

By: Representative Busby

To: Appropriations

HOUSE BILL NO. 1121

1 AN ACT TO CREATE NEW SECTION 25-11-126, MISSISSIPPI CODE OF
2 1972, TO PROVIDE THAT PERSONS WHO HAVE AT LEAST 25 YEARS OF
3 CREDITABLE SERVICE IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM, WHO
4 WERE EMPLOYED AS PUBLIC SCHOOLTEACHERS AT THE TIME OF THEIR
5 RETIREMENT AND WHO HAVE BEEN RETIRED AND RECEIVING A RETIREMENT
6 ALLOWANCE FOR AT LEAST ONE YEAR, MAY BE EMPLOYED AS TEACHERS BY A
7 PUBLIC SCHOOL DISTRICT AFTER THEIR RETIREMENT AND RECEIVE A
8 RETIREMENT ALLOWANCE FROM THE RETIREMENT SYSTEM DURING THEIR
9 EMPLOYMENT AS TEACHERS IN ADDITION TO RECEIVING A BEGINNING
10 TEACHER'S SALARY; TO AMEND SECTIONS 25-11-105, 25-11-123 AND
11 25-11-127, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING
12 PROVISIONS; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** The following shall be codified as Section
15 25-11-126, Mississippi Code of 1972:

16 25-11-126. (1) Any person who has at least twenty-five (25)
17 years of creditable service, who was employed as a public
18 schoolteacher at the time of his or her retirement and who has
19 been retired and receiving a retirement allowance for at least one
20 (1) year, may be employed as a teacher in a public school district
21 located in a geographic area of the state designated as a critical
22 teacher shortage area or a critical subject and core academic area
23 shortage by the State Board of Education after retirement, and



24 choose to continue receiving the retirement allowance under this
25 article during his or her employment as a teacher after
26 retirement, in addition to receiving the salary authorized under
27 Section 37-19-7 for beginning teachers with one-half (1/2) the
28 number of years experience and the equivalent educational
29 credentials and certification of the total number of years that
30 the returning retired teacher possessed at the time of his or her
31 retirement. In addition, the returning retired teacher's base
32 compensation shall be annually graduated in the same manner as
33 provided for other licensed teachers under Section 37-19-7 for the
34 duration of the teacher's employment after retirement.

35 (2) (a) The retired teacher may be employed as a teacher,
36 continue receiving his or her retirement allowance and be a
37 contributing member of the system without accruing additional
38 retirement benefits. This method is designed specifically to
39 provide funding for the system to actuarially offset any pension
40 liability by providing the employer contribution plus three
41 percent (3%) of earned compensation as the employee contribution
42 of employees employed under the authority of this section.

43 (b) The State Department of Education shall transfer to
44 the system the Mississippi Adequate Education Program funds of
45 local school districts that on or after July 1, 2022, employ
46 retired members as teachers under this section and other funds
47 that otherwise would have been payable to the districts if the
48 districts had not taken advantage of this section. The crediting



of assets and financing shall follow the provisions of Section 25-11-123.

(c) Local educational agencies shall transfer to the system Mississippi Adequate Education Program funds of local school districts that on or after July 1, 2022, employ retired members as teachers under this section and other funds that otherwise would have been payable to the districts if the districts had not taken advantage of this section. The crediting of assets and financing must follow the provisions of Section 25-11-123.

(3) A person may be employed under this section subject to the following conditions:

(a) The retired member holds any teacher's professional license or certificate as may be required in Section 37-3-2;

(b) The superintendent of schools of the employing school district certifies in writing to the State Department of Education that the retired member has the requisite experience, training and expertise for the position to be filled and that no other qualified persons are available to fill the position;

(c) The superintendent of schools of the district certifies or the principal of the school certifies that there was no preexisting arrangement for the person to be employed after retirement; and

(d) The person had a satisfactory performance review for the most recent period before retirement.



(4) The State Superintendent of Public Education shall report the persons who are employed under this section to the Executive Director of the Public Employees' Retirement System.

