

By: Senator(s) Butler (38th)

To: Education; Finance

SENATE BILL NO. 2360

1 AN ACT TO CREATE NEW SECTION 25-11-126, MISSISSIPPI CODE OF  
 2 1972, TO PROVIDE THAT CERTAIN PERSONS RECEIVING A RETIREMENT  
 3 ALLOWANCE FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO ARE  
 4 EMPLOYED AS TEACHERS IN THE PUBLIC SCHOOL SYSTEM AFTER THEIR  
 5 RETIREMENT, AND CERTAIN PERSONS EMPLOYED AS TEACHERS IN THE PUBLIC  
 6 SCHOOL SYSTEM WHO ARE ELIGIBLE TO RECEIVE A RETIREMENT ALLOWANCE  
 7 FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM, MAY RECEIVE A  
 8 RETIREMENT ALLOWANCE DURING THEIR EMPLOYMENT AS TEACHERS IN  
 9 ADDITION TO RECEIVING A TEACHER'S SALARY; TO PROVIDE THAT THOSE  
 10 PERSONS SHALL NOT BE CONTRIBUTING MEMBERS OF THE RETIREMENT SYSTEM  
 11 NOR RECEIVE ANY CREDITABLE SERVICE FOR THE PERIOD DURING WHICH  
 12 THEY RECEIVE A RETIREMENT ALLOWANCE DURING THEIR EMPLOYMENT AS  
 13 TEACHERS; TO AMEND SECTIONS 25-11-103, 25-11-105 AND 25-11-127,  
 14 MISSISSIPPI CODE OF 1972, IN CONFORMITY WITH THE PROVISIONS OF  
 15 THIS ACT; AND FOR RELATED PURPOSES.

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

17 **SECTION 1.** The following shall be codified as Section  
 18 25-11-126, Mississippi Code of 1972:

19 25-11-126. (1) (a) Any person who has completed thirty  
 20 (30) or more years of creditable service and is receiving a  
 21 retirement allowance under this article, who was employed as a  
 22 teacher in the public school system at the time of his retirement  
 23 and who is employed as a teacher in the public school system after  
 24 his retirement, may choose to continue receiving the retirement



25 allowance under this article during his employment as a teacher  
26 after his retirement in addition to receiving the salary  
27 authorized under Section 37-19-7, in the manner provided in this  
28 section.

29 (b) Any person who is employed as a teacher in the  
30 public school system who completes thirty (30) or more years of  
31 creditable service during his employment as a teacher may choose  
32 to receive a retirement allowance under this article during his  
33 employment as a teacher in the public school system in addition to  
34 receiving the salary authorized under Section 37-19-7, in the  
35 manner provided in this section.

36 (2) Any person described in subsection (1)(a) of this  
37 section shall notify the executive director of the retirement  
38 system, before being employed as a teacher in the public school  
39 system after his retirement, about his choice on continuing to  
40 receive the retirement allowance during his employment as a  
41 teacher. If the person chooses not to continue receiving the  
42 retirement allowance during his employment as a teacher, the  
43 retirement allowance shall cease on the day that he begins  
44 employment as a teacher after his retirement. After the person  
45 leaves employment as a teacher that he began after his retirement,  
46 in order to begin receiving a retirement allowance under this  
47 article again, the person shall make application to the executive  
48 director of the retirement system, and the retirement allowance



49 shall begin on the first of the month following the date that the  
50 application is received by the executive director.

51 (3) Any person described in subsection (1)(b) of this  
52 section who chooses to receive a retirement allowance during his  
53 employment as a teacher in the public school system shall make  
54 application to the executive director of the retirement system,  
55 and the retirement allowance shall begin on the first of the month  
56 following the date that the application is received by the  
57 executive director. Those persons shall not be required to  
58 withdraw from service in order to receive the retirement  
59 allowance.

60 (4) Any person to whom this section applies who receives or  
61 continues to receive a retirement allowance under this article  
62 during his employment as a teacher shall not be a contributing  
63 member of the retirement system nor receive any creditable service  
64 for the period during which he receives a retirement allowance  
65 during his employment as a teacher. Any person to whom this  
66 section applies who chooses not to receive a retirement allowance  
67 during his employment as a teacher shall be a contributing member  
68 of the retirement system and shall receive creditable service for  
69 the period during which he is employed as a teacher without  
70 receiving a retirement allowance. If the person has previously  
71 received a retirement allowance under this article and he is  
72 employed as a teacher for more than six (6) months without  
73 receiving a retirement allowance, he shall have his allowance



74 recomputed when he retires again, which shall include the service  
75 after he again became a contributing member of the retirement  
76 system.

