

**Replace By Substitute  
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

**House Bill No. 1618**

**BY: Committee**

**Amend by striking all after the enacting clause and inserting  
in lieu thereof the following:**

11           **SECTION 1.** Section 25-11-5, Mississippi Code of 1972, is  
12 amended as follows:

13           25-11-5. For the purposes of this article:

14                   (a) The term "wages" means all remuneration for  
15 employment as defined herein, including the cash value of all  
16 remuneration paid in any medium other than cash, except that such  
17 term shall not include that part of such remuneration which, even  
18 if it were for "employment" within the meaning of the Federal  
19 Insurance Contributions Act, would not constitute "wages" within  
20 the meaning of that act. The amount by which an eligible



21 employee's salary is reduced pursuant to a salary reduction  
22 agreement authorized under Section 25-17-5 shall be excluded from  
23 the term "wages", provided such exclusion does not conflict with  
24 federal law, including federal regulations and federal  
25 administrative interpretations thereunder, pertaining to the  
26 Federal Insurance Contributions Act or to Internal Revenue Code  
27 Section 125 cafeteria plans. If any salary reduction amounts  
28 excluded from "wages" under the prior sentence are determined to  
29 be "wages" by the Social Security Administration or the Internal  
30 Revenue Service and payroll tax deficiencies are assessed, the  
31 deficiencies shall be borne by the eligible employee and the  
32 adopting state agency or local governmental entity and not by the  
33 Public Employees' Retirement System of Mississippi as state  
34 administrator.

35 (b) The term "employment" means any service performed  
36 by an employee in the employ of the state, any political  
37 subdivision thereof, or any instrumentality of either for such  
38 employer, except (i) service which in the absence of an agreement  
39 entered into under this article would constitute "employment" as  
40 defined in the Social Security Act; or (ii) service which under  
41 applicable federal law may not be included in an agreement between  
42 the state and the Secretary of Health, Education and Welfare  
43 entered into under this article; or (iii) service in positions  
44 covered by a retirement system established by the state or by a  
45 political subdivision or an instrumentality of either on the date



46 the agreement referred to in Section 25-11-7 or any modification  
47 of such agreement is made applicable to the coverage group (as  
48 defined in Section 218(b) (5) of the Social Security Act) to which  
49 the employee performing such services belongs. Service which  
50 under the Social Security Act may be included in an agreement only  
51 upon certification by the Governor in accordance with Section  
52 218(d) (3) of that act shall be included in the term "employment"  
53 if and when the Governor issues, with respect to such service, a  
54 certificate to the Secretary of Health, Education and Welfare  
55 pursuant to Section 25-11-11(5) of this article.

56 Services, the compensation for which is on a fee basis, may,  
57 to the extent permitted by applicable federal law, be excluded in  
58 any plan or agreement approved under or authorized by this  
59 article.

60 (c) The term "employee," in addition to its usual  
61 meaning, includes an officer of a state, a political subdivision  
62 thereof, or an instrumentality of either, and all school  
63 employees.

64 (d) The term "board" means the Board of Trustees of the  
65 Public Employees' Retirement System of Mississippi as provided by  
66 Section 25-11-15 of this article.

67 (e) The term "Secretary of Health, Education and  
68 Welfare" includes any individual to whom the Secretary of Health,  
69 Education and Welfare has delegated any functions under the Social  
70 Security Act with respect to coverage under such act of employees



71 of states and their political subdivisions and, with respect to  
72 any action taken prior to April 11, 1953, includes the federal  
73 security administrator or any individual to whom he had delegated  
74 any such function.

75 (f) The term "political subdivision" includes any  
76 county, municipality, or other political subdivision within the  
77 State of Mississippi to which has been delegated certain functions  
78 of local government, and employees thereof who are eligible to  
79 become a coverage group under the terms of the Social Security  
80 Act.

81 (g) The term "instrumentality," when referring to an  
82 instrumentality of the state or political subdivision, includes  
83 only a juristic entity which is legally separate and distinct from  
84 the state or such subdivision and whose employees are not by  
85 virtue of their relation to such entity employees of the state or  
86 such subdivision. A health care collaborative or other  
87 organization formed pursuant to Sections 37-115-50 through  
88 37-115-50.3 shall be considered an instrumentality of the state.

89 (h) The term "applicable federal law" refers to such  
90 provisions of federal law (including federal regulations and  
91 requirements issued pursuant thereto), as provide for extending  
92 the benefits of Title II of the Social Security Act to employees  
93 of states, political subdivisions, and their instrumentalities.

94 (i) The term "Social Security Act" means the Act of  
95 Congress approved August 14, 1935, Chapter 531, 49 Stat 620,



96 officially cited as "The Social Security Act," as such act has  
97 been and may from time to time be amended.