SECTION 2. Section 25-11-105, Mississippi Code of 1972, is amended as follows:

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

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

(a) (i) All persons who become employees in the state service after January 31, 1953, and whose wages are subject to payroll taxes and are lawfully reported on IRS Form W-2, except those who are specifically excluded, * * * those whom election is provided in Articles 1 and 3, and those persons who choose to continue to receive a retirement allowance while working as a teacher in a public school district as authorized by Section 25-11-126, shall become members of the retirement system as a condition of their employment.

(ii) From and after July 1, 2002, any individual who is employed by a governmental entity to perform professional services shall become a member of the system if the individual is paid regular periodic compensation for those services that is subject to payroll taxes, is provided all other employee benefits and meets the membership criteria established by the regulations adopted by the board of trustees that apply to all other members of the system; however, any active member employed in such a



99 position on July 1, 2002, will continue to be an active member for
100 as long as they are employed in any such position.

101 (b) All persons who become employees in the state
102 service after January 31, 1953, except those specifically excluded
103 or as to whom election is provided in Articles 1 and 3, unless
104 they file with the board before the lapse of sixty (60) days of
105 employment or sixty (60) days after the effective date of the
106 cited articles, whichever is later, on a form prescribed by the
107 board, a notice of election not to be covered by the membership of
108 the retirement system and a duly executed waiver of all present
109 and prospective benefits that would otherwise inure to them on
110 account of their participation in the system, shall become members
111 of the retirement system; however, no credit for prior service
112 will be granted to members who became members of the system before
113 July 1, 2007, until they have contributed to Article 3 of the
114 retirement system for a minimum period of at least four (4) years,
115 or to members who became members of the system on or after July 1,
116 2007, until they have contributed to Article 3 of the retirement
117 system for a minimum period of at least eight (8) years. Those
118 members shall receive credit for services performed before January
119 1, 1953, in employment now covered by Article 3, but no credit
120 shall be granted for retroactive services between January 1, 1953,
121 and the date of their entry into the retirement system, unless the
122 employee pays into the retirement system both the employer's and
123 the employee's contributions on wages paid him during the period



124 from January 31, 1953, to the date of his becoming a contributing
125 member, together with interest at the rate determined by the board
126 of trustees. Members reentering after withdrawal from service
127 shall qualify for prior service under the provisions of Section
128 25-11-117. From and after July 1, 1998, upon eligibility as noted
129 above, the member may receive credit for such retroactive service
130 provided:

131 (i) The member shall furnish proof satisfactory to
132 the board of trustees of certification of that service from the
133 covered employer where the services were performed; and

134 (ii) The member shall pay to the retirement system
135 on the date he or she is eligible for that credit or at any time
136 thereafter before the date of retirement the actuarial cost for
137 each year of that creditable service. The provisions of this
138 subparagraph (ii) shall be subject to the limitations of Section
139 415 of the Internal Revenue Code and regulations promulgated under
140 Section 415.

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

145 (c) All persons who become employees in the state
146 service after January 31, 1953, and who are eligible for
147 membership in any other retirement system shall become members of
148 this retirement system as a condition of their employment, unless



they elect at the time of their employment to become a member of that other system.

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

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

(f) Each political subdivision of the state and each instrumentality of the state or a political subdivision, or both, is authorized to submit, for approval by the board of trustees, a plan for extending the benefits of this article to employees of any such political subdivision or instrumentality. Each such plan or any amendment to the plan for extending benefits thereof shall



174 be approved by the board of trustees if it finds that the plan, or
175 the plan as amended, is in conformity with such requirements as
176 are provided in Articles 1 and 3; however, upon approval of the
177 plan or any such plan previously approved by the board of
178 trustees, the approved plan shall not be subject to cancellation
179 or termination by the political subdivision or instrumentality.
180 No such plan shall be approved unless:

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

188 (ii) It specifies the source or sources from which
189 the funds necessary to make the payments required by paragraph (d)
190 of Section 25-11-123 and of paragraph (f)(v)2 and 3 of this
191 section are expected to be derived and contains reasonable
192 assurance that those sources will be adequate for that purpose;

193 (iii) It provides for such methods of
194 administration of the plan by the political subdivision or
195 instrumentality as are found by the board of trustees to be
196 necessary for the proper and efficient administration thereof;

197 (iv) It provides that the political subdivision or
198 instrumentality will make such reports, in such form and



199 containing such information, as the board of trustees may from
200 time to time require;

201 (v) It authorizes the board of trustees to
202 terminate the plan in its entirety in the discretion of the board
203 if it finds that there has been a failure to comply substantially
204 with any provision contained in the plan, the termination to take
205 effect at the expiration of such notice and on such conditions as
206 may be provided by regulations of the board and as may be
207 consistent with applicable federal law.