77         **SECTION 2.** Section 25-11-103, Mississippi Code of 1972, is  
78 amended as follows:

79         25-11-103. (1) The following words and phrases as used in  
80 Articles 1 and 3, unless a different meaning is plainly required  
81 by the context, have the following meanings:

82             (a) "Accumulated contributions" means the sum of all  
83 the amounts deducted from the compensation of a member and  
84 credited to his or her individual account in the annuity savings  
85 account, together with regular interest as provided in Section  
86 25-11-123.

87             (b) "Actuarial cost" means the amount of funds  
88 presently required to provide future benefits as determined by the  
89 board based on applicable tables and formulas provided by the  
90 actuary.

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

95             (d) "Actuarial tables" mean such tables of mortality  
96 and rates of interest as adopted by the board in accordance with  
97 the recommendation of the actuary.



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

100 (f) "Average compensation" means the average of the  
101 four (4) highest years of earned compensation reported for an  
102 employee in a fiscal or calendar year period, or combination  
103 thereof that do not overlap, or the last forty-eight (48)  
104 consecutive months of earned compensation reported for an  
105 employee. The four (4) years need not be successive or joined  
106 years of service. In computing the average compensation for  
107 retirement, disability or survivor benefits, any amount lawfully  
108 paid in a lump sum for personal leave or major medical leave shall  
109 be included in the calculation to the extent that the amount does  
110 not exceed an amount that is equal to thirty (30) days of earned  
111 compensation and to the extent that it does not cause the  
112 employee's earned compensation to exceed the maximum reportable  
113 amount specified in paragraph (k) of this subsection; however,  
114 this thirty-day limitation shall not prevent the inclusion in the  
115 calculation of leave earned under federal regulations before July  
116 1, 1976, and frozen as of that date as referred to in Section  
117 25-3-99. In computing the average compensation, no amounts shall  
118 be used that are in excess of the amount on which contributions  
119 were required and paid, and no nontaxable amounts paid by the  
120 employer for health or life insurance premiums for the employee  
121 shall be used. If any member who is or has been granted any  
122 increase in annual salary or compensation of more than eight



123 percent (8%) retires within twenty-four (24) months from the date  
124 that the increase becomes effective, then the board shall exclude  
125 that part of the increase in salary or compensation that exceeds  
126 eight percent (8%) in calculating that member's average  
127 compensation for retirement purposes. The board may enforce this  
128 provision by rule or regulation. However, increases in  
129 compensation in excess of eight percent (8%) per year granted  
130 within twenty-four (24) months of the date of retirement may be  
131 included in the calculation of average compensation if  
132 satisfactory proof is presented to the board showing that the  
133 increase in compensation was the result of an actual change in the  
134 position held or services rendered, or that the compensation  
135 increase was authorized by the State Personnel Board or was  
136 increased as a result of statutory enactment, and the employer  
137 furnishes an affidavit stating that the increase granted within  
138 the last twenty-four (24) months was not contingent on a promise  
139 or agreement of the employee to retire. Nothing in Section  
140 25-3-31 shall affect the calculation of the average compensation  
141 of any member for the purposes of this article. The average  
142 compensation of any member who retires before July 1, 1992, shall  
143 not exceed the annual salary of the Governor.