98 (j) The term "Federal Insurance Contribution Act" means  
99 subchapter A of Chapter 9 of the Federal Internal Revenue Code of  
100 1939 and subchapters A and B of Chapter 21 of the Federal Internal  
101 Revenue Code of 1954, as such Codes have been and may from time to  
102 time be amended; and the term "employee tax" means the tax imposed  
103 by Section 1400 of such Code of 1939 and Section 3101 of such Code  
104 of 1954.

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

107 25-11-103. (1) The following words and phrases as used in  
108 Articles 1 and 3, unless a different meaning is plainly required  
109 by the context, have the following meanings:

110 (a) "Accumulated contributions" means the sum of all  
111 the amounts deducted from the compensation of a member and  
112 credited to his or her individual account in the annuity savings  
113 account, together with regular interest as provided in Section  
114 25-11-123.

115 (b) "Actuarial cost" means the amount of funds  
116 presently required to provide future benefits as determined by the  
117 board based on applicable tables and formulas provided by the  
118 actuary.

119 (c) "Actuarial equivalent" means a benefit of equal  
120 value to the accumulated contributions, annuity or benefit, as the



121 case may be, when computed upon the basis of such mortality tables  
122 as adopted by the board of trustees, and regular interest.

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

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

128 (f) "Average compensation" means the average of the  
129 four (4) highest years of earned compensation reported for an  
130 employee in a fiscal or calendar year period, or combination  
131 thereof that do not overlap, or the last forty-eight (48)  
132 consecutive months of earned compensation reported for an  
133 employee. The four (4) years need not be successive or joined  
134 years of service. In computing the average compensation for  
135 retirement, disability or survivor benefits, any amount lawfully  
136 paid in a lump sum for personal leave or major medical leave shall  
137 be included in the calculation to the extent that the amount does  
138 not exceed an amount that is equal to thirty (30) days of earned  
139 compensation and to the extent that it does not cause the  
140 employee's earned compensation to exceed the maximum reportable  
141 amount specified in paragraph (k) of this subsection; however,  
142 this thirty-day limitation shall not prevent the inclusion in the  
143 calculation of leave earned under federal regulations before July  
144 1, 1976, and frozen as of that date as referred to in Section  
145 25-3-99. In computing the average compensation, no amounts shall



146 be used that are in excess of the amount on which contributions  
147 were required and paid, and no nontaxable amounts paid by the  
148 employer for health or life insurance premiums for the employee  
149 shall be used. If any member who is or has been granted any  
150 increase in annual salary or compensation of more than eight  
151 percent (8%) retires within twenty-four (24) months from the date  
152 that the increase becomes effective, then the board shall exclude  
153 that part of the increase in salary or compensation that exceeds  
154 eight percent (8%) in calculating that member's average  
155 compensation for retirement purposes. The board may enforce this  
156 provision by rule or regulation. However, increases in  
157 compensation in excess of eight percent (8%) per year granted  
158 within twenty-four (24) months of the date of retirement may be  
159 included in the calculation of average compensation if  
160 satisfactory proof is presented to the board showing that the  
161 increase in compensation was the result of an actual change in the  
162 position held or services rendered, or that the compensation  
163 increase was authorized by the State Personnel Board or was  
164 increased as a result of statutory enactment, and the employer  
165 furnishes an affidavit stating that the increase granted within  
166 the last twenty-four (24) months was not contingent on a promise  
167 or agreement of the employee to retire. Nothing in Section  
168 25-3-31 shall affect the calculation of the average compensation  
169 of any member for the purposes of this article. The average



170 compensation of any member who retires before July 1, 1992, shall  
171 not exceed the annual salary of the Governor.

172 (g) "Beneficiary" means any person entitled to receive  
173 a retirement allowance, an annuity or other benefit as provided by  
174 Articles 1 and 3. The term "beneficiary" may also include an  
175 organization, estate, trust or entity; however, a beneficiary  
176 designated or entitled to receive monthly payments under an  
177 optional settlement based on life contingency or under a statutory  
178 monthly benefit may only be a natural person. In the event of the  
179 death before retirement of any member who became a member of the  
180 system before July 1, 2007, and whose spouse and/or children are  
181 not entitled to a retirement allowance on the basis that the  
182 member has less than four (4) years of membership service credit,  
183 or who became a member of the system on or after July 1, 2007, and  
184 whose spouse and/or children are not entitled to a retirement  
185 allowance on the basis that the member has less than eight (8)  
186 years of membership service credit, and/or has not been married  
187 for a minimum of one (1) year or the spouse has waived his or her  
188 entitlement to a retirement allowance under Section 25-11-114, the  
189 lawful spouse of a member at the time of the death of the member  
190 shall be the beneficiary of the member unless the member has  
191 designated another beneficiary after the date of marriage in  
192 writing, and filed that writing in the office of the executive  
193 director of the board of trustees. No designation or change of  
194 beneficiary shall be made in any other manner.