208 1. The board of trustees shall not finally
209 refuse to approve a plan submitted under paragraph (f), and shall
210 not terminate an approved plan without reasonable notice and
211 opportunity for hearing to each political subdivision or
212 instrumentality affected by the board's decision. The board's
213 decision in any such case shall be final, conclusive and binding
214 unless an appeal is taken by the political subdivision or
215 instrumentality aggrieved by the decision to the Circuit Court of
216 the First Judicial District of Hinds County, Mississippi, in
217 accordance with the provisions of law with respect to civil causes
218 by certiorari.

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



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

3. Every political subdivision or instrumentality required to make payments under paragraph (f)(v)2 of this section is authorized, in consideration of the employees' retention in or entry upon employment after enactment of Articles 1 and 3, to impose upon its employees, as to services that are covered by an approved plan, a contribution with respect to wages (as defined in Section 25-11-5) not exceeding the amount provided in Section 25-11-123(d) if those services constituted employment within the meaning of Articles 1 and 3, and to deduct the amount of the contribution from the wages as and when paid. Contributions so collected shall be paid into the contribution fund as partial discharge of the liability of the political subdivisions or instrumentalities under paragraph (f)(v)2 of this section. Failure to deduct the contribution shall not relieve the employee or employer of liability for the contribution.

4. Any state agency, school, political subdivision, instrumentality or any employer that is required to submit contribution payments or wage reports under any section of this chapter shall be assessed interest on delinquent payments or wage reports as determined by the board of trustees in accordance with rules and regulations adopted by the board and delinquent payments, assessed interest and any other amount certified by the board as owed by an employer, may be recovered by action in a



249 court of competent jurisdiction against the reporting agency
250 liable therefor or may, upon due certification of delinquency and
251 at the request of the board of trustees, be deducted from any
252 other monies payable to the reporting agency by any department or
253 agency of the state.

254 5. Each political subdivision of the state
255 and each instrumentality of the state or a political subdivision
256 or subdivisions that submit a plan for approval of the board, as
257 provided in this section, shall reimburse the board for coverage
258 into the expense account, its pro rata share of the total expense
259 of administering Articles 1 and 3 as provided by regulations of
260 the board.

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

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



273 (i) If any member of this system changes his employment
274 to any agency of the state having an actuarially funded retirement
275 system, the board of trustees may authorize the transfer of the
276 member's creditable service and of the present value of the
277 member's employer's accumulation account and of the present value
278 of the member's accumulated membership contributions to that other
279 system, provided that the employee agrees to the transfer of his
280 accumulated membership contributions and provided that the other
281 system is authorized to receive and agrees to make the transfer.

282 If any member of any other actuarially funded system
283 maintained by an agency of the state changes his employment to an
284 agency covered by this system, the board of trustees may authorize
285 the receipt of the transfer of the member's creditable service and
286 of the present value of the member's employer's accumulation
287 account and of the present value of the member's accumulated
288 membership contributions from the other system, provided that the
289 employee agrees to the transfer of his accumulated membership
290 contributions to this system and provided that the other system is
291 authorized and agrees to make the transfer.

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

295 (k) Employees of a political subdivision or
296 instrumentality who were employed by the political subdivision or
297 instrumentality before an agreement between the entity and the



Public Employees' Retirement System to extend the benefits of this article to its employees, and which agreement provides for the establishment of retroactive service credit, and who became members of the retirement system before July 1, 2007, and have remained contributors to the retirement system for four (4) years, or who became members of the retirement system on or after July 1, 2007, and have remained contributors to the retirement system for eight (8) years, may receive credit for that retroactive service with the political subdivision or instrumentality, provided that the employee and/or employer, as provided under the terms of the modification of the joinder agreement in allowing that coverage, pay into the retirement system the employer's and employee's contributions on wages paid the member during the previous employment, together with interest or actuarial cost as determined by the board covering the period from the date the service was rendered until the payment for the credit for the service was made. Those wages shall be verified by the Social Security Administration or employer payroll records. Effective July 1, 1998, upon eligibility as noted above, a member may receive credit for that retroactive service with the political subdivision or instrumentality provided:

