109, and which shall allow prior service for any person who is now or becomes a member of the Public Employees' Retirement System and who does contribute to the system for a minimum period of four (4) years.

(ii) For persons who became members of the system on or after July 1, 2007, service rendered before February 1, 1953, for which credit is allowable under Sections 25-11-105 and 25-11-109, and which shall allow prior service for any person who is now or becomes a member of the Public Employees' Retirement System and who does contribute to the system for a minimum period of eight (8) years.

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

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



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

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

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

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

(z) "State service" means all offices and positions of trust or employment in the employ of the state, or any political subdivision or instrumentality of the state, that elect to participate as provided by Section 25-11-105(f), including the position of elected or fee officials of the counties and their deputies and employees performing public services or any department, independent agency, board or commission thereof, and also includes all offices and positions of trust or employment in the employ of joint state and federal agencies administering state and federal funds and service rendered by employees of the public schools. Effective July 1, 1973, all nonprofessional public school employees, such as bus drivers, janitors, maids, maintenance workers and cafeteria employees, shall have the option to become members in accordance with Section 25-11-105(b), and



shall be eligible to receive credit for services before July 1, 1973, provided that the contributions and interest are paid by the employee in accordance with that section; in addition, the county or municipal separate school district may pay the employer contribution and pro rata share of interest of the retroactive service from available funds. From and after July 1, 1998, retroactive service credit shall be purchased at the actuarial cost in accordance with Section 25-11-105(b).

(aa) "Withdrawal from service" or "termination from service" means complete severance of employment in the state service of any member by resignation, dismissal or discharge.

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

SECTION 2. Section 25-3-35, Mississippi Code of 1972, is amended as follows:

25-3-35. (1) The annual salaries of the following judges are fixed as follows:

From and after January 1, 2013, through December 31, 2013:

Chief Justice of the Supreme Court.....\$126,292.50

Presiding Justices of the Supreme Court, each..... 123,600.75

Associate Justices of the Supreme Court, each..... 122,460.00

From and after January 1, 2014, through December 31, 2014:

Chief Justice of the Supreme Court.....\$137,195.00

Presiding Justices of the Supreme Court, each..... 134,011.50

Associate Justices of the Supreme Court, each..... 132,390.00



From and after January 1, 2015, through December 31, 2015:

Chief Justice of the Supreme Court.....\$148,097.50
Presiding Justices of the Supreme Court, each..... 144,422.25
Associate Justices of the Supreme Court, each..... 142,320.00

From and after January 1, 2016:

Chief Justice of the Supreme Court.....\$159,000.00
Presiding Justices of the Supreme Court, each..... 154,833.00
Associate Justices of the Supreme Court, each..... 152,250.00

There are imposed upon the Supreme Court justices the extra duties of taking all necessary action to promote judicial education in schools, drug courts, electronic filing and case management systems as developed by the Administrative Office of Courts, or such other additional duties as may be assigned by the Chief Justice of the Supreme Court. For such extra services each justice, from and after January 1, 2013, shall receive a sum sufficient to aggregate, per annum, the salaries set forth in this subsection (1).

The fixed salaries in this subsection (1) shall be paid from the State General Fund and from the Judicial System Operation Fund created under Section 9-21-45. No less than: One Hundred Fifteen Thousand Three Hundred Ninety Dollars (\$115,390.00) of the Chief Justice's salary in this subsection (1), One Hundred Thirteen Thousand One Hundred Ninety Dollars (\$113,190.00) of the salary of a presiding justice in this subsection (1), and One Hundred Twelve Thousand Five Hundred Thirty Dollars (\$112,530.00) of the salary



of an associate justice in this subsection (1) shall be paid from general fund monies; in addition, the Legislature shall appropriate annually from the Judicial System Operation Fund a sum sufficient to increase the salary of the Chief Justice, a presiding justice and an associate justice to the levels set forth in this subsection (1).

* * *

(2) The annual salaries of the judges of the Court of Appeals of Mississippi are fixed as follows:

From and after January 1, 2013, through December 31, 2013:

Chief Judge of the Court of Appeals.....\$117,992.00

Associate Judges of the Court of Appeals, each.... 114,994.25

From and after January 1, 2014, through December 31, 2014:

Chief Judge of the Court of Appeals.....\$127,854.00

Associate Judges of the Court of Appeals, each.... 124,938.50

From and after January 1, 2015, through December 31, 2015:

Chief Judge of the Court of Appeals.....\$137,716.00

Associate Judges of the Court of Appeals, each.... 134,882.75

From and after January 1, 2016:

Chief Judge of the Court of Appeals.....\$147,578.00

Associate Judges of the Court of Appeals, each.... 144,827.00

From and after January 1, 2013, each judge shall receive a sum sufficient to aggregate, per annum, the salaries set forth in this subsection (2).