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

198           (i) "Creditable service" means "prior service,"  
199 "retroactive service" and all lawfully credited unused leave not  
200 exceeding the accrual rates and limitations provided in Section  
201 25-3-91 et seq., as of the date of withdrawal from service plus  
202 "membership service" and other service for which credit is  
203 allowable as provided in Section 25-11-109. Except to limit  
204 creditable service reported to the system for the purpose of  
205 computing an employee's retirement allowance or annuity or  
206 benefits provided in this article, nothing in this paragraph shall  
207 limit or otherwise restrict the power of the governing authority  
208 of a municipality or other political subdivision of the state to  
209 adopt such vacation and sick leave policies as it deems necessary.

210           (j) "Child" means either a natural child of the member,  
211 a child that has been made a child of the member by applicable  
212 court action before the death of the member, or a child under the  
213 permanent care of the member at the time of the latter's death,  
214 which permanent care status shall be determined by evidence  
215 satisfactory to the board. For purposes of this paragraph, a  
216 natural child of the member is a child of the member that is  
217 conceived before the death of the member.

218           (k) "Earned compensation" means the full amount earned  
219 during a fiscal year by an employee not to exceed the employee



220 compensation limit set pursuant to Section 401(a)(17) of the  
221 Internal Revenue Code for the calendar year in which the fiscal  
222 year begins and proportionately for less than one (1) year of  
223 service. Except as otherwise provided in this paragraph, the  
224 value of maintenance furnished to an employee shall not be  
225 included in earned compensation. Earned compensation shall not  
226 include any amounts paid by the employer for health or life  
227 insurance premiums for an employee. Earned compensation shall be  
228 limited to the regular periodic compensation paid, exclusive of  
229 litigation fees, bond fees, performance-based incentive payments,  
230 and other similar extraordinary nonrecurring payments. In  
231 addition, any member in a covered position, as defined by Public  
232 Employees' Retirement System laws and regulations, who is also  
233 employed by another covered agency or political subdivision shall  
234 have the earnings of that additional employment reported to the  
235 Public Employees' Retirement System regardless of whether the  
236 additional employment is sufficient in itself to be a covered  
237 position. In addition, computation of earned compensation shall  
238 be governed by the following:

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



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

247 (iii) In the case of members of the State  
248 Legislature, all remuneration or amounts paid, except mileage  
249 allowance, shall apply.

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

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

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

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



269                   (viii) The value of maintenance furnished to an  
270 employee before July 1, 2013, for which the proper amount of  
271 employer and employee contributions have been paid, shall be  
272 included in earned compensation. From and after July 1, 2013, the  
273 value of maintenance furnished to an employee shall be reported as  
274 earned compensation only if the proper amount of employer and  
275 employee contributions have been paid on the maintenance and the  
276 employee was receiving maintenance and having maintenance reported  
277 to the system as of June 30, 2013. The value of maintenance when  
278 not paid in money shall be fixed by the employing state agency,  
279 and, in case of doubt, by the board of trustees as defined in  
280 Section 25-11-15.

281                   (ix) Except as otherwise provided in this  
282 paragraph, the value of any in-kind benefits provided by the  
283 employer shall not be included in earned compensation. As used in  
284 this subparagraph, "in-kind benefits" shall include, but not be  
285 limited to, group life insurance premiums, health or dental  
286 insurance premiums, nonpaid major medical and personal leave,  
287 employer contributions for social security and retirement, tuition  
288 reimbursement or educational funding, day care or transportation  
289 benefits.

290                   (1) "Employee" means any person legally occupying a  
291 position in the state service, and shall include the employees of  
292 the retirement system created under this article.



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

296 (n) "Executive director" means the secretary to the  
297 board of trustees, as provided in Section 25-11-15(9), and the  
298 administrator of the Public Employees' Retirement System and all  
299 systems under the management of the board of trustees. Wherever  
300 the term "Executive Secretary of the Public Employees' Retirement  
301 System" or "executive secretary" appears in this article or in any  
302 other provision of law, it shall be construed to mean the  
303 Executive Director of the Public Employees' Retirement System.

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

306 (p) "Medical board" means the board of physicians or  
307 any governmental or nongovernmental disability determination  
308 service designated by the board of trustees that is qualified to  
309 make disability determinations as provided for in Section  
310 25-11-119.

