

By: Senator(s) Younger

To: Accountability,
Efficiency, Transparency

SENATE BILL NO. 2058

1 AN ACT TO AMEND SECTIONS 51-41-17 AND 25-11-105, MISSISSIPPI
2 CODE OF 1972, TO ALLOW WATER AUTHORITIES AND THE MISSISSIPPI RURAL
3 WATER ASSOCIATION TO ENTER AGREEMENTS WITH THE BOARD OF TRUSTEES
4 OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO INCLUDE EMPLOYEES IN
5 THE STATE RETIREMENT SYSTEM; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 51-41-17, Mississippi Code of 1972, is
8 amended as follows:

9 51-41-17. The water authority shall have the following
10 powers, acting either individually or jointly with other water
11 authorities or public entities, together with all powers
12 incidental thereto or necessary to the discharge thereof:

13 (a) To have succession in its designated name;

14 (b) To sue and be sued and to prosecute and defend
15 suits in any court having jurisdiction of the subject matter and
16 of the parties;

17 (c) To make use of a seal and to alter it at pleasure;

18 (d) To adopt and alter bylaws for the regulations and
19 conduct of its affairs and business;



20 (e) To acquire, whether by purchase, gift, lease,
21 devise, or otherwise, property of every description which the
22 board may deem necessary to the acquisition, construction,
23 equipment, improvement, enlargement, operation, administration or
24 maintenance of a project, and to hold title thereto;

25 (f) To construct, enlarge, equip, improve, maintain,
26 consolidate, administer and operate one or more projects;

27 (g) To borrow money, including interim construction
28 financing, for any of its purposes;

29 (h) To sell and issue its bonds;

30 (i) To sell and issue refunding bonds;

31 (j) To secure any of its bonds by pledge and indenture
32 as provided in this chapter;

33 (k) To appoint, employ and compensate such general
34 managers, executive directors, agents, architects, engineers,
35 attorneys, accountants and other persons and employees as the
36 business of the water authority may require;

37 (l) To provide for such insurance as the board may deem
38 advisable;

39 (m) To invest in obligations that are direct or
40 guaranteed obligations of the United States of America, or other
41 securities in which public funds may be invested by any other
42 political subdivision under the laws of this state, any of its
43 funds that the board may determine are not presently needed for
44 its operational purposes;



45 (n) To contract, lease and make lease agreements
46 respecting its properties or any part thereof;

47 (o) To exercise the power of eminent domain in
48 accordance with the procedures prescribed by Title 11, Chapter 27,
49 Mississippi Code of 1972;

50 (p) To sell, convey or otherwise dispose of any of its
51 properties or projects; * * *

52 (q) To exercise and hold the authority and power
53 granted to water supply systems and sewer systems under Sections
54 19-5-173, 19-5-175, 19-5-177 and 19-5-203 * * *; and

55 (r) To enter an agreement with the Board of Trustees of
56 the Public Employees' Retirement System for inclusion of the water
57 authority's employees in the state retirement system.

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

60 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

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

63 (a) (i) All persons who become employees in the state
64 service after January 31, 1953, and whose wages are subject to
65 payroll taxes and are lawfully reported on IRS Form W-2, except
66 those specifically excluded, or as to whom election is provided in
67 Articles 1 and 3, shall become members of the retirement system as
68 a condition of their employment.



69 (ii) From and after July 1, 2002, any individual
70 who is employed by a governmental entity to perform professional
71 services shall become a member of the system if the individual is
72 paid regular periodic compensation for those services that is
73 subject to payroll taxes, is provided all other employee benefits
74 and meets the membership criteria established by the regulations
75 adopted by the board of trustees that apply to all other members
76 of the system; however, any active member employed in such a
77 position on July 1, 2002, will continue to be an active member for
78 as long as they are employed in any such position.

79 (iii) From and after July 1, 2022, all employees
80 of a water authority, if the water authority has entered an
81 agreement with the board under Section 51-41-17 to include such
82 employees.

83 (iv) From and after July 1, 2022, all employees of
84 the Mississippi Rural Water Association, if such association has
85 entered an agreement with the board to include such employees.