144 (g) "Beneficiary" means any person entitled to receive  
145 a retirement allowance, an annuity or other benefit as provided by  
146 Articles 1 and 3. The term "beneficiary" may also include an  
147 organization, estate, trust or entity; however, a beneficiary



148 designated or entitled to receive monthly payments under an  
149 optional settlement based on life contingency or under a statutory  
150 monthly benefit may only be a natural person. In the event of the  
151 death before retirement of any member who became a member of the  
152 system before July 1, 2007, and whose spouse and/or children are  
153 not entitled to a retirement allowance on the basis that the  
154 member has less than four (4) years of membership service credit,  
155 or who became a member of the system on or after July 1, 2007, and  
156 whose spouse and/or children are not entitled to a retirement  
157 allowance on the basis that the member has less than eight (8)  
158 years of membership service credit, and/or has not been married  
159 for a minimum of one (1) year or the spouse has waived his or her  
160 entitlement to a retirement allowance under Section 25-11-114, the  
161 lawful spouse of a member at the time of the death of the member  
162 shall be the beneficiary of the member unless the member has  
163 designated another beneficiary after the date of marriage in  
164 writing, and filed that writing in the office of the executive  
165 director of the board of trustees. No designation or change of  
166 beneficiary shall be made in any other manner.

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

170 (i) "Creditable service" means "prior service,"  
171 "retroactive service" and all lawfully credited unused leave not  
172 exceeding the accrual rates and limitations provided in Section



173 25-3-91 et seq., as of the date of withdrawal from service plus  
174 "membership service" and other service for which credit is  
175 allowable as provided in Section 25-11-109. Except to limit  
176 creditable service reported to the system for the purpose of  
177 computing an employee's retirement allowance or annuity or  
178 benefits provided in this article, nothing in this paragraph shall  
179 limit or otherwise restrict the power of the governing authority  
180 of a municipality or other political subdivision of the state to  
181 adopt such vacation and sick leave policies as it deems necessary.

182 (j) "Child" means either a natural child of the member,  
183 a child that has been made a child of the member by applicable  
184 court action before the death of the member, or a child under the  
185 permanent care of the member at the time of the latter's death,  
186 which permanent care status shall be determined by evidence  
187 satisfactory to the board. For purposes of this paragraph, a  
188 natural child of the member is a child of the member that is  
189 conceived before the death of the member.

190 (k) "Earned compensation" means the full amount earned  
191 during a fiscal year by an employee not to exceed the employee  
192 compensation limit set pursuant to Section 401(a)(17) of the  
193 Internal Revenue Code for the calendar year in which the fiscal  
194 year begins and proportionately for less than one (1) year of  
195 service. Except as otherwise provided in this paragraph, the  
196 value of maintenance furnished to an employee shall not be  
197 included in earned compensation. Earned compensation shall not





198 include any amounts paid by the employer for health or life  
199 insurance premiums for an employee. Earned compensation shall be  
200 limited to the regular periodic compensation paid, exclusive of  
201 litigation fees, bond fees, performance-based incentive payments,  
202 and other similar extraordinary nonrecurring payments. In  
203 addition, any member in a covered position, as defined by Public  
204 Employees' Retirement System laws and regulations, who is also  
205 employed by another covered agency or political subdivision shall  
206 have the earnings of that additional employment reported to the  
207 Public Employees' Retirement System regardless of whether the  
208 additional employment is sufficient in itself to be a covered  
209 position. In addition, computation of earned compensation shall  
210 be governed by the following:

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

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

219 (iii) In the case of members of the State  
220 Legislature, all remuneration or amounts paid, except mileage  
221 allowance, shall apply.



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

230 (v) Compensation in addition to an employee's base  
231 salary that is paid to the employee under the vacation and sick  
232 leave policies of a municipality or other political subdivision of  
233 the state that employs him or her that exceeds the maximums  
234 authorized by Section 25-3-91 et seq. shall be excluded from the  
235 calculation of earned compensation under this article.

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

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

241 (viii) The value of maintenance furnished to an  
242 employee before July 1, 2013, for which the proper amount of  
243 employer and employee contributions have been paid, shall be  
244 included in earned compensation. From and after July 1, 2013, the  
245 value of maintenance furnished to an employee shall be reported as  
246 earned compensation only if the proper amount of employer and



247 employee contributions have been paid on the maintenance and the  
248 employee was receiving maintenance and having maintenance reported  
249 to the system as of June 30, 2013. The value of maintenance when  
250 not paid in money shall be fixed by the employing state agency,  
251 and, in case of doubt, by the board of trustees as defined in  
252 Section 25-11-15.

253 (ix) Except as otherwise provided in this  
254 paragraph, the value of any in-kind benefits provided by the  
255 employer shall not be included in earned compensation. As used in  
256 this subparagraph, "in-kind benefits" shall include, but not be  
257 limited to, group life insurance premiums, health or dental  
258 insurance premiums, nonpaid major medical and personal leave,  
259 employer contributions for social security and retirement, tuition  
260 reimbursement or educational funding, day care or transportation  
261 benefits.

