

By: Senator(s) Norwood

To: Finance

SENATE BILL NO. 2448

1 AN ACT TO CREATE NEW SECTION 25-11-126.1, MISSISSIPPI CODE OF
2 1972, TO PROVIDE THAT PERSONS WHO ARE RECEIVING A RETIREMENT
3 ALLOWANCE FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO ARE
4 ELECTED AS A MEMBER OF THE LEGISLATURE AFTER RETIREMENT, AND
5 MEMBERS OF THE LEGISLATURE WHO ARE ELIGIBLE TO RECEIVE A
6 RETIREMENT ALLOWANCE FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM
7 WHILE SERVING AS A MEMBER OF THE LEGISLATURE, MAY RECEIVE A
8 RETIREMENT ALLOWANCE FROM THE SYSTEM WHILE SERVING AS A MEMBER OF
9 THE LEGISLATURE IN ADDITION TO RECEIVING THE REGULAR COMPENSATION
10 FOR MEMBERS OF THE LEGISLATURE; TO PROVIDE THAT THOSE PERSONS
11 SHALL NOT BE ACTIVE MEMBERS OF THE RETIREMENT SYSTEM AND SHALL NOT
12 RECEIVE ANY CREDITABLE SERVICE FOR THE PERIOD DURING WHICH THEY
13 RECEIVE A RETIREMENT ALLOWANCE WHILE SERVING AS A MEMBER OF THE
14 LEGISLATURE; TO AMEND SECTION 25-11-105, MISSISSIPPI CODE OF 1972,
15 TO CONFORM TO THE PROVISIONS OF THIS ACT; TO AMEND SECTION
16 25-11-127, MISSISSIPPI CODE OF 1972, TO REQUIRE THOSE PERSONS TO
17 PAY THE FULL AMOUNT OF THE EMPLOYEE'S CONTRIBUTIONS ON THE AMOUNT
18 OF COMPENSATION RECEIVED FOR SERVING AS A MEMBER OF THE
19 LEGISLATURE; TO PROVIDE THAT THOSE PERSONS WILL NOT RECEIVE ANY
20 ADDITIONAL CREDITABLE SERVICE IN THE RETIREMENT SYSTEM AS A RESULT
21 OF THE PAYMENT OF THE EMPLOYEE'S CONTRIBUTION; AND FOR RELATED
22 PURPOSES.

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

24 **SECTION 1.** The following shall be codified as Section
25 25-11-126.1, Mississippi Code of 1972:

26 25-11-126.1. (1) (a) Any person who is receiving a
27 retirement allowance under this article and who is elected as a
28 member of the Legislature after retirement may choose to continue



29 to receive a retirement allowance under this article while serving
30 as a member of the Legislature in addition to receiving the
31 regular compensation for members of the Legislature in the manner
32 provided in this section.

33 (b) Any member of the Legislature who is eligible to
34 receive a retirement allowance under this article, who has reached
35 the age and/or service requirement that will not result in a
36 prohibited in-service distribution as defined by the Internal
37 Revenue Service, may choose to receive a retirement allowance
38 while serving as a member of the Legislature in addition to
39 receiving the regular compensation for members of the Legislature
40 in the manner provided in this section.

41 (2) Any person who is eligible to receive a retirement
42 allowance under subsection (1)(a) of this section shall notify the
43 executive director of the system before taking office as a member
44 of the Legislature of his or her choice about continuing to
45 receive the retirement allowance while serving as a member of the
46 Legislature. If the person chooses not to continue receiving the
47 retirement allowance while serving as a member of the Legislature,
48 the retirement allowance shall cease on the day that he or she
49 begins serving as a member of the Legislature. After the person
50 is no longer serving as a member of the Legislature, in order to
51 begin receiving a retirement allowance under this article again,
52 the person shall make application to the executive director of the
53 system, and the retirement allowance shall begin on the first of



54 the month following the date that the application is received by
55 the executive director.

56 (3) Any member of the Legislature who is eligible to receive
57 a retirement allowance under subsection (1)(b) of this section and
58 who chooses to receive a retirement allowance while serving as a
59 member of the Legislature shall make application to the executive
60 director of the system, and the retirement allowance shall begin
61 on the first of the month following the date that the application
62 is received by the executive director. The member of the
63 Legislature shall not be required to withdraw from service in
64 order to receive the retirement allowance.

65 (4) Any person to whom this section applies who receives or
66 continues to receive a retirement allowance under this article
67 while serving as a member of the Legislature shall not be an
68 active member of the retirement system and shall not receive any
69 creditable service for the period during which he or she receives
70 a retirement allowance while serving as a member of the
71 Legislature.