86 (b) All persons who become employees in the state
87 service after January 31, 1953, except those specifically excluded
88 or as to whom election is provided in Articles 1 and 3, unless
89 they file with the board before the lapse of sixty (60) days of
90 employment or sixty (60) days after the effective date of the
91 cited articles, whichever is later, on a form prescribed by the
92 board, a notice of election not to be covered by the membership of
93 the retirement system and a duly executed waiver of all present



94 and prospective benefits that would otherwise inure to them on
95 account of their participation in the system, shall become members
96 of the retirement system; however, no credit for prior service
97 will be granted to members who became members of the system before
98 July 1, 2007, until they have contributed to Article 3 of the
99 retirement system for a minimum period of at least four (4) years,
100 or to members who became members of the system on or after July 1,
101 2007, until they have contributed to Article 3 of the retirement
102 system for a minimum period of at least eight (8) years. Those
103 members shall receive credit for services performed before January
104 1, 1953, in employment now covered by Article 3, but no credit
105 shall be granted for retroactive services between January 1, 1953,
106 and the date of their entry into the retirement system, unless the
107 employee pays into the retirement system both the employer's and
108 the employee's contributions on wages paid him during the period
109 from January 31, 1953, to the date of his becoming a contributing
110 member, together with interest at the rate determined by the board
111 of trustees. Members reentering after withdrawal from service
112 shall qualify for prior service under the provisions of Section
113 25-11-117. From and after July 1, 1998, upon eligibility as noted
114 above, the member may receive credit for such retroactive service
115 provided:

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



119 (ii) The member shall pay to the retirement system
120 on the date he or she is eligible for that credit or at any time
121 thereafter before the date of retirement the actuarial cost for
122 each year of that creditable service. The provisions of this
123 subparagraph (ii) shall be subject to the limitations of Section
124 415 of the Internal Revenue Code and regulations promulgated under
125 Section 415.

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

130 (c) All persons who become employees in the state
131 service after January 31, 1953, and who are eligible for
132 membership in any other retirement system shall become members of
133 this retirement system as a condition of their employment, unless
134 they elect at the time of their employment to become a member of
135 that other system.

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



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

153 (f) Each political subdivision of the state and each
154 instrumentality of the state or a political subdivision, or both,
155 is authorized to submit, for approval by the board of trustees, a
156 plan for extending the benefits of this article to employees of
157 any such political subdivision or instrumentality. Each such plan
158 or any amendment to the plan for extending benefits thereof shall
159 be approved by the board of trustees if it finds that the plan, or
160 the plan as amended, is in conformity with such requirements as
161 are provided in Articles 1 and 3; however, upon approval of the
162 plan or any such plan previously approved by the board of
163 trustees, the approved plan shall not be subject to cancellation
164 or termination by the political subdivision or instrumentality.
165 No such plan shall be approved unless:

166 (i) It provides that all services that constitute
167 employment as defined in Section 25-11-5 and are performed in the



168 employ of the political subdivision or instrumentality, by any
169 employees thereof, shall be covered by the plan, with the
170 exception of municipal employees who are already covered by
171 existing retirement plans; however, those employees in this class
172 may elect to come under the provisions of this article;

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

178 (iii) It provides for such methods of
179 administration of the plan by the political subdivision or
180 instrumentality as are found by the board of trustees to be
181 necessary for the proper and efficient administration thereof;

182 (iv) It provides that the political subdivision or
183 instrumentality will make such reports, in such form and
184 containing such information, as the board of trustees may from
185 time to time require;

186 (v) It authorizes the board of trustees to
187 terminate the plan in its entirety in the discretion of the board
188 if it finds that there has been a failure to comply substantially
189 with any provision contained in the plan, the termination to take
190 effect at the expiration of such notice and on such conditions as
191 may be provided by regulations of the board and as may be
192 consistent with applicable federal law.



193 1. The board of trustees shall not finally
194 refuse to approve a plan submitted under paragraph (f), and shall
195 not terminate an approved plan without reasonable notice and
196 opportunity for hearing to each political subdivision or
197 instrumentality affected by the board's decision. The board's
198 decision in any such case shall be final, conclusive and binding
199 unless an appeal is taken by the political subdivision or
200 instrumentality aggrieved by the decision to the Circuit Court of
201 the First Judicial District of Hinds County, Mississippi, in
202 accordance with the provisions of law with respect to civil causes
203 by certiorari.

204 2. Each political subdivision or
205 instrumentality as to which a plan has been approved under this
206 section shall pay into the contribution fund, with respect to
207 wages (as defined in Section 25-11-5), at such time or times as
208 the board of trustees may by regulation prescribe, contributions
209 in the amounts and at the rates specified in the applicable
210 agreement entered into by the board.

211 3. Every political subdivision or
212 instrumentality required to make payments under paragraph (f)(v)2
213 of this section is authorized, in consideration of the employees'
214 retention in or entry upon employment after enactment of Articles
215 1 and 3, to impose upon its employees, as to services that are
216 covered by an approved plan, a contribution with respect to wages
217 (as defined in Section 25-11-5) not exceeding the amount provided



218 in Section 25-11-123(d) if those services constituted employment
219 within the meaning of Articles 1 and 3, and to deduct the amount
220 of the contribution from the wages as and when paid.

221 Contributions so collected shall be paid into the contribution
222 fund as partial discharge of the liability of the political
223 subdivisions or instrumentalities under paragraph (f)(v)2 of this
224 section. Failure to deduct the contribution shall not relieve the
225 employee or employer of liability for the contribution.