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

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

268 (n) "Executive director" means the secretary to the  
269 board of trustees, as provided in Section 25-11-15(9), and the  
270 administrator of the Public Employees' Retirement System and all  
271 systems under the management of the board of trustees. Wherever



272 the term "Executive Secretary of the Public Employees' Retirement  
273 System" or "executive secretary" appears in this article or in any  
274 other provision of law, it shall be construed to mean the  
275 Executive Director of the Public Employees' Retirement System.

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

278 (p) "Medical board" means the board of physicians or  
279 any governmental or nongovernmental disability determination  
280 service designated by the board of trustees that is qualified to  
281 make disability determinations as provided for in Section  
282 25-11-119.

283 (q) "Member" means any person included in the  
284 membership of the system as provided in Section 25-11-105. For  
285 purposes of Sections 25-11-103, 25-11-105, 25-11-109, 25-11-111,  
286 25-11-113, 25-11-114, 25-11-115 and 25-11-117, if a member of the  
287 system withdrew from state service and received a refund of the  
288 amount of the accumulated contributions to the credit of the  
289 member in the annuity savings account before July 1, 2007, and the  
290 person reenters state service and becomes a member of the system  
291 again on or after July 1, 2007, and repays all or part of the  
292 amount received as a refund and interest in order to receive  
293 creditable service for service rendered before July 1, 2007, the  
294 member shall be considered to have become a member of the system  
295 on or after July 1, 2007, subject to the eight-year membership  
296 service requirement, as applicable in those sections. For



297 purposes of Sections 25-11-103, 25-11-111, 25-11-114 and  
298 25-11-115, if a member of the system withdrew from state service  
299 and received a refund of the amount of the accumulated  
300 contributions to the credit of the member in the annuity savings  
301 account before July 1, 2011, and the person reenters state service  
302 and becomes a member of the system again on or after July 1, 2011,  
303 and repays all or part of the amount received as a refund and  
304 interest in order to receive creditable service for service  
305 rendered before July 1, 2011, the member shall be considered to  
306 have become a member of the system on or after July 1, 2011.

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

310 (s) "Position" means any office or any employment in  
311 the state service, or two (2) or more of them, the duties of which  
312 call for services to be rendered by one (1) person, including  
313 positions jointly employed by federal and state agencies  
314 administering federal and state funds. The employer shall  
315 determine upon initial employment and during the course of  
316 employment of an employee who does not meet the criteria for  
317 coverage in the Public Employees' Retirement System based on the  
318 position held, whether the employee is or becomes eligible for  
319 coverage in the Public Employees' Retirement System based upon any  
320 other employment in a covered agency or political subdivision. If  
321 or when the employee meets the eligibility criteria for coverage



322 in the other position, then the employer must withhold  
323 contributions and report wages from the noncovered position in  
324 accordance with the provisions for reporting of earned  
325 compensation. Failure to deduct and report those contributions  
326 shall not relieve the employee or employer of liability thereof.  
327 The board shall adopt such rules and regulations as necessary to  
328 implement and enforce this provision.

329 (t) "Prior service" means:

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

337 (ii) For persons who became members of the system  
338 on or after July 1, 2007, service rendered before February 1,  
339 1953, for which credit is allowable under Sections 25-11-105 and  
340 25-11-109, and which shall allow prior service for any person who  
341 is now or becomes a member of the Public Employees' Retirement  
342 System and who does contribute to the system for a minimum period  
343 of eight (8) years.

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



347           (v) "Retirement allowance" means an annuity for life as  
348 provided in this article, payable each year in twelve (12) equal  
349 monthly installments beginning as of the date fixed by the board.  
350 The retirement allowance shall be calculated in accordance with  
351 Section 25-11-111. However, any spouse who received a spouse  
352 retirement benefit in accordance with Section 25-11-111(d) before  
353 March 31, 1971, and those benefits were terminated because of  
354 eligibility for a social security benefit, may again receive his  
355 or her spouse retirement benefit from and after making application  
356 with the board of trustees to reinstate the spouse retirement  
357 benefit.