72 (5) Any person to whom this section applies who chooses not
73 to receive a retirement allowance while serving as a member of the
74 Legislature shall be an active and contributing member of the
75 retirement system and shall receive creditable service for the
76 period during which he or she serves as a member of the
77 Legislature without receiving a retirement allowance. If the
78 person has previously received a retirement allowance under this



79 article and serves as a member of the Legislature for more than
80 six (6) months without receiving a retirement allowance, the
81 person shall have his or her allowance recomputed when he or she
82 retires again, which shall include the service after he or she
83 again became a contributing member of the retirement system.

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

86 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

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

89 (a) (i) All persons who become employees in the state
90 service after January 31, 1953, and whose wages are subject to
91 payroll taxes and are lawfully reported on IRS Form W-2, except
92 those who are specifically excluded, * * * those as to whom
93 election is provided in Articles 1 and 3, and those who choose to
94 receive or continue to receive a retirement allowance while
95 serving as a member of the Legislature as authorized by Section
96 25-11-126.1, shall become members of the retirement system as a
97 condition of their employment.

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



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

108 (b) All persons who become employees in the state
109 service after January 31, 1953, except those specifically excluded
110 or as to whom election is provided in Articles 1 and 3, unless
111 they file with the board before the lapse of sixty (60) days of
112 employment or sixty (60) days after the effective date of the
113 cited articles, whichever is later, on a form prescribed by the
114 board, a notice of election not to be covered by the membership of
115 the retirement system and a duly executed waiver of all present
116 and prospective benefits that would otherwise inure to them on
117 account of their participation in the system, shall become members
118 of the retirement system; however, no credit for prior service
119 will be granted to members who became members of the system before
120 July 1, 2007, until they have contributed to Article 3 of the
121 retirement system for a minimum period of at least four (4) years,
122 or to members who became members of the system on or after July 1,
123 2007, until they have contributed to Article 3 of the retirement
124 system for a minimum period of at least eight (8) years. Those
125 members shall receive credit for services performed before January
126 1, 1953, in employment now covered by Article 3, but no credit
127 shall be granted for retroactive services between January 1, 1953,
128 and the date of their entry into the retirement system, unless the



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

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

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

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

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



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

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

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

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



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

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

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

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



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

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

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

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



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

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

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



254 payments, assessed interest and any other amount certified by the
255 board as owed by an employer, may be recovered by action in a
256 court of competent jurisdiction against the reporting agency
257 liable therefor or may, upon due certification of delinquency and
258 at the request of the board of trustees, be deducted from any
259 other monies payable to the reporting agency by any department or
260 agency of the state.

261 5. Each political subdivision of the state
262 and each instrumentality of the state or a political subdivision
263 or subdivisions that submit a plan for approval of the board, as
264 provided in this section, shall reimburse the board for coverage
265 into the expense account, its pro rata share of the total expense
266 of administering Articles 1 and 3 as provided by regulations of
267 the board.

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

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



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

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

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

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



302 (k) Employees of a political subdivision or
303 instrumentality who were employed by the political subdivision or
304 instrumentality before an agreement between the entity and the
305 Public Employees' Retirement System to extend the benefits of this
306 article to its employees, and which agreement provides for the
307 establishment of retroactive service credit, and who became
308 members of the retirement system before July 1, 2007, and have
309 remained contributors to the retirement system for four (4) years,
310 or who became members of the retirement system on or after July 1,
311 2007, and have remained contributors to the retirement system for
312 eight (8) years, may receive credit for that retroactive service
313 with the political subdivision or instrumentality, provided that
314 the employee and/or employer, as provided under the terms of the
315 modification of the joinder agreement in allowing that coverage,
316 pay into the retirement system the employer's and employee's
317 contributions on wages paid the member during the previous
318 employment, together with interest or actuarial cost as determined
319 by the board covering the period from the date the service was
320 rendered until the payment for the credit for the service was
321 made. Those wages shall be verified by the Social Security
322 Administration or employer payroll records. Effective July 1,
323 1998, upon eligibility as noted above, a member may receive credit
324 for that retroactive service with the political subdivision or
325 instrumentality provided:



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

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

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

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



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

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

II. THOSE WHO ARE NOT ELIGIBLE FOR MEMBERSHIP

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

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

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

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

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



376 **III. TERMINATION OF MEMBERSHIP**

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

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

383 25-11-127. (1) (a) No person who is being paid a
384 retirement allowance or a pension after retirement under this
385 article shall be employed or paid for any service by the State of
386 Mississippi, including services as an employee, contract worker,
387 contractual employee or independent contractor, until the retired
388 person has been retired for not less than ninety (90) consecutive
389 days from his or her effective date of retirement. After the
390 person has been retired for not less than ninety (90) consecutive
391 days from his or her effective date of retirement or such later
392 date as established by the board, he or she may be reemployed
393 while being paid a retirement allowance under the terms and
394 conditions provided in this section or in Section 25-11-126. The
395 restrictions on employment after retirement in this subsection
396 shall not apply to persons who are eligible to receive a
397 retirement allowance under this article while serving as a member
398 of the Legislature and who choose to receive the retirement
399 allowance while serving as a member of the Legislature as
400 authorized by Section 25-11-126.1.