226 4. Any state agency, school, political
227 subdivision, instrumentality or any employer that is required to
228 submit contribution payments or wage reports under any section of
229 this chapter shall be assessed interest on delinquent payments or
230 wage reports as determined by the board of trustees in accordance
231 with rules and regulations adopted by the board and delinquent
232 payments, assessed interest and any other amount certified by the
233 board as owed by an employer, may be recovered by action in a
234 court of competent jurisdiction against the reporting agency
235 liable therefor or may, upon due certification of delinquency and
236 at the request of the board of trustees, be deducted from any
237 other monies payable to the reporting agency by any department or
238 agency of the state.

239 5. Each political subdivision of the state
240 and each instrumentality of the state or a political subdivision
241 or subdivisions that submit a plan for approval of the board, as
242 provided in this section, shall reimburse the board for coverage



243 into the expense account, its pro rata share of the total expense
244 of administering Articles 1 and 3 as provided by regulations of
245 the board.

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

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

258 (i) If any member of this system changes his employment
259 to any agency of the state having an actuarially funded retirement
260 system, the board of trustees may authorize the transfer of the
261 member's creditable service and of the present value of the
262 member's employer's accumulation account and of the present value
263 of the member's accumulated membership contributions to that other
264 system, provided that the employee agrees to the transfer of his
265 accumulated membership contributions and provided that the other
266 system is authorized to receive and agrees to make the transfer.



267 If any member of any other actuarially funded system
268 maintained by an agency of the state changes his employment to an
269 agency covered by this system, the board of trustees may authorize
270 the receipt of the transfer of the member's creditable service and
271 of the present value of the member's employer's accumulation
272 account and of the present value of the member's accumulated
273 membership contributions from the other system, provided that the
274 employee agrees to the transfer of his accumulated membership
275 contributions to this system and provided that the other system is
276 authorized and agrees to make the transfer.

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

280 (k) Employees of a political subdivision or
281 instrumentality who were employed by the political subdivision or
282 instrumentality before an agreement between the entity and the
283 Public Employees' Retirement System to extend the benefits of this
284 article to its employees, and which agreement provides for the
285 establishment of retroactive service credit, and who became
286 members of the retirement system before July 1, 2007, and have
287 remained contributors to the retirement system for four (4) years,
288 or who became members of the retirement system on or after July 1,
289 2007, and have remained contributors to the retirement system for
290 eight (8) years, may receive credit for that retroactive service
291 with the political subdivision or instrumentality, provided that



292 the employee and/or employer, as provided under the terms of the
293 modification of the joinder agreement in allowing that coverage,
294 pay into the retirement system the employer's and employee's
295 contributions on wages paid the member during the previous
296 employment, together with interest or actuarial cost as determined
297 by the board covering the period from the date the service was
298 rendered until the payment for the credit for the service was
299 made. Those wages shall be verified by the Social Security
300 Administration or employer payroll records. Effective July 1,
301 1998, upon eligibility as noted above, a member may receive credit
302 for that retroactive service with the political subdivision or
303 instrumentality provided:

304 (i) The member shall furnish proof satisfactory to
305 the board of trustees of certification of those services from the
306 political subdivision or instrumentality where the services were
307 rendered or verification by the Social Security Administration;
308 and

309 (ii) The member shall pay to the retirement system
310 on the date he or she is eligible for that credit or at any time
311 thereafter before the date of retirement the actuarial cost for
312 each year of that creditable service. The provisions of this
313 subparagraph (ii) shall be subject to the limitations of Section
314 415 of the Internal Revenue Code and regulations promulgated under
315 Section 415.



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

325 (1) Through June 30, 1998, any state service eligible
326 for retroactive service credit, no part of which has ever been
327 reported, and requiring the payment of employee and employer
328 contributions plus interest, or, from and after July 1, 1998, any
329 state service eligible for retroactive service credit, no part of
330 which has ever been reported to the retirement system, and
331 requiring the payment of the actuarial cost for that creditable
332 service, may, at the member's option, be purchased in quarterly
333 increments as provided above at the time that its purchase is
334 otherwise allowed.

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

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



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

342 (a) Patient or inmate help in state charitable, penal
343 or correctional institutions;

344 (b) Students of any state educational institution
345 employed by any agency of the state for temporary, part-time or
346 intermittent work;

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

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

354 **III. TERMINATION OF MEMBERSHIP**

355 Membership in this system shall cease by a member withdrawing
356 his accumulated contributions, or by a member withdrawing from
357 active service with a retirement allowance, or by a member's
358 death.

359 **SECTION 3.** This act shall take effect and be in force from
360 and after July 1, 2022.

