

By: Senator(s) Furniss

To: Finance

SENATE BILL NO. 2442

1 AN ACT TO CREATE NEW SECTION 25-11-126, MISSISSIPPI CODE OF
2 1972, TO PROVIDE THAT PERSONS RECEIVING A RETIREMENT ALLOWANCE
3 FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO ARE ELECTED OR
4 APPOINTED TO PUBLIC OFFICE IN A POLITICAL SUBDIVISION OR
5 INSTRUMENTALITY THEREOF AFTER RETIREMENT, AND ELECTED OR APPOINTED
6 OFFICIALS IN A POLITICAL SUBDIVISION OR INSTRUMENTALITY THEREOF
7 WHO BECOME ELIGIBLE TO RECEIVE A RETIREMENT ALLOWANCE FROM THE
8 PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHILE HOLDING OFFICE, MAY
9 RECEIVE A RETIREMENT ALLOWANCE FROM THE SYSTEM WHILE HOLDING
10 OFFICE IN ADDITION TO RECEIVING THE REGULAR COMPENSATION FOR SUCH
11 OFFICE; TO PROVIDE THAT THOSE PERSONS SHALL NOT BE ACTIVE MEMBERS
12 OF THE RETIREMENT SYSTEM AND SHALL NOT RECEIVE ANY CREDITABLE
13 SERVICE FOR THE PERIOD DURING WHICH THEY RECEIVE A RETIREMENT
14 ALLOWANCE WHILE HOLDING OFFICE; TO PROVIDE THAT EMPLOYEE
15 CONTRIBUTIONS SHALL BE DEDUCTED AND EMPLOYER CONTRIBUTIONS SHALL
16 BE MADE FOR THOSE PERSONS FOR THE PERIOD DURING WHICH THEY RECEIVE
17 A RETIREMENT ALLOWANCE WHILE HOLDING OFFICE; TO AMEND SECTIONS
18 25-11-103, 25-11-105 AND 25-11-127, MISSISSIPPI CODE OF 1972, IN
19 CONFORMITY WITH THE PROVISIONS OF THIS ACT; TO AMEND SECTION
20 25-11-117, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY PERSON
21 WHO RECEIVED A RETIREMENT ALLOWANCE WHILE HOLDING OFFICE IN A
22 POLITICAL SUBDIVISION OR INSTRUMENTALITY THEREOF MAY NOT RECEIVE A
23 REFUND OF EMPLOYEE CONTRIBUTIONS THAT WERE MADE DURING THAT PERIOD
24 OF SERVICE; AND FOR RELATED PURPOSES.

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

26 SECTION 1. The following shall be codified as Section
27 25-11-126, Mississippi Code of 1972:

28 25-11-126. (1) Any person who is receiving a retirement
29 allowance under this article and who is elected or appointed after
30 retirement to an office in a political subdivision or
31 instrumentality thereof, and any elected or appointed official in
32 a political subdivision or instrumentality thereof who becomes
33 eligible to receive a retirement allowance under this article
34 while holding such office, may choose to receive or continue to
35 receive a retirement allowance under this article while holding
36 such office in addition to receiving the regular compensation for
37 such office in the manner provided in this section.

38 (2) Any person who is receiving a retirement allowance and
39 who is elected or appointed to office in a political subdivision
40 or instrumentality thereof after retirement shall notify the
41 executive director of the system before taking office of his
42 choice about continuing to receive the retirement allowance while
43 holding such office. If the person chooses not to continue
44 receiving the retirement allowance while holding such office, the
45 retirement allowance shall cease on the day that he begins serving
46 in the office. After leaving the office, in order to begin
47 receiving a retirement allowance under this article again, such
48 person shall make application to the executive director of the
49 system, and the retirement allowance shall begin on the first of
50 the month following the date that the application is received by
51 the executive director.

52 (3) Any elected or appointed official of a political
53 subdivision or instrumentality thereof who becomes eligible to
54 receive a retirement allowance while holding office and who
55 chooses to receive a retirement allowance while holding office,
56 shall make application to the executive director of the system and
57 the retirement allowance shall begin on the first of the month
58 following the date that the application is received by the
59 executive director. Such elected or appointed officials shall not
60 be required to withdraw from service in order to receive the
61 retirement allowance.

62 (4) Any person to whom this section applies who receives or
63 continues to receive a retirement allowance under this article
64 while holding office in a political subdivision or instrumentality
65 thereof shall not be an active member of the retirement system and
66 shall not receive any creditable service for the period during
67 which he receives a retirement allowance while holding office in a
68 political subdivision or instrumentality thereof. However, the
69 employer shall deduct employee contributions for the person and
70 shall make employer contributions on behalf of the person in the

71 same manner as provided in Section 25-11-123 for active members,
72 for the period during which he receives a retirement allowance
73 while holding office in a political subdivision or instrumentality
74 thereof, and the employer shall pay the contributions to the
75 retirement system.