358           (w) "Retroactive service" means service rendered after  
359 February 1, 1953, for which credit is allowable under Section  
360 25-11-105(b) and Section 25-11-105(k).

361           (x) "System" means the Public Employees' Retirement  
362 System of Mississippi established and described in Section  
363 25-11-101.

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

366           (z) "State service" means all offices and positions of  
367 trust or employment in the employ of the state, or any political  
368 subdivision or instrumentality of the state, that elect to  
369 participate as provided by Section 25-11-105(f), including the  
370 position of elected or fee officials of the counties and their  
371 deputies and employees performing public services or any



372 department, independent agency, board or commission thereof, and  
373 also includes all offices and positions of trust or employment in  
374 the employ of joint state and federal agencies administering state  
375 and federal funds and service rendered by employees of the public  
376 schools. Effective July 1, 1973, all nonprofessional public  
377 school employees, such as bus drivers, janitors, maids,  
378 maintenance workers and cafeteria employees, shall have the option  
379 to become members in accordance with Section 25-11-105(b), and  
380 shall be eligible to receive credit for services before July 1,  
381 1973, provided that the contributions and interest are paid by the  
382 employee in accordance with that section; in addition, the county  
383 or municipal separate school district may pay the employer  
384 contribution and pro rata share of interest of the retroactive  
385 service from available funds. "State service" shall not include  
386 the President of the Mississippi Lottery Corporation and personnel  
387 employed by the Mississippi Lottery Corporation. From and after  
388 July 1, 1998, retroactive service credit shall be purchased at the  
389 actuarial cost in accordance with Section 25-11-105(b).

390 (aa) "Withdrawal from service" or "termination from  
391 service" means complete severance of employment in the state  
392 service of any member by resignation, dismissal or discharge,  
393 except in the case of persons who become eligible to receive a  
394 retirement allowance under this article and who choose to receive  
395 the retirement allowance during their employment as teachers as  
396 authorized by Section 25-11-126.





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

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

402 **SECTION 3.** Section 25-11-105, Mississippi Code of 1972, is  
403 amended as follows:

404 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

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

407 (a) (i) All persons who become employees in the state  
408 service after January 31, 1953, and whose wages are subject to  
409 payroll taxes and are lawfully reported on IRS Form W-2, except  
410 those persons who are specifically excluded, \* \* \* those persons  
411 as to whom election is provided in Articles 1 and 3, or those  
412 persons who choose to receive or continue receiving a retirement  
413 allowance during their employment as teachers as authorized by  
414 Section 25-11-126, shall become members of the retirement system  
415 as a condition of their employment.

416 (ii) From and after July 1, 2002, any individual  
417 who is employed by a governmental entity to perform professional  
418 services shall become a member of the system if the individual is  
419 paid regular periodic compensation for those services that is  
420 subject to payroll taxes, is provided all other employee benefits  
421 and meets the membership criteria established by the regulations



422 adopted by the board of trustees that apply to all other members  
423 of the system; however, any active member employed in such a  
424 position on July 1, 2002, will continue to be an active member for  
425 as long as they are employed in any such position.

426 (b) All persons who become employees in the state  
427 service after January 31, 1953, except those specifically excluded  
428 or as to whom election is provided in Articles 1 and 3, unless  
429 they file with the board before the lapse of sixty (60) days of  
430 employment or sixty (60) days after the effective date of the  
431 cited articles, whichever is later, on a form prescribed by the  
432 board, a notice of election not to be covered by the membership of  
433 the retirement system and a duly executed waiver of all present  
434 and prospective benefits that would otherwise inure to them on  
435 account of their participation in the system, shall become members  
436 of the retirement system; however, no credit for prior service  
437 will be granted to members who became members of the system before  
438 July 1, 2007, until they have contributed to Article 3 of the  
439 retirement system for a minimum period of at least four (4) years,  
440 or to members who became members of the system on or after July 1,  
441 2007, until they have contributed to Article 3 of the retirement  
442 system for a minimum period of at least eight (8) years. Those  
443 members shall receive credit for services performed before January  
444 1, 1953, in employment now covered by Article 3, but no credit  
445 shall be granted for retroactive services between January 1, 1953,  
446 and the date of their entry into the retirement system, unless the



