

By: Senator(s) Doty

To: Finance

## SENATE BILL NO. 2602

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



74 furnishes an affidavit stating that the increase granted within  
75 the last twenty-four (24) months was not contingent on a promise  
76 or agreement of the employee to retire. Nothing in Section  
77 25-3-31 shall affect the calculation of the average compensation  
78 of any member for the purposes of this article. The average  
79 compensation of any member who retires before July 1, 1992, shall  
80 not exceed the annual salary of the Governor.

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



99 shall be the beneficiary of the member unless the member has  
100 designated another beneficiary after the date of marriage in  
101 writing, and filed that writing in the office of the executive  
102 director of the board of trustees. No designation or change of  
103 beneficiary shall be made 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,  
123 which permanent care status shall be determined by evidence



satisfactory to the board. For purposes of this paragraph, a natural child of the member is a child of the member that is conceived before the death of the member.

(k) "Earned compensation" means the full amount earned during a fiscal year by an employee 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. Except as otherwise provided in this paragraph, the value of maintenance furnished to an employee shall not be included in earned compensation. Earned compensation shall not include any amounts paid by the employer for health or life insurance premiums for an employee. Earned compensation shall be limited to the regular periodic compensation paid, exclusive of litigation fees, bond fees, performance-based incentive payments, 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



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

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

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

179 (viii) The value of maintenance furnished to an  
180 employee before July 1, 2013, for which the proper amount of  
181 employer and employee contributions have been paid, shall be  
182 included in earned compensation. From and after July 1, 2013, the  
183 value of maintenance furnished to an employee shall be reported as  
184 earned compensation only if the proper amount of employer and  
185 employee contributions have been paid on the maintenance and the  
186 employee was receiving maintenance and having maintenance reported  
187 to the system as of June 30, 2013. The value of maintenance when  
188 not paid in money shall be fixed by the employing state agency,  
189 and, in case of doubt, by the board of trustees as defined in  
190 Section 25-11-15.

191 (ix) Except as otherwise provided in this  
192 paragraph, the value of any in-kind benefits provided by the  
193 employer shall not be included in earned compensation. As used in  
194 this subparagraph, "in-kind benefits" shall include, but not be  
195 limited to, group life insurance premiums, health or dental  
196 insurance premiums, nonpaid major medical and personal leave,





197 employer contributions for social security and retirement, tuition  
198 reimbursement or educational funding, day care or transportation  
199 benefits.

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

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

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

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

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



221           (q) "Member" means any person included in the  
222 membership of the system as provided in Section 25-11-105. For  
223 purposes of Sections 25-11-103, 25-11-105, 25-11-109, 25-11-111,  
224 25-11-113, 25-11-114, 25-11-115 and 25-11-117, if a member of the  
225 system withdrew from state service and received a refund of the  
226 amount of the accumulated contributions to the credit of the  
227 member in the annuity savings account before July 1, 2007, and the  
228 person reenters state service and becomes a member of the system  
229 again on or after July 1, 2007, and repays all or part of the  
230 amount received as a refund and interest in order to receive  
231 creditable service for service rendered before July 1, 2007, the  
232 member shall be considered to have become a member of the system  
233 on or after July 1, 2007, subject to the eight-year membership  
234 service requirement, as applicable in those sections. For  
235 purposes of Sections 25-11-103, 25-11-111, 25-11-114 and  
236 25-11-115, if a member of the system withdrew from state service  
237 and received a refund of the amount of the accumulated  
238 contributions to the credit of the member in the annuity savings  
239 account before July 1, 2011, and the person reenters state service  
240 and becomes a member of the system again on or after July 1, 2011,  
241 and repays all or part of the amount received as a refund and  
242 interest in order to receive creditable service for service  
243 rendered before July 1, 2011, the member shall be considered to  
244 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.

(2) For purposes of this article, the term "political subdivision" shall have the meaning ascribed to such term in Section 25-11-5 and shall also include public charter schools.

**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:

\* \* \*

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



344 schools, drug courts, electronic filing and case management  
345 systems as developed by the Administrative Office of Courts, or  
346 such other additional duties as may be assigned by the Chief  
347 Justice of the Supreme Court. For such extra services each  
348 justice, from and after January 1, \* \* \* 2016, shall receive a sum  
349 sufficient to aggregate, per annum, the salaries set forth in this  
350 subsection (1).

351 The fixed salaries in this subsection (1) shall be paid from  
352 the State General Fund and from the Judicial System Operation Fund  
353 created under Section 9-21-45. No less than: One Hundred Fifteen  
354 Thousand Three Hundred Ninety Dollars (\$115,390.00) of the Chief  
355 Justice's salary in this subsection (1), One Hundred Thirteen  
356 Thousand One Hundred Ninety Dollars (\$113,190.00) of the salary of  
357 a presiding justice in this subsection (1), and One Hundred Twelve  
358 Thousand Five Hundred Thirty Dollars (\$112,530.00) of the salary  
359 of an associate justice in this subsection (1) shall be paid from  
360 general fund monies; in addition, the Legislature shall  
361 appropriate annually from the Judicial System Operation Fund a sum  
362 sufficient to increase the salary of the Chief Justice, a  
363 presiding justice and an associate justice to the levels set forth  
364 in this subsection (1).

365 \* \* \*

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

368 \* \* \*



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

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

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

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

389 \* \* \*

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

392 \* \* \*

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





394 Circuit Judges, each..... 136,000.00

395 In addition to their present official duties, the circuit and  
396 chancery judges shall take necessary action to promote judicial  
397 education in schools, drug courts, electronic filing and case  
398 management systems as developed by the Administrative Office of  
399 Courts, or such other additional duties as may be assigned by the  
400 Chief Justice of the Supreme Court. For such extra services each  
401 judge, from and after January 1, \* \* \* 2016, shall receive a sum  
402 sufficient to aggregate, per annum, the salaries set forth in this  
403 subsection (3).

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

413 (4) From and after January 1, 2019, and every four (4) years  
414 thereafter, the annual salaries of the judges in subsections (1),  
415 (2) and (3) shall be fixed at the level of compensation  
416 recommended by the State Personnel Board according to the board's  
417 most recent report on judicial salaries, as required under Section  
418 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:

\* \* \*

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.** Justices of the Supreme Court and Judges of the Court of Appeals may claim as earned compensation under the laws governing the Public Employees' Retirement System the expense allowances paid to them from and after December 31, 2003, that



444 were not reported as a part of their earned compensation to the  
445 Public Employees' Retirement System under the following  
446 conditions:

447           (a) The judge or justice must pay to the Public  
448 Employees' Retirement System the employee contribution on the  
449 expense allowance paid but not reported together with regular  
450 interest from the date of the payment of the expense allowance to  
451 the date of the payment required by this section.

452           (b) The employer must pay to the Public Employees'  
453 Retirement System the employer contribution on the expense  
454 allowance paid but not reported together with regular interest  
455 from the date of the payment of the expense allowance to the date  
456 of the payment required by this section.

457           **SECTION 4.** This act shall take effect and be in force from  
458 and after July 1, 2018.