(i) The member shall furnish proof satisfactory to the board of trustees of certification of those services from the political subdivision or instrumentality where the services were



rendered or verification by the Social Security Administration;
and

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

Nothing contained in this paragraph (k) shall be construed to limit the authority of the board to allow the correction of reporting errors or omissions based on the payment of employee and employer contributions plus applicable interest. Payment for that time shall be made beginning with the most recent service. Upon the payment of all or part of the required contributions, plus interest or the actuarial cost as provided above, the member shall receive credit for the period of creditable service for which full payment has been made to the retirement system.

(l) Through June 30, 1998, any state service eligible for retroactive service credit, no part of which has ever been reported, and requiring the payment of employee and employer contributions plus interest, or, from and after July 1, 1998, any state service eligible for retroactive service credit, no part of which has ever been reported to the retirement system, and requiring the payment of the actuarial cost for that creditable



347 service, may, at the member's option, be purchased in quarterly
348 increments as provided above at the time that its purchase is
349 otherwise allowed.

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

353 II. THOSE WHO ARE NOT ELIGIBLE FOR MEMBERSHIP

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

357 (a) Patient or inmate help in state charitable, penal
358 or correctional institutions;

359 (b) Students of any state educational institution
360 employed by any agency of the state for temporary, part-time or
361 intermittent work;

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

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

369 III. TERMINATION OF MEMBERSHIP

370 Membership in this system shall cease by a member withdrawing
371 his accumulated contributions, or by a member withdrawing from



active service with a retirement allowance, or by a member's death.

SECTION 3. Section 25-11-123, Mississippi Code of 1972, is amended as follows:

25-11-123. All of the assets of the system shall be credited according to the purpose for which they are held to one (1) of four (4) reserves; namely, the annuity savings account, the annuity reserve, the employer's accumulation account, and the expense account.

(a) **Annuity savings account.** In the annuity savings account shall be accumulated the contributions made by members to provide for their annuities, including interest thereon which shall be posted monthly. Credits to and charges against the annuity savings account shall be made as follows:

(1) Beginning July 1, 2010, except as otherwise provided by Section 25-11-126, the employer shall cause to be deducted from the salary of each member on each and every payroll of the employer for each and every payroll period nine percent (9%) of earned compensation as defined in Section 25-11-103. Future contributions shall be fixed biennially by the board on the basis of the liabilities of the retirement system for the various allowances and benefits as shown by actuarial valuation; however, any member earning at a rate less than Sixteen Dollars and Sixty-seven Cents (\$16.67) per month, or Two Hundred Dollars



396 (\$200.00) per year, shall contribute not less than One Dollar
397 (\$1.00) per month, or Twelve Dollars (\$12.00) per year.

398 (2) The deductions provided in paragraph (1) of this
399 subsection shall be made notwithstanding that the minimum
400 compensation provided by law for any member is reduced by the
401 deduction. Every member shall be deemed to consent and agree to
402 the deductions made and provided for in paragraph (1) of this
403 subsection and shall receipt for his full salary or compensation,
404 and payment of salary or compensation less the deduction shall be
405 a full and complete discharge and acquittance of all claims and
406 demands whatsoever for the services rendered by the person during
407 the period covered by the payment, except as to the benefits
408 provided under Articles 1 and 3. The board shall provide by rules
409 for the methods of collection of contributions from members and
410 the employer. The board shall have full authority to require the
411 production of evidence necessary to verify the correctness of
412 amounts contributed.

413 (b) **Annuity reserve.** The annuity reserve shall be the
414 account representing the actuarial value of all annuities in
415 force, and to it shall be charged all annuities and all benefits
416 in lieu of annuities, payable as provided in this article. If a
417 beneficiary retired on account of disability is restored to active
418 service with a compensation not less than his average final
419 compensation at the time of his last retirement, the remainder of
420 his contributions shall be transferred from the annuity reserve to



the annuity savings account and credited to his individual account therein, and the balance of his annuity reserve shall be transferred to the employer's accumulation account.