447 employee pays into the retirement system both the employer's and  
448 the employee's contributions on wages paid him during the period  
449 from January 31, 1953, to the date of his becoming a contributing  
450 member, together with interest at the rate determined by the board  
451 of trustees. Members reentering after withdrawal from service  
452 shall qualify for prior service under the provisions of Section  
453 25-11-117. From and after July 1, 1998, upon eligibility as noted  
454 above, the member may receive credit for such retroactive service  
455 provided:

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

459 (ii) The member shall pay to the retirement system  
460 on the date he or she is eligible for that credit or at any time  
461 thereafter before the date of retirement the actuarial cost for  
462 each year of that creditable service. The provisions of this  
463 subparagraph (ii) shall be subject to the limitations of Section  
464 415 of the Internal Revenue Code and regulations promulgated under  
465 Section 415.

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

470 (c) All persons who become employees in the state  
471 service after January 31, 1953, and who are eligible for



472 membership in any other retirement system shall become members of  
473 this retirement system as a condition of their employment, unless  
474 they elect at the time of their employment to become a member of  
475 that other system.

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

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

493 (f) Each political subdivision of the state and each  
494 instrumentality of the state or a political subdivision, or both,  
495 is authorized to submit, for approval by the board of trustees, a  
496 plan for extending the benefits of this article to employees of



497 any such political subdivision or instrumentality. Each such plan  
498 or any amendment to the plan for extending benefits thereof shall  
499 be approved by the board of trustees if it finds that the plan, or  
500 the plan as amended, is in conformity with such requirements as  
501 are provided in Articles 1 and 3; however, upon approval of the  
502 plan or any such plan previously approved by the board of  
503 trustees, the approved plan shall not be subject to cancellation  
504 or termination by the political subdivision or instrumentality.  
505 No such plan shall be approved unless:

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

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

518 (iii) It provides for such methods of  
519 administration of the plan by the political subdivision or  
520 instrumentality as are found by the board of trustees to be  
521 necessary for the proper and efficient administration thereof;



522 (iv) It provides that the political subdivision or  
523 instrumentality will make such reports, in such form and  
524 containing such information, as the board of trustees may from  
525 time to time require;

526 (v) It authorizes the board of trustees to  
527 terminate the plan in its entirety in the discretion of the board  
528 if it finds that there has been a failure to comply substantially  
529 with any provision contained in the plan, the termination to take  
530 effect at the expiration of such notice and on such conditions as  
531 may be provided by regulations of the board and as may be  
532 consistent with applicable federal law.

533 1. The board of trustees shall not finally  
534 refuse to approve a plan submitted under paragraph (f), and shall  
535 not terminate an approved plan without reasonable notice and  
536 opportunity for hearing to each political subdivision or  
537 instrumentality affected by the board's decision. The board's  
538 decision in any such case shall be final, conclusive and binding  
539 unless an appeal is taken by the political subdivision or  
540 instrumentality aggrieved by the decision to the Circuit Court of  
541 the First Judicial District of Hinds County, Mississippi, in  
542 accordance with the provisions of law with respect to civil causes  
543 by certiorari.

544 2. Each political subdivision or  
545 instrumentality as to which a plan has been approved under this  
546 section shall pay into the contribution fund, with respect to



547 wages (as defined in Section 25-11-5), at such time or times as  
548 the board of trustees may by regulation prescribe, contributions  
549 in the amounts and at the rates specified in the applicable  
550 agreement entered into by the board.

551                   3. Every political subdivision or  
552 instrumentality required to make payments under paragraph (f)(v)2  
553 of this section is authorized, in consideration of the employees'  
554 retention in or entry upon employment after enactment of Articles  
555 1 and 3, to impose upon its employees, as to services that are  
556 covered by an approved plan, a contribution with respect to wages  
557 (as defined in Section 25-11-5) not exceeding the amount provided  
558 in Section 25-11-123(d) if those services constituted employment  
559 within the meaning of Articles 1 and 3, and to deduct the amount  
560 of the contribution from the wages as and when paid.

561 Contributions so collected shall be paid into the contribution  
562 fund as partial discharge of the liability of the political  
563 subdivisions or instrumentalities under paragraph (f)(v)2 of this  
564 section. Failure to deduct the contribution shall not relieve the  
565 employee or employer of liability for the contribution.