311 (q) "Member" means any person included in the  
312 membership of the system as provided in Section 25-11-105. For  
313 purposes of Sections 25-11-103, 25-11-105, 25-11-109, 25-11-111,  
314 25-11-113, 25-11-114, 25-11-115 and 25-11-117, if a member of the  
315 system withdrew from state service and received a refund of the  
316 amount of the accumulated contributions to the credit of the  
317 member in the annuity savings account before July 1, 2007, and the



318 person reenters state service and becomes a member of the system  
319 again on or after July 1, 2007, and repays all or part of the  
320 amount received as a refund and interest in order to receive  
321 creditable service for service rendered before July 1, 2007, the  
322 member shall be considered to have become a member of the system  
323 on or after July 1, 2007, subject to the eight-year membership  
324 service requirement, as applicable in those sections. For  
325 purposes of Sections 25-11-103, 25-11-111, 25-11-114 and  
326 25-11-115, if a member of the system withdrew from state service  
327 and received a refund of the amount of the accumulated  
328 contributions to the credit of the member in the annuity savings  
329 account before July 1, 2011, and the person reenters state service  
330 and becomes a member of the system again on or after July 1, 2011,  
331 and repays all or part of the amount received as a refund and  
332 interest in order to receive creditable service for service  
333 rendered before July 1, 2011, the member shall be considered to  
334 have become a member of the system on or after July 1, 2011.

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

338 (s) "Position" means any office or any employment in  
339 the state service, or two (2) or more of them, the duties of which  
340 call for services to be rendered by one (1) person, including  
341 positions jointly employed by federal and state agencies  
342 administering federal and state funds. The employer shall



343 determine upon initial employment and during the course of  
344 employment of an employee who does not meet the criteria for  
345 coverage in the Public Employees' Retirement System based on the  
346 position held, whether the employee is or becomes eligible for  
347 coverage in the Public Employees' Retirement System based upon any  
348 other employment in a covered agency or political subdivision. If  
349 or when the employee meets the eligibility criteria for coverage  
350 in the other position, then the employer must withhold  
351 contributions and report wages from the noncovered position in  
352 accordance with the provisions for reporting of earned  
353 compensation. Failure to deduct and report those contributions  
354 shall not relieve the employee or employer of liability thereof.  
355 The board shall adopt such rules and regulations as necessary to  
356 implement and enforce this provision.

357 (t) "Prior service" means:

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

365 (ii) For persons who became members of the system  
366 on or after July 1, 2007, service rendered before February 1,  
367 1953, for which credit is allowable under Sections 25-11-105 and



368 25-11-109, and which shall allow prior service for any person who  
369 is now or becomes a member of the Public Employees' Retirement  
370 System and who does contribute to the system for a minimum period  
371 of eight (8) years.

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

375 (v) "Retirement allowance" means an annuity for life as  
376 provided in this article, payable each year in twelve (12) equal  
377 monthly installments beginning as of the date fixed by the board.  
378 The retirement allowance shall be calculated in accordance with  
379 Section 25-11-111. However, any spouse who received a spouse  
380 retirement benefit in accordance with Section 25-11-111(d) before  
381 March 31, 1971, and those benefits were terminated because of  
382 eligibility for a social security benefit, may again receive his  
383 or her spouse retirement benefit from and after making application  
384 with the board of trustees to reinstate the spouse retirement  
385 benefit.

386 (w) "Retroactive service" means service rendered after  
387 February 1, 1953, for which credit is allowable under Section  
388 25-11-105(b) and Section 25-11-105(k).

389 (x) "System" means the Public Employees' Retirement  
390 System of Mississippi established and described in Section  
391 25-11-101.





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

394 (z) "State service" means all offices and positions of  
395 trust or employment in the employ of the state, or any political  
396 subdivision or instrumentality of the state, that elect to  
397 participate as provided by Section 25-11-105(f), including the  
398 position of elected or fee officials of the counties and their  
399 deputies and employees performing public services or any  
400 department, independent agency, board or commission thereof, and  
401 also includes all offices and positions of trust or employment in  
402 the employ of joint state and federal agencies administering state  
403 and federal funds and service rendered by employees of the public  
404 schools. Effective July 1, 1973, all nonprofessional public  
405 school employees, such as bus drivers, janitors, maids,  
406 maintenance workers and cafeteria employees, shall have the option  
407 to become members in accordance with Section 25-11-105(b), and  
408 shall be eligible to receive credit for services before July 1,  
409 1973, provided that the contributions and interest are paid by the  
410 employee in accordance with that section; in addition, the county  
411 or municipal separate school district may pay the employer  
412 contribution and pro rata share of interest of the retroactive  
413 service from available funds. "State service" shall not include  
414 the President of the Mississippi Lottery Corporation and personnel  
415 employed by the Mississippi Lottery Corporation. From and after



416 July 1, 1998, retroactive service credit shall be purchased at the  
417 actuarial cost in accordance with Section 25-11-105(b).