(c) **Employer's accumulation account.** The employer's accumulation account shall represent the accumulation of all reserves for the payment of all retirement allowances and other benefits payable from contributions made by the employer, and against this account shall be charged all retirement allowances and other benefits on account of members. Credits to and charges against the employer's accumulation account shall be made as follows:

(1) On account of each member there shall be paid monthly into the employer's accumulation account by the employers for the preceding fiscal year an amount equal to a certain percentage of the total earned compensation, as defined in Section 25-11-103, of each member. The percentage rate of those contributions shall be fixed biennially by the board on the basis of the liabilities of the retirement system for the various allowances and benefits as shown by actuarial valuation. Beginning January 1, 1990, the rate shall be fixed at nine and three-fourths percent (9-3/4%). The board shall reduce the employer's contribution rate by one percent (1%) from and after July 1 of the year following the year in which the board determines and the board's actuary certifies that the employer's contribution rate can be reduced by that amount without causing



the unfunded accrued actuarial liability amortization period for the retirement system to exceed twenty (20) years. Political subdivisions joining Article 3 of the Public Employees' Retirement System after July 1, 1968, may adjust the employer's contributions by agreement with the Board of Trustees of the Public Employees' Retirement System to provide service credits for any period before execution of the agreement based upon an actuarial determination of employer's contribution rates.

(2) On the basis of regular interest and of such mortality and other tables as are adopted by the board of trustees, the actuary engaged by the board to make each valuation required by this article during the period over which the accrued liability contribution is payable, immediately after making that valuation, shall determine the uniform and constant percentage of the earnable compensation of each member which, if contributed by the employer on the basis of compensation of the member throughout his entire period of membership service, would be sufficient to provide for the payment of any retirement allowance payable on his account for that service. The percentage rate so determined shall be known as the "normal contribution rate." After the accrued liability contribution has ceased to be payable, the normal contribution rate shall be the percentage rate of the salary of all members obtained by deducting from the total liabilities on account of membership service the amount in the employer's accumulation account, and dividing the remainder by one percent



471 (1%) of the present value of the prospective future salaries of
472 all members as computed on the basis of the mortality and service
473 tables adopted by the board of trustees and regular interest. The
474 normal rate of contributions shall be determined by the actuary
475 after each valuation.

476 (3) The total amount payable in each year to the
477 employer's accumulation account shall not be less than the sum of
478 the percentage rate known as the "normal contribution rate" and
479 the "accrued liability contribution rate" of the total
480 compensation earnable by all members during the preceding year,
481 provided that the payment by the employer shall be sufficient,
482 when combined with the amounts in the account, to provide the
483 allowances and other benefits chargeable to this account during
484 the year then current.

485 (4) The accrued liability contribution shall be
486 discontinued as soon as the accumulated balance in the employer's
487 accumulation account shall equal the present value, computed on
488 the basis of the normal contribution rate then in force, or the
489 prospective normal contributions to be received on account of all
490 persons who are at that time members.

491 (5) All allowances and benefits in lieu thereof, with
492 the exception of those payable on account of members who receive
493 no prior service credit, payable from contributions of the
494 employer, shall be paid from the employer's accumulation account.



495 (6) Upon the retirement of a member, an amount equal to
496 his retirement allowance shall be transferred from the employer's
497 accumulation account to the annuity reserve.

498 (7) The employer's accumulation account shall be
499 credited with any assets authorized by law to be credited to the
500 account.

501 (d) **Expense account.** The expense account shall be the
502 account to which the expenses of the administration of the system
503 shall be charged, exclusive of amounts payable as retirement
504 allowances and as other benefits provided herein. The Legislature
505 shall make annual appropriations in amounts sufficient to
506 administer the system, which shall be credited to this account.
507 There shall be transferred to the State Treasury from this
508 account, not less than once per month, an amount sufficient for
509 payment of the estimated expenses of the system for the succeeding
510 thirty (30) days. Any interest earned on the expense account
511 shall accrue to the benefit of the system. However,
512 notwithstanding the provisions of Sections 25-11-15(10) and
513 25-11-105(f)(v)5, all expenses of the administration of the system
514 shall be paid from the interest earnings, provided the interest
515 earnings are in excess of the actuarial interest assumption as
516 determined by the board, and provided the present cost of the
517 administrative expense fee of two percent (2%) of the
518 contributions reported by the political subdivisions and
519 instrumentalities shall be reduced to one percent (1%) from and



after July 1, 1983, through June 30, 1984, and shall be eliminated thereafter.