76 (5) Any person to whom this section applies who chooses not
77 to receive a retirement allowance while holding office in a
78 political subdivision or instrumentality thereof shall be an
79 active and contributing member of the retirement system and shall
80 receive creditable service for the period during which he holds
81 office in a political subdivision or instrumentality thereof
82 without receiving a retirement allowance. If the person has
83 previously received a retirement allowance under this article and
84 holds office for more than six (6) months without receiving a
85 retirement allowance, he shall have his allowance recomputed when
86 he retires again, which shall include the service after he again
87 became a contributing member of the retirement system.

88 (6) This section shall apply to officials who are elected to
89 office and officials who are appointed to office in a political
90 subdivision or instrumentality thereof for a specified term or for
91 the will and pleasure of the appointing authority, but shall not
92 apply to persons in other positions of employment in the state
93 service.

94 SECTION 2. Section 25-11-103, Mississippi Code of 1972, is
95 amended as follows:

96 25-11-103. The following words and phrases as used in
97 Articles 1 and 3, unless a different meaning is plainly required
98 by the context, shall have the following meanings:

99 (a) "Accumulated contributions" shall mean the sum of
100 all the amounts deducted from the compensation of a member and
101 credited to his individual account in the annuity savings account,
102 together with regular interest thereon as provided in Section
103 25-11-123.

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

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

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

(e) "Agency" shall mean any governmental body employing persons in the state service.

(f) "Average compensation" shall mean the average of the four (4) highest years of earned compensation reported for an employee in a fiscal or calendar year period, or combination thereof which do not overlap, or the last forty-eight (48) consecutive months of earned compensation reported for an employee. The four (4) years need not be successive or joined years of service. In no case shall the average compensation so determined be in excess of One Hundred Twenty-five Thousand Dollars (\$125,000.00). In computing the average compensation, any amount paid in a lump sum for personal leave shall be included in the calculation to the extent that such amount does not exceed an amount which is equal to thirty (30) days of earned compensation and to the extent that it does not cause the employees' earned compensation to exceed the maximum reportable amount specified in Section 25-11-103(k); provided, however, that such thirty-day limitation shall not prevent the inclusion in the calculation of leave earned under federal regulations prior to July 1, 1976, and frozen as of that date as referred to in Section 25-3-99. Only the amount of lump sum pay for personal leave due and paid upon

the death of a member attributable for up to one hundred fifty (150) days shall be used in the deceased member's average compensation calculation in determining the beneficiary's benefits. In computing the average compensation, no amounts shall be used which are in excess of the amount on which contributions were required and paid. If any member who is or has been granted any increase in annual salary or compensation of more than eight percent (8%) retires within twenty-four (24) months from the date that such increase becomes effective, then the board shall exclude that part of the increase in salary or compensation that exceeds eight percent (8%) in calculating that member's average compensation for retirement purposes. The board may enforce this provision by rule or regulation. However, increases in compensation in excess of eight percent (8%) per year granted within twenty-four (24) months of the date of retirement may be included in such calculation of average compensation if satisfactory proof is presented to the board showing that the increase in compensation was the result of an actual change in the position held or services rendered, or that such compensation increase was authorized by the State Personnel Board or was increased as a result of statutory enactment, and the employer furnishes an affidavit stating that such increase granted within the last twenty-four (24) months was not contingent on a promise or agreement of the employee to retire. Nothing in Section 25-3-31 shall affect the calculation of the average compensation of any member for the purposes of this article. The average compensation of any member who retires before July 1, 1992, shall not exceed the annual salary of the Governor.

(g) "Beneficiary" shall mean any person entitled to receive a retirement allowance, an annuity or other benefit as provided by Articles 1 and 3. In the event of the death prior to retirement of any member whose spouse and/or children are not entitled to a retirement allowance, the lawful spouse of a member

at the time of the death of such member shall be the beneficiary of such member unless the member has designated another beneficiary subsequent to the date of marriage in writing, and filed such writing in the office of the executive director of the board of trustees. No designation or change of beneficiary shall be made in any other manner.

(h) "Board" shall mean the board of trustees provided in Section 25-11-15 to administer the retirement system herein created.

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

(j) "Child" means either a natural child of the member, a child that has been made a child of the member by applicable court action before the death of the member, or a child under the permanent care of the member at the time of the latter's death, which permanent care status shall be determined by evidence satisfactory to the board.