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

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

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

426 (3) For purposes of this article, the term "instrumentality"  
427 shall have the meaning as defined in Section 25-11-5, and  
428 membership in the system shall not extend to any person employed  
429 by or paid for any service by a health care collaborative or other  
430 organization formed pursuant to Sections 37-115-50 through  
431 37-115-50.3, unless the health care collaborative or other  
432 organization elects to participate in the system, as provided for  
433 by Section 25-11-105(f). Notwithstanding the foregoing and any  
434 other provision of law to the contrary, the total gross labor  
435 expenses of all health care collaboratives shall not exceed twenty  
436 percent (20%) of the total gross labor expenses of the academic  
437 medical center, as defined in Section 37-115-50(a).

438 **SECTION 3.** Section 25-11-127, Mississippi Code of 1972, is  
439 amended as follows:



440           25-11-127. (1) (a) No person who is being paid a  
441 retirement allowance or a pension after retirement under this  
442 article shall be employed or paid for any service by the State of  
443 Mississippi, including services as an employee, contract worker,  
444 contractual employee or independent contractor, until the retired  
445 person has been retired for not less than ninety (90) consecutive  
446 days from his or her effective date of retirement. After the  
447 person has been retired for not less than ninety (90) consecutive  
448 days from his or her effective date of retirement or such later  
449 date as established by the board, he or she may be reemployed  
450 while being paid a retirement allowance under the terms and  
451 conditions provided in this section.

452           (b) No retiree of this retirement system who is  
453 reemployed or is reelected to office after retirement shall  
454 continue to draw retirement benefits while so reemployed, except  
455 as provided in this section.

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

459           (2) Any person who has been retired under the provisions of  
460 Article 3 and who is later reemployed in service covered by this  
461 article shall cease to receive benefits under this article and  
462 shall again become a contributing member of the retirement system.  
463 When the person retires again, if the reemployment exceeds six (6)  
464 months, the person shall have his or her benefit recomputed,



465 including service after again becoming a member, provided that the  
466 total retirement allowance paid to the retired member in his or  
467 her previous retirement shall be deducted from the member's  
468 retirement reserve and taken into consideration in recalculating  
469 the retirement allowance under a new option selected.

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

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

475 (a) For a period of time not to exceed one-half (1/2)  
476 of the normal working days for the position in any fiscal year  
477 during which the retiree will receive no more than one-half (1/2)  
478 of the salary in effect for the position at the time of  
479 employment, or

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

483 To determine the normal working days for a position under  
484 paragraph (a) of this subsection, the employer shall determine the  
485 required number of working days for the position on a full-time  
486 basis and the equivalent number of hours representing the  
487 full-time position. The retiree then may work up to one-half  
488 (1/2) of the required number of working days or up to one-half  
489 (1/2) of the equivalent number of hours and receive up to one-half



490 (1/2) of the salary for the position. In the case of employment  
491 with multiple employers, the limitation shall equal one-half (1/2)  
492 of the number of days or hours for a single full-time position.

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

498 (5) Except as otherwise provided in subsection (6) of this  
499 section, the employer of any person who is receiving a retirement  
500 allowance and who is employed in service covered by subsection (4)  
501 of this section as an employee or a contractual employee shall pay  
502 to the board the full amount of the employer's contribution on the  
503 amount of compensation received by the retiree for his or her  
504 employment in accordance with regulations prescribed by the board.  
505 The retiree shall not receive any additional creditable service in  
506 the retirement system as a result of the payment of the employer's  
507 contribution. This subsection does not apply to persons who are  
508 receiving a retirement allowance and who contract with an employer  
509 to provide services as a true independent contractor, as defined  
510 by the board through regulation.

511 (6) (a) A member may retire and continue in municipal or  
512 county elective office provided that the member has reached the  
513 age and/or service requirement that will not result in a  
514 prohibited in-service distribution as defined by the Internal



515 Revenue Service, or a retiree may be elected to a municipal or  
516 county office, provided that the person:

517           (i) Files annually, in writing, in the office of  
518 the employer and the office of the executive director of the  
519 system before the person takes office or as soon as possible after  
520 retirement, a waiver of all salary or compensation and elects to  
521 receive in lieu of that salary or compensation a retirement  
522 allowance as provided in this section, in which event no salary or  
523 compensation shall thereafter be due or payable for those  
524 services; however, any such officer or employee may receive, in  
525 addition to the retirement allowance, office expense allowance,  
526 mileage or travel expense authorized by any statute of the State  
527 of Mississippi; or

528           (ii) Elects to receive compensation for that  
529 elective office in an amount not to exceed twenty-five percent  
530 (25%) of the retiree's average compensation. In order to receive  
531 compensation as allowed in this subparagraph, the retiree shall  
532 file annually, in writing, in the office of the employer and the  
533 office of the executive director of the system, an election to  
534 receive, in addition to a retirement allowance, compensation as  
535 allowed in this subparagraph.