(e) **Collection of contributions.** The employer shall cause to be deducted on each and every payroll of a member for each and every payroll period, beginning subsequent to January 31, 1953, the contributions payable by the member as provided in Articles 1 and 3.

The employer shall make deductions from salaries of employees as provided in Articles 1 and 3 and shall transmit monthly, or at such time as the board of trustees designates, the amount specified to be deducted to the Executive Director of the Public Employees' Retirement System. The executive director, after making a record of all those receipts, shall deposit such amounts as provided by law.

(f) (1) Upon the basis of each actuarial valuation provided herein, the board of trustees shall biennially determine the normal contribution rate and the accrued liability contribution rate as provided in this section. The sum of these two (2) rates shall be known as the "employer's contribution rate." Beginning on earned compensation effective January 1, 1990, the rate computed as provided in this section shall be nine and three-fourths percent (9-3/4%). The board shall reduce the employer's contribution rate by one percent (1%) from and after July 1 of the year following the year in which the board determines and the board's actuary certifies that the employer's



545 contribution rate can be reduced by that amount without causing
546 the unfunded accrued actuarial liability amortization period for
547 the retirement system to exceed twenty (20) years. The percentage
548 rate of those contributions shall be fixed biennially by the board
549 on the basis of the liabilities of the retirement system for the
550 various allowances and benefits as shown by actuarial valuation.

551 (2) The amount payable by the employer on account of
552 normal and accrued liability contributions shall be determined by
553 applying the employer's contribution rate to the amount of
554 compensation earned by employees who are members of the system.
555 Monthly, or at such time as the board of trustees designates, each
556 department or agency shall compute the amount of the employer's
557 contribution payable, with respect to the salaries of its
558 employees who are members of the system, and shall cause that
559 amount to be paid to the board of trustees from the personal
560 service allotment of the amount appropriated for the operation of
561 the department or agency, or from funds otherwise available to the
562 agency, for the payment of salaries to its employees.

563 (3) Except as otherwise provided in Section 25-11-106:

564 (i) Constables shall pay employer and employee
565 contributions on their net fee income as well as the employee
566 contributions on all direct treasury or county payroll income.

567 (ii) The county shall be responsible for the
568 employer contribution on all direct treasury or county payroll
569 income of constables.



570 (4) Except as otherwise provided in Section
571 25-11-106.1, chancery and circuit clerks shall be responsible for
572 both the employer and employee share of contributions on the
573 proportionate share of net income attributable to fees, as well as
574 the employee share of net income attributable to direct treasury
575 or county payroll income, and the employing county shall be
576 responsible for the employer contributions on the net income
577 attributable to direct treasury or county payroll income.

578 (5) Once each year, under procedures established by the
579 system, each employer shall submit to the Public Employees'
580 Retirement System a copy of their report to Social Security of all
581 employees' earnings.

582 (6) The board shall provide by rules for the methods of
583 collection of contributions of employers and members. The amounts
584 determined due by an agency to the various funds as specified in
585 Articles 1 and 3 are made obligations of the agency to the board
586 and shall be paid as provided herein. Failure to deduct those
587 contributions shall not relieve the employee and employer from
588 liability thereof. Delinquent employee contributions and any
589 accrued interest shall be the obligation of the employee and
590 delinquent employer contributions and any accrued interest shall
591 be the obligation of the employer. The employer may, in its
592 discretion, elect to pay any or all of the interest on delinquent
593 employee contributions. From and after July 1, 1996, under rules
594 and regulations established by the board, all employers are



authorized and shall transfer all funds due to the Public Employees' Retirement System electronically and shall transmit any wage or other reports by computerized reporting systems.