(k) "Earned compensation" shall mean the full amount earned by an employee for a given pay period including any maintenance furnished up to a maximum of One Hundred Twenty-five Thousand Dollars (\$125,000.00) per year, and proportionately for less than one (1) year of service. The value of such maintenance when not paid in money shall be fixed by the employing state

agency, and, in case of doubt, by the board of trustees as defined in Section 25-11-15. In any case, earned compensation shall be limited to the regular periodic compensation paid, exclusive of litigation fees, bond fees, and other similar extraordinary non-recurring payments. In the case of fee officials, the net earnings from their office after deduction of expenses shall apply, except that in no case shall earned compensation be less than the total direct payments made by the state or governmental subdivisions to the official, and employer and employee contributions shall be paid thereon. In the case of members of the state Legislature, all remuneration or amounts paid, except mileage allowance, shall apply. The amount by which an eligible employee's salary is reduced pursuant to a salary reduction agreement authorized under Section 25-17-5 shall be included as earned compensation under this paragraph, provided this inclusion does not conflict with federal law, including federal regulations and federal administrative interpretations thereunder, pertaining to the Federal Insurance Contributions Act or to Internal Revenue Code Section 125 cafeteria plans. Compensation in addition to an employee's base salary that is paid to the employee pursuant to the vacation and sick leave policies of a municipality or other political subdivision of the state that employs him which exceeds the maximums authorized by Section 25-3-91 et seq. shall be excluded from the calculation of earned compensation under this article. The maximum salary applicable for retirement purposes before July 1, 1992, shall be the salary of the Governor. Nothing in Section 25-3-31 shall affect the determination of the earned compensation of any member for the purposes of this article.

(l) "Employee" means any person legally occupying a position in the state service, and shall include the employees of the retirement system created hereunder.

(m) "Employer" shall mean the State of Mississippi or any of its departments, agencies or subdivisions from which any

employee receives his compensation.

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

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

(p) "Medical board" shall mean the board of physicians or any governmental or non-governmental disability determination service designated by the board of trustees that is qualified to make disability determinations as provided for in Section 25-11-119.

(q) "Member" shall mean any person included in the membership of the system as provided in Section 25-11-105.

(r) "Membership service" shall mean service as an employee rendered while a member of the retirement system.

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

(t) "Prior service" shall mean service rendered before February 1, 1953, for which credit is allowable under Sections 25-11-105 and 25-11-109, and which shall allow prior service for any person who is now or becomes a member of the Public Employees' Retirement System and who does contribute to the system for a minimum period of four (4) years.

(u) "Regular interest" shall mean interest compounded

annually at such a rate as shall be determined by the board in
accordance with Section 25-11-121.

(v) "Retirement allowance" shall mean an annuity for
life as provided in this article, payable each year in twelve (12)
equal monthly installments beginning as of the date fixed by the
board. The retirement allowance shall be calculated in accordance
with Section 25-11-111. Provided, any spouse who received a
spouse retirement benefit in accordance with Section 25-11-111(d)
prior to March 31, 1971, and said benefits were terminated because
of eligibility for a Social Security benefit, may again receive
his spouse retirement benefit from and after making application
with the board of trustees to reinstate such spouse retirement
benefit.

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

(x) "System" shall mean the Public Employees'
Retirement System of Mississippi established and described in
Section 25-11-101.

(y) "State" shall mean the State of Mississippi or any
political subdivision thereof or instrumentality thereof.

(z) "State service" shall mean all offices and
positions of trust or employment in the employ of the state, or
any political subdivision or instrumentality thereof, which elect
to participate as provided by Section 25-11-105(f), including the
position of elected or fee officials of the counties and their
deputies and employees performing public services or any
department, independent agency, board or commission thereof, and
shall also include all offices and positions of trust or
employment in the employ of joint state and federal agencies
administering state and federal funds and service rendered by
employees of the public schools. Effective July 1, 1973, all
nonprofessional public school employees, such as bus drivers,

janitors, maids, maintenance workers and cafeteria employees, shall have the option to become members in accordance with Section 25-11-105(b), and shall be eligible to receive credit for services prior to July 1, 1973, provided the contributions and interest are paid by the employee in accordance with said section; provided, further, that the county or municipal separate school district may pay the employer contribution and pro rata share of interest of the retroactive service from available funds. From and after July 1, 1998, retroactive service credit shall be purchased at the actuarial cost in accordance with Section 25-11-105(b).

(aa) "Withdrawal from service" shall mean complete severance of employment in the state service of any member by resignation, dismissal or discharge, except in the case of elected or appointed officials who become eligible to receive a retirement allowance under this article while holding office and who choose to receive the retirement allowance while holding office as authorized by Section 25-11-126.

(bb) The masculine pronoun, wherever used, shall include the feminine pronoun.