401 (b) No retiree of this retirement system who is
402 reemployed or is reelected to office after retirement shall
403 continue to draw retirement benefits while so reemployed, except
404 as provided in this section or in Section 25-11-126 or
405 25-11-126.1.

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

409 (2) Except as otherwise provided in Section 25-11-126, any
410 person who has been retired under the provisions of Article 3 and
411 who is later reemployed in service covered by this article shall
412 cease to receive benefits under this article unless the person
413 continues to receive a retirement allowance while serving as a
414 member of the Legislature under the authority of Section
415 25-11-126.1, and the person shall again become a contributing
416 member of the retirement system. When the person retires again,
417 if the reemployment exceeds six (6) months, the person shall have
418 his or her benefit recomputed, including service after again
419 becoming a member, provided that the total retirement allowance
420 paid to the retired member in his or her previous retirement shall
421 be deducted from the member's retirement reserve and taken into
422 consideration in recalculating the retirement allowance under a
423 new option selected.

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



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

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

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

437 To determine the normal working days for a position under
438 paragraph (a) of this subsection, the employer shall determine the
439 required number of working days for the position on a full-time
440 basis and the equivalent number of hours representing the
441 full-time position. The retiree then may work up to one-half
442 (1/2) of the required number of working days or up to one-half
443 (1/2) of the equivalent number of hours and receive up to one-half
444 (1/2) of the salary for the position. In the case of employment
445 with multiple employers, the limitation shall equal one-half (1/2)
446 of the number of days or hours for a single full-time position.

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



of employment and also from the date of termination of the employment.

The restrictions on employment after retirement in this subsection shall not apply to persons who choose to receive or continue to receive a retirement allowance under this article while serving as a member of the Legislature as authorized by Section 25-11-126.1.

(5) Except as otherwise provided in subsection (6) of this section, (a) the employer of any person who is receiving a retirement allowance and who is employed in service covered by subsection (4) of this section as an employee or a contractual employee, and the employer of any person who chooses to receive or continue to receive a retirement allowance under this article while serving as a member of the Legislature as authorized by Section 25-11-126.1, shall pay to the board the full amount of the employer's contribution on the amount of compensation received by the retiree for his or her employment in accordance with regulations prescribed by the board, and (b) any person who chooses to receive or continue to receive a retirement allowance under this article while serving as a member of the Legislature as authorized by Section 25-11-126.1 shall pay to the board the full amount of the employee's contribution on the amount of compensation received by the person for serving as a member of the Legislature in accordance with regulations prescribed by the board. The retiree shall not receive any additional creditable



475 service in the retirement system as a result of the payment of the
476 employer's contribution by the employer or the payment of the
477 employee's contribution by the retiree. This subsection does not
478 apply to persons who are receiving a retirement allowance and who
479 contract with an employer to provide services as a true
480 independent contractor, as defined by the board through
481 regulation.

482 (6) (a) A member may retire and continue in municipal or
483 county elective office provided that the member has reached the
484 age and/or service requirement that will not result in a
485 prohibited in-service distribution as defined by the Internal
486 Revenue Service, or a retiree may be elected to a municipal or
487 county office, provided that the person:

488 (i) Files annually, in writing, in the office of
489 the employer and the office of the executive director of the
490 system before the person takes office or as soon as possible after
491 retirement, a waiver of all salary or compensation and elects to
492 receive in lieu of that salary or compensation a retirement
493 allowance as provided in this section, in which event no salary or
494 compensation shall thereafter be due or payable for those
495 services; however, any such officer or employee may receive, in
496 addition to the retirement allowance, office expense allowance,
497 mileage or travel expense authorized by any statute of the State
498 of Mississippi; or



499 (ii) Elects to receive compensation for that
500 elective office in an amount not to exceed twenty-five percent
501 (25%) of the retiree's average compensation. In order to receive
502 compensation as allowed in this subparagraph, the retiree shall
503 file annually, in writing, in the office of the employer and the
504 office of the executive director of the system, an election to
505 receive, in addition to a retirement allowance, compensation as
506 allowed in this subparagraph.

507 (b) The municipality or county in which the retired
508 person holds elective office shall pay to the board the amount of
509 the employer's contributions on the full amount of the regular
510 compensation for the elective office that the retired person
511 holds.

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

515 (7) Any retired teacher who returns to work in accordance
516 with this section shall not be eligible to return to work under
517 the provisions of Section 25-11-126.

518 **SECTION 4.** This act shall take effect and be in force from
519 and after July 1, 2025.