370 The fixed salaries in this subsection (2) shall be paid from
371 the State General Fund and from the Judicial System Operation Fund
372 created under Section 9-21-45. No less than One Hundred Eight
373 Thousand One Hundred Thirty Dollars (\$108,130.00) of the Chief
374 Judge's salary in this subsection (2) shall be paid from general
375 fund monies; in addition, the Legislature shall appropriate
376 annually from the Judicial System Operation Fund a sum sufficient
377 to increase the Chief Judge's salary to the level set forth in
378 this subsection (2). No less than One Hundred Five Thousand Fifty
379 Dollars (\$105,050.00) of the salary of an associate judge in this
380 subsection (2) shall be paid from general fund monies; in
381 addition, the Legislature shall appropriate annually from the
382 Judicial System Operation Fund a sum sufficient to increase the
383 salary of an associate judge to the level set forth in this
384 subsection (2).

385 * * *

386 (3) The annual salaries of the chancery and circuit court
387 judges are fixed as follows:

388 **From and after January 1, 2013, through December 31, 2013:**

389 Chancery Judges, each.....\$112,127.50

390 Circuit Judges, each..... 112,127.50

391 **From and after January 1, 2014, through December 31, 2014:**

392 Chancery Judges, each.....\$120,085.00

393 Circuit Judges, each..... 120,085.00

394 **From and after January 1, 2015, through December 31, 2015:**



395 Chancery Judges, each.....\$128,042.50

396 Circuit Judges, each..... 128,042.50

397 **From and after January 1, 2016:**

398 Chancery Judges, each.....\$136,000.00

399 Circuit Judges, each..... 136,000.00

400 In addition to their present official duties, the circuit and
401 chancery judges shall take necessary action to promote judicial
402 education in schools, drug courts, electronic filing and case
403 management systems as developed by the Administrative Office of
404 Courts, or such other additional duties as may be assigned by the
405 Chief Justice of the Supreme Court. For such extra services each
406 judge, from and after January 1, 2013, shall receive a sum
407 sufficient to aggregate, per annum, the salaries set forth in this
408 subsection (3).

409 The fixed salaries in this subsection (3) shall be paid from
410 the State General Fund and from the Judicial System Operation Fund
411 created under Section 9-21-45. No less than One Hundred Four
412 Thousand One Hundred Seventy Dollars (\$104,170.00) of the salary
413 of a chancery or circuit Judge in this subsection (3) shall be
414 paid from general fund monies; in addition, the Legislature shall
415 appropriate annually from the Judicial System Operation Fund a sum
416 sufficient to increase the salary of a chancery or circuit judge
417 to the levels set forth in this subsection (3).

418 (4) From and after January 1, 2019, and every four (4) years
419 thereafter, the annual salaries of the judges in subsections (1),



(2) and (3) shall be fixed at the level of compensation recommended by the State Personnel Board according to the board's most recent report on judicial salaries, as required under Section 25-9-115, to the extent that sufficient funds are available. The annual salaries fixed in accordance with this subsection (4) shall not become effective until the commencement of the next immediately succeeding term of office.

(5) The Supreme Court shall prepare a payroll for chancery judges and circuit judges and submit such payroll to the Department of Finance and Administration.

(6) The annual salary of the full-time district attorneys shall be:

From and after January 1, 2013, through December 31, 2013:

One Hundred Three Thousand Three Hundred Twenty-two Dollars (\$103,322.00).

From and after January 1, 2014, through December 31, 2014:

One Hundred Ten Thousand Eight Hundred Forty-eight Dollars (\$110,848.00).

From and after January 1, 2015, through December 31, 2015:

One Hundred Eighteen Thousand Three Hundred Seventy-four Dollars (\$118,374.00).

From and after January 1, 2016:

One Hundred Twenty-five Thousand Nine Hundred Dollars (\$125,900.00).



(7) The annual salary of the full-time legal assistants shall be not less than Fifteen Thousand Dollars (\$15,000.00) nor more than eighty percent (80%) of the salary of the district attorney for legal assistants who have been licensed to practice law for five (5) years or less; eighty-five percent (85%) of the salary of the district attorney for legal assistants who have been licensed to practice law for at least five (5) years but less than fifteen (15) years; and ninety percent (90%) of the salary of the district attorney for legal assistants who have been licensed to practice law for at least fifteen (15) years or more.

SECTION 3. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

SECTION 4. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.