566                   4. Any state agency, school, political  
567 subdivision, instrumentality or any employer that is required to  
568 submit contribution payments or wage reports under any section of  
569 this chapter shall be assessed interest on delinquent payments or  
570 wage reports as determined by the board of trustees in accordance  
571 with rules and regulations adopted by the board and delinquent



572 payments, assessed interest and any other amount certified by the  
573 board as owed by an employer, may be recovered by action in a  
574 court of competent jurisdiction against the reporting agency  
575 liable therefor or may, upon due certification of delinquency and  
576 at the request of the board of trustees, be deducted from any  
577 other monies payable to the reporting agency by any department or  
578 agency of the state.

579                   5. Each political subdivision of the state  
580 and each instrumentality of the state or a political subdivision  
581 or subdivisions that submit a plan for approval of the board, as  
582 provided in this section, shall reimburse the board for coverage  
583 into the expense account, its pro rata share of the total expense  
584 of administering Articles 1 and 3 as provided by regulations of  
585 the board.

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

592                   (h) An employee whose membership in this system is  
593 contingent on his own election, and who elects not to become a  
594 member, may thereafter apply for and be admitted to membership;  
595 but no such employee shall receive prior service credit unless he





596 becomes a member before July 1, 1953, except as provided in  
597 paragraph (b).

598 (i) If any member of this system changes his employment  
599 to any agency of the state having an actuarially funded retirement  
600 system, the board of trustees may authorize the transfer of the  
601 member's creditable service and of the present value of the  
602 member's employer's accumulation account and of the present value  
603 of the member's accumulated membership contributions to that other  
604 system, provided that the employee agrees to the transfer of his  
605 accumulated membership contributions and provided that the other  
606 system is authorized to receive and agrees to make the transfer.

607 If any member of any other actuarially funded system  
608 maintained by an agency of the state changes his employment to an  
609 agency covered by this system, the board of trustees may authorize  
610 the receipt of the transfer of the member's creditable service and  
611 of the present value of the member's employer's accumulation  
612 account and of the present value of the member's accumulated  
613 membership contributions from the other system, provided that the  
614 employee agrees to the transfer of his accumulated membership  
615 contributions to this system and provided that the other system is  
616 authorized and agrees to make the transfer.

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



620 (k) Employees of a political subdivision or  
621 instrumentality who were employed by the political subdivision or  
622 instrumentality before an agreement between the entity and the  
623 Public Employees' Retirement System to extend the benefits of this  
624 article to its employees, and which agreement provides for the  
625 establishment of retroactive service credit, and who became  
626 members of the retirement system before July 1, 2007, and have  
627 remained contributors to the retirement system for four (4) years,  
628 or who became members of the retirement system on or after July 1,  
629 2007, and have remained contributors to the retirement system for  
630 eight (8) years, may receive credit for that retroactive service  
631 with the political subdivision or instrumentality, provided that  
632 the employee and/or employer, as provided under the terms of the  
633 modification of the joinder agreement in allowing that coverage,  
634 pay into the retirement system the employer's and employee's  
635 contributions on wages paid the member during the previous  
636 employment, together with interest or actuarial cost as determined  
637 by the board covering the period from the date the service was  
638 rendered until the payment for the credit for the service was  
639 made. Those wages shall be verified by the Social Security  
640 Administration or employer payroll records. Effective July 1,  
641 1998, upon eligibility as noted above, a member may receive credit  
642 for that retroactive service with the political subdivision or  
643 instrumentality provided:



644 (i) The member shall furnish proof satisfactory to  
645 the board of trustees of certification of those services from the  
646 political subdivision or instrumentality where the services were  
647 rendered or verification by the Social Security Administration;  
648 and

649 (ii) The member shall pay to the retirement system  
650 on the date he or she is eligible for that credit or at any time  
651 thereafter before the date of retirement the actuarial cost for  
652 each year of that creditable service. The provisions of this  
653 subparagraph (ii) shall be subject to the limitations of Section  
654 415 of the Internal Revenue Code and regulations promulgated under  
655 Section 415.