536           (b) The municipality or county in which the retired  
537 person holds elective office shall pay to the board the amount of  
538 the employer's contributions on the full amount of the regular



539 compensation for the elective office that the retired person  
540 holds.

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

544 (7) Notwithstanding the foregoing and any other provision of  
545 law to the contrary, this section shall not apply to any person  
546 who has been retired under this article for ninety (90)  
547 consecutive days or more from his or her effective date of  
548 retirement from the system if employed by or paid for any service  
549 by a health care collaborative or other organization formed  
550 pursuant to Sections 37-115-50 through 37-115-50.3, unless the  
551 health care collaborative or other organization elects to  
552 participate in the system, as provided for by Section  
553 25-11-105(f).

554 **SECTION 4.** Section 25-11-105, Mississippi Code of 1972, is  
555 brought forward as follows:

556 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

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

559 (a) (i) All persons who become employees in the state  
560 service after January 31, 1953, and whose wages are subject to  
561 payroll taxes and are lawfully reported on IRS Form W-2, except  
562 those specifically excluded, or as to whom election is provided in



563 Articles 1 and 3, shall become members of the retirement system as  
564 a condition of their employment.

565 (ii) From and after July 1, 2002, any individual  
566 who is employed by a governmental entity to perform professional  
567 services shall become a member of the system if the individual is  
568 paid regular periodic compensation for those services that is  
569 subject to payroll taxes, is provided all other employee benefits  
570 and meets the membership criteria established by the regulations  
571 adopted by the board of trustees that apply to all other members  
572 of the system; however, any active member employed in such a  
573 position on July 1, 2002, will continue to be an active member for  
574 as long as they are employed in any such position.

575 (b) All persons who become employees in the state  
576 service after January 31, 1953, except those specifically excluded  
577 or as to whom election is provided in Articles 1 and 3, unless  
578 they file with the board before the lapse of sixty (60) days of  
579 employment or sixty (60) days after the effective date of the  
580 cited articles, whichever is later, on a form prescribed by the  
581 board, a notice of election not to be covered by the membership of  
582 the retirement system and a duly executed waiver of all present  
583 and prospective benefits that would otherwise inure to them on  
584 account of their participation in the system, shall become members  
585 of the retirement system; however, no credit for prior service  
586 will be granted to members who became members of the system before  
587 July 1, 2007, until they have contributed to Article 3 of the





588 retirement system for a minimum period of at least four (4) years,  
589 or to members who became members of the system on or after July 1,  
590 2007, until they have contributed to Article 3 of the retirement  
591 system for a minimum period of at least eight (8) years. Those  
592 members shall receive credit for services performed before January  
593 1, 1953, in employment now covered by Article 3, but no credit  
594 shall be granted for retroactive services between January 1, 1953,  
595 and the date of their entry into the retirement system, unless the  
596 employee pays into the retirement system both the employer's and  
597 the employee's contributions on wages paid him during the period  
598 from January 31, 1953, to the date of his becoming a contributing  
599 member, together with interest at the rate determined by the board  
600 of trustees. Members reentering after withdrawal from service  
601 shall qualify for prior service under the provisions of Section  
602 25-11-117. From and after July 1, 1998, upon eligibility as noted  
603 above, the member may receive credit for such retroactive service  
604 provided:

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

608           (ii) The member shall pay to the retirement system  
609 on the date he or she is eligible for that credit or at any time  
610 thereafter before the date of retirement the actuarial cost for  
611 each year of that creditable service. The provisions of this  
612 subparagraph (ii) shall be subject to the limitations of Section



613 415 of the Internal Revenue Code and regulations promulgated under  
614 Section 415.

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

619         (c) All persons who become employees in the state  
620 service after January 31, 1953, and who are eligible for  
621 membership in any other retirement system shall become members of  
622 this retirement system as a condition of their employment, unless  
623 they elect at the time of their employment to become a member of  
624 that other system.