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

25-11-127. (1) (a) No person who is being paid a retirement allowance or a pension after retirement under this article shall be employed or paid for any service by the State of Mississippi, including services as an employee, contract worker, contractual employee or independent contractor, until the retired person has been retired for not less than ninety (90) consecutive days from his or her effective date of retirement. After the person has been retired for not less than ninety (90) consecutive days from his or her effective date of retirement or such later date as established by the board, he or she may be reemployed while being paid a retirement allowance under the terms and conditions provided in this section or Section 25-11-126.

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

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



619 (2) Any person who has been retired under the provisions of
620 Article 3 and who is later reemployed in service covered by this
621 article shall cease to receive benefits under this article unless
622 the person chooses to continue to receive a retirement allowance
623 while working as a teacher in a public school district under the
624 authority of Section 25-11-126, and the person shall again become
625 a contributing member of the retirement system. When the person
626 retires again, if that person has been a contributing member of
627 the retirement system during reemployment and the reemployment
628 exceeds six (6) months, the person shall have his or her benefit
629 recomputed, including service after again becoming a member,
630 provided that the total retirement allowance paid to the retired
631 member in his or her previous retirement shall be deducted from
632 the member's retirement reserve and taken into consideration in
633 recalculating the retirement allowance under a new option
634 selected.

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

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

640 (a) For a period of time not to exceed one-half (1/2)
641 of the normal working days for the position in any fiscal year
642 during which the retiree will receive no more than one-half (1/2)



of the salary in effect for the position at the time of
employment, or

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

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

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

The restrictions on employment after retirement in this
subsection shall not apply to persons who choose to continue to
receive a retirement allowance under this article while working as
a teacher in a public school district as authorized by Section
25-11-126.



668 (5) Except as otherwise provided in subsection (6) of this
669 section, the employer of any person who is receiving a retirement
670 allowance and who is employed in service covered by subsection (4)
671 of this section as an employee or a contractual employee, and the
672 employer of any person who chooses to continue to receive a
673 retirement allowance under this article while working as a teacher
674 in a public school district as authorized by Section 25-11-126,
675 shall pay to the board the full amount of the employer's
676 contribution on the amount of compensation received by the retiree
677 for his or her employment in accordance with regulations
678 prescribed by the board. The retiree shall not receive any
679 additional creditable service in the retirement system as a result
680 of the payment of the employer's contribution. This subsection
681 does not apply to persons who are receiving a retirement allowance
682 and who contract with an employer to provide services as a true
683 independent contractor, as defined by the board through
684 regulation.

685 (6) (a) A member may retire and continue in municipal or
686 county elective office provided that the member has reached the
687 age and/or service requirement that will not result in a
688 prohibited in-service distribution as defined by the Internal
689 Revenue Service, or a retiree may be elected to a municipal or
690 county office, provided that the person:

691 (i) Files annually, in writing, in the office of
692 the employer and the office of the executive director of the



693 system before the person takes office or as soon as possible after
694 retirement, a waiver of all salary or compensation and elects to
695 receive in lieu of that salary or compensation a retirement
696 allowance as provided in this section, in which event no salary or
697 compensation shall thereafter be due or payable for those
698 services; however, any such officer or employee may receive, in
699 addition to the retirement allowance, office expense allowance,
700 mileage or travel expense authorized by any statute of the State
701 of Mississippi; or

702 (ii) Elects to receive compensation for that
703 elective office in an amount not to exceed twenty-five percent
704 (25%) of the retiree's average compensation. In order to receive
705 compensation as allowed in this subparagraph, the retiree shall
706 file annually, in writing, in the office of the employer and the
707 office of the executive director of the system, an election to
708 receive, in addition to a retirement allowance, compensation as
709 allowed in this subparagraph.

710 (b) The municipality or county in which the retired
711 person holds elective office shall pay to the board the amount of
712 the employer's contributions on the full amount of the regular
713 compensation for the elective office that the retired person
714 holds.

715 (c) As used in this subsection, the term "compensation"
716 does not include office expense allowance, mileage or travel
717 expense authorized by a statute of the State of Mississippi.



718 **SECTION 5.** This act shall take effect and be in force from
719 and after July 1, 2022.