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

665 (1) Through June 30, 1998, any state service eligible  
666 for retroactive service credit, no part of which has ever been  
667 reported, and requiring the payment of employee and employer  
668 contributions plus interest, or, from and after July 1, 1998, any



669 state service eligible for retroactive service credit, no part of  
670 which has ever been reported to the retirement system, and  
671 requiring the payment of the actuarial cost for that creditable  
672 service, may, at the member's option, be purchased in quarterly  
673 increments as provided above at the time that its purchase is  
674 otherwise allowed.

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

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

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

682 (a) Patient or inmate help in state charitable, penal  
683 or correctional institutions;

684 (b) Students of any state educational institution  
685 employed by any agency of the state for temporary, part-time or  
686 intermittent work;

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

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



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**III. TERMINATION OF MEMBERSHIP**

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

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

25-11-127. (1) (a) Except as otherwise provided in Section 25-11-126, 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. Except as otherwise provided in Section 25-11-126, 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.

(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.



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

721 (2) Except as otherwise provided in Section 25-11-126, any  
722 person who has been retired under the provisions of Article 3 and  
723 who is later reemployed in service covered by this article shall  
724 cease to receive benefits under this article and shall again  
725 become a contributing member of the retirement system. When the  
726 person retires again, if the person has been a contributing member  
727 of the retirement system during his reemployment and the  
728 reemployment exceeds six (6) months, the person shall have his or  
729 her benefit recomputed, including service after again becoming a  
730 member, provided that the total retirement allowance paid to the  
731 retired member in his or her previous retirement shall be deducted  
732 from the member's retirement reserve and taken into consideration  
733 in recalculating the retirement allowance under a new option  
734 selected.

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

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

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



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

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

748 To determine the normal working days for a position under  
749 paragraph (a) of this subsection, the employer shall determine the  
750 required number of working days for the position on a full-time  
751 basis and the equivalent number of hours representing the  
752 full-time position. The retiree then may work up to one-half  
753 (1/2) of the required number of working days or up to one-half  
754 (1/2) of the equivalent number of hours and receive up to one-half  
755 (1/2) of the salary for the position. In the case of employment  
756 with multiple employers, the limitation shall equal one-half (1/2)  
757 of the number of days or hours for a single full-time position.

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

763 (5) Except as otherwise provided in subsection (6) of this  
764 section, the employer of any person who is receiving a retirement  
765 allowance and who is employed in service covered by subsection (4)  
766 of this section as an employee or a contractual employee shall pay  
767 to the board the full amount of the employer's contribution on the



768 amount of compensation received by the retiree for his or her  
769 employment in accordance with regulations prescribed by the board.  
770 The retiree shall not receive any additional creditable service in  
771 the retirement system as a result of the payment of the employer's  
772 contribution. This subsection does not apply to persons who are  
773 receiving a retirement allowance and who contract with an employer  
774 to provide services as a true independent contractor, as defined  
775 by the board through regulation.

776 (6) (a) A member may retire and continue in municipal or  
777 county elective office provided that the member has reached the  
778 age and/or service requirement that will not result in a  
779 prohibited in-service distribution as defined by the Internal  
780 Revenue Service, or a retiree may be elected to a municipal or  
781 county office, provided that the person:

782 (i) Files annually, in writing, in the office of  
783 the employer and the office of the executive director of the  
784 system before the person takes office or as soon as possible after  
785 retirement, a waiver of all salary or compensation and elects to  
786 receive in lieu of that salary or compensation a retirement  
787 allowance as provided in this section, in which event no salary or  
788 compensation shall thereafter be due or payable for those  
789 services; however, any such officer or employee may receive, in  
790 addition to the retirement allowance, office expense allowance,  
791 mileage or travel expense authorized by any statute of the State  
792 of Mississippi; or





793                   (ii) Elects to receive compensation for that  
794 elective office in an amount not to exceed twenty-five percent  
795 (25%) of the retiree's average compensation. In order to receive  
796 compensation as allowed in this subparagraph, the retiree shall  
797 file annually, in writing, in the office of the employer and the  
798 office of the executive director of the system, an election to  
799 receive, in addition to a retirement allowance, compensation as  
800 allowed in this subparagraph.

801                   (b) The municipality or county in which the retired  
802 person holds elective office shall pay to the board the amount of  
803 the employer's contributions on the full amount of the regular  
804 compensation for the elective office that the retired person  
805 holds.

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

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