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

632         (e) All persons who are employees in the state service  
633 on January 31, 1953, and who under existing laws are members of  
634 any fund operated for the retirement of employees by the State of  
635 Mississippi, or any of its departments or agencies, shall not be  
636 entitled to membership in this retirement system unless, before  
637 February 1, 1953, any such person indicates by a notice filed with



638 the board, on a form prescribed by the board, his individual  
639 election and choice to participate in this system, but no such  
640 person shall receive prior service credit unless he becomes a  
641 member on or before February 1, 1953.

642 (f) Each political subdivision of the state and each  
643 instrumentality of the state or a political subdivision, or both,  
644 is authorized to submit, for approval by the board of trustees, a  
645 plan for extending the benefits of this article to employees of  
646 any such political subdivision or instrumentality. Each such plan  
647 or any amendment to the plan for extending benefits thereof shall  
648 be approved by the board of trustees if it finds that the plan, or  
649 the plan as amended, is in conformity with such requirements as  
650 are provided in Articles 1 and 3; however, upon approval of the  
651 plan or any such plan previously approved by the board of  
652 trustees, the approved plan shall not be subject to cancellation  
653 or termination by the political subdivision or instrumentality.  
654 No such plan shall be approved unless:

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



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

667 (iii) It provides for such methods of  
668 administration of the plan by the political subdivision or  
669 instrumentality as are found by the board of trustees to be  
670 necessary for the proper and efficient administration thereof;

671 (iv) It provides that the political subdivision or  
672 instrumentality will make such reports, in such form and  
673 containing such information, as the board of trustees may from  
674 time to time require;

675 (v) It authorizes the board of trustees to  
676 terminate the plan in its entirety in the discretion of the board  
677 if it finds that there has been a failure to comply substantially  
678 with any provision contained in the plan, the termination to take  
679 effect at the expiration of such notice and on such conditions as  
680 may be provided by regulations of the board and as may be  
681 consistent with applicable federal law.

682 1. The board of trustees shall not finally  
683 refuse to approve a plan submitted under paragraph (f), and shall  
684 not terminate an approved plan without reasonable notice and  
685 opportunity for hearing to each political subdivision or  
686 instrumentality affected by the board's decision. The board's



687 decision in any such case shall be final, conclusive and binding  
688 unless an appeal is taken by the political subdivision or  
689 instrumentality aggrieved by the decision to the Circuit Court of  
690 the First Judicial District of Hinds County, Mississippi, in  
691 accordance with the provisions of law with respect to civil causes  
692 by certiorari.

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

700                   3. Every political subdivision or  
701 instrumentality required to make payments under paragraph (f)(v)2  
702 of this section is authorized, in consideration of the employees'  
703 retention in or entry upon employment after enactment of Articles  
704 1 and 3, to impose upon its employees, as to services that are  
705 covered by an approved plan, a contribution with respect to wages  
706 (as defined in Section 25-11-5) not exceeding the amount provided  
707 in Section 25-11-123(d) if those services constituted employment  
708 within the meaning of Articles 1 and 3, and to deduct the amount  
709 of the contribution from the wages as and when paid.  
710 Contributions so collected shall be paid into the contribution  
711 fund as partial discharge of the liability of the political



712 subdivisions or instrumentalities under paragraph (f)(v)2 of this  
713 section. Failure to deduct the contribution shall not relieve the  
714 employee or employer of liability for the contribution.

715           4. Any state agency, school, political  
716 subdivision, instrumentality or any employer that is required to  
717 submit contribution payments or wage reports under any section of  
718 this chapter shall be assessed interest on delinquent payments or  
719 wage reports as determined by the board of trustees in accordance  
720 with rules and regulations adopted by the board and delinquent  
721 payments, assessed interest and any other amount certified by the  
722 board as owed by an employer, may be recovered by action in a  
723 court of competent jurisdiction against the reporting agency  
724 liable therefor or may, upon due certification of delinquency and  
725 at the request of the board of trustees, be deducted from any  
726 other monies payable to the reporting agency by any department or  
727 agency of the state.

728           5. Each political subdivision of the state  
729 and each instrumentality of the state or a political subdivision  
730 or subdivisions that submit a plan for approval of the board, as  
731 provided in this section, shall reimburse the board for coverage  
732 into the expense account, its pro rata share of the total expense  
733 of administering Articles 1 and 3 as provided by regulations of  
734 the board.

735           (g) The board may, in its discretion, deny the right of  
736 membership in this system to any class of employees whose



737 compensation is only partly paid by the state or who are occupying  
738 positions on a part-time or intermittent basis. The board may, in  
739 its discretion, make optional with employees in any such classes  
740 their individual entrance into this system.

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

747 (i) If any member of this system changes his employment  
748 to any agency of the state having an actuarially funded retirement  
749 system, the board of trustees may authorize the transfer of the  
750 member's creditable service and of the present value of the  
751 member's employer's accumulation account and of the present value  
752 of the member's accumulated membership contributions to that other  
753 system, provided that the employee agrees to the transfer of his  
754 accumulated membership contributions and provided that the other  
755 system is authorized to receive and agrees to make the transfer.

756 If any member of any other actuarially funded system  
757 maintained by an agency of the state changes his employment to an  
758 agency covered by this system, the board of trustees may authorize  
759 the receipt of the transfer of the member's creditable service and  
760 of the present value of the member's employer's accumulation  
761 account and of the present value of the member's accumulated



762 membership contributions from the other system, provided that the  
763 employee agrees to the transfer of his accumulated membership  
764 contributions to this system and provided that the other system is  
765 authorized and agrees to make the transfer.

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

769 (k) Employees of a political subdivision or  
770 instrumentality who were employed by the political subdivision or  
771 instrumentality before an agreement between the entity and the  
772 Public Employees' Retirement System to extend the benefits of this  
773 article to its employees, and which agreement provides for the  
774 establishment of retroactive service credit, and who became  
775 members of the retirement system before July 1, 2007, and have  
776 remained contributors to the retirement system for four (4) years,  
777 or who became members of the retirement system on or after July 1,  
778 2007, and have remained contributors to the retirement system for  
779 eight (8) years, may receive credit for that retroactive service  
780 with the political subdivision or instrumentality, provided that  
781 the employee and/or employer, as provided under the terms of the  
782 modification of the joinder agreement in allowing that coverage,  
783 pay into the retirement system the employer's and employee's  
784 contributions on wages paid the member during the previous  
785 employment, together with interest or actuarial cost as determined  
786 by the board covering the period from the date the service was





787 rendered until the payment for the credit for the service was  
788 made. Those wages shall be verified by the Social Security  
789 Administration or employer payroll records. Effective July 1,  
790 1998, upon eligibility as noted above, a member may receive credit  
791 for that retroactive service with the political subdivision or  
792 instrumentality provided:

793 (i) The member shall furnish proof satisfactory to  
794 the board of trustees of certification of those services from the  
795 political subdivision or instrumentality where the services were  
796 rendered or verification by the Social Security Administration;  
797 and

798 (ii) The member shall pay to the retirement system  
799 on the date he or she is eligible for that credit or at any time  
800 thereafter before the date of retirement the actuarial cost for  
801 each year of that creditable service. The provisions of this  
802 subparagraph (ii) shall be subject to the limitations of Section  
803 415 of the Internal Revenue Code and regulations promulgated under  
804 Section 415.

805 Nothing contained in this paragraph (k) shall be construed to  
806 limit the authority of the board to allow the correction of  
807 reporting errors or omissions based on the payment of employee and  
808 employer contributions plus applicable interest. Payment for that  
809 time shall be made beginning with the most recent service. Upon  
810 the payment of all or part of the required contributions, plus  
811 interest or the actuarial cost as provided above, the member shall



812 receive credit for the period of creditable service for which full  
813 payment has been made to the retirement system.

814 (l) Through June 30, 1998, any state service eligible  
815 for retroactive service credit, no part of which has ever been  
816 reported, and requiring the payment of employee and employer  
817 contributions plus interest, or, from and after July 1, 1998, any  
818 state service eligible for retroactive service credit, no part of  
819 which has ever been reported to the retirement system, and  
820 requiring the payment of the actuarial cost for that creditable  
821 service, may, at the member's option, be purchased in quarterly  
822 increments as provided above at the time that its purchase is  
823 otherwise allowed.

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

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

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

831 (a) Patient or inmate help in state charitable, penal  
832 or correctional institutions;

833 (b) Students of any state educational institution  
834 employed by any agency of the state for temporary, part-time or  
835 intermittent work;



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

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

843 **III. TERMINATION OF MEMBERSHIP**

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

848 **SECTION 5.** This act shall take effect and be in force from  
849 and after its passage.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTIONS 25-11-5 AND 25-11-103, MISSISSIPPI  
2 CODE OF 1972, TO DEFINE THE TERM "INSTRUMENTALITY" FOR THE PURPOSE  
3 OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM LAWS AND INCLUDE HEALTH  
4 CARE COLLABORATIVES IN THE DEFINITION; TO AMEND SECTION 25-11-127,  
5 MISSISSIPPI CODE OF 1972, TO EXEMPT CERTAIN PEOPLE EMPLOYED BY OR  
6 PAID FOR ANY SERVICE BY A HEALTH CARE COLLABORATIVE OR OTHER  
7 ORGANIZATION; TO BRING FORWARD SECTION 25-11-105, MISSISSIPPI CODE  
8 OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED  
9 PURPOSES.