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

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

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

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

(b) All persons who shall become employees in the state service after January 31, 1953, except those specifically excluded or as to whom election is provided in Articles 1 and 3, unless they shall file with the board prior to the lapse of sixty (60) days of employment or sixty (60) days after the effective date of the cited articles, whichever is later, on a form prescribed by the board, a notice of election not to be covered by the membership of the retirement system and a duly executed waiver of all present and prospective benefits which would otherwise inure to them on account of their participation in the system, shall become members of the retirement system; provided, however, that no credit for prior service will be granted to members until they have contributed to Article 3 of the retirement system for a minimum period of at least four (4) years. Such members shall receive credit for services performed prior to January 1, 1953, in employment now covered by Article 3, but no credit shall be granted for retroactive services between January 1, 1953, 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:

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

(2) The member shall pay to the retirement system on the date he or she is eligible for such credit or at any time thereafter prior to the date of retirement the actuarial cost for

each year of such creditable service. The provisions of this subparagraph (2) shall be subject to the limitations of Section 415 of the Internal Revenue Code and regulations promulgated thereunder.

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 shall 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 such 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 shall 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 shall indicate 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 hereby 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 such plan, or such plan as amended, is in conformity with such requirements as are provided in Articles 1 and 3; however, upon approval of such plan or any such plan heretofore 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:

(1) It provides that all services which 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; provided, however, those employees in this class may elect to come under the provisions of this article;

(2) It specifies the source or sources from which the funds necessary to make the payments required by subsection (d) of Section 25-11-123 and of subsections (f)(5)B and C of this section are expected to be derived and contains reasonable assurance that such sources will be adequate for such purpose;

(3) 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;

(4) 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;

(5) It authorizes the board of trustees to terminate the plan in its entirety in the discretion of the board

434 if it finds that there has been a failure to comply substantially
435 with any provision contained in such plan, such termination to
436 take effect at the expiration of such notice and on such
437 conditions as may be provided by regulations of the board and as
438 may be consistent with applicable federal law.

439 A. The board of trustees shall not finally
440 refuse to approve a plan submitted under subsection (f), and shall
441 not terminate an approved plan without reasonable notice and
442 opportunity for hearing to each political subdivision or
443 instrumentality affected thereby. The board's decision in any
444 such case shall be final, conclusive and binding unless an appeal
445 be taken by the political subdivision or instrumentality aggrieved
446 thereby to the Circuit Court of Hinds County, Mississippi, in
447 accordance with the provisions of law with respect to civil causes
448 by certiorari.

449 B. Each political subdivision or
450 instrumentality as to which a plan has been approved under this
451 section shall pay into the contribution fund, with respect to
452 wages (as defined in Section 25-11-5), at such time or times as
453 the board of trustees may by regulation prescribe, contributions
454 in the amounts and at the rates specified in the applicable
455 agreement entered into by the board.

456 C. Every political subdivision or
457 instrumentality required to make payments under subsection (f)(5)B
458 hereof is authorized, in consideration of the employees' retention
459 in or entry upon employment after enactment of Articles 1 and 3,
460 to impose upon its employees, as to services which are covered by
461 an approved plan, a contribution with respect to wages (as defined
462 in Section 25-11-5) not exceeding the amount provided in Section
463 25-11-123(d) if such services constituted employment within the
464 meaning of Articles 1 and 3, and to deduct the amount of such
465 contribution from the wages as and when paid. Contributions so
466 collected shall be paid into the contribution fund as partial

467 discharge of the liability of such political subdivisions or
468 instrumentality under subsection (f)(5)B hereof. Failure to
469 deduct such contribution shall not relieve the employee or
470 employer of liability thereof.

471 D. Any state agency, school, political
472 subdivision, instrumentality or any employer that is required to
473 submit contribution payments or wage reports under any section of
474 this chapter shall be assessed interest on delinquent payments or
475 wage reports as determined by the board of trustees in accordance
476 with rules and regulations adopted by the board and such assessed
477 interest may be recovered by action in a court of competent
478 jurisdiction against such reporting agency liable therefor or may,
479 upon due certification of delinquency and at the request of the
480 board of trustees, be deducted from any other monies payable to
481 such reporting agency by any department or agency of the state.

482 E. Each political subdivision of the state
483 and each instrumentality of the state or a political subdivision
484 or subdivisions which submits a plan for approval of the board, as
485 provided in this section, shall reimburse the board for coverage
486 into the expense account, its pro rata share of the total expense
487 of administering Articles 1 and 3 as provided by regulations of
488 said board.

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

495 (h) An employee whose membership in this system is
496 contingent on his own election, and who elects not to become a
497 member, may thereafter apply for and be admitted to membership;
498 but no such employee shall receive prior service credit unless he
499 becomes a member prior to July 1, 1953, except as provided in

500 subsection (b).

501 (i) In the event any member of this system should
502 change his employment to any agency of the state having an
503 actuarially funded retirement system, the board of trustees may
504 authorize the transfer of the member's creditable service and of
505 the present value of the member's employer's accumulation account
506 and of the present value of the member's accumulated membership
507 contributions to such other system, provided the employee agrees
508 to the transfer of his accumulated membership contributions and
509 provided such other system is authorized to receive and agrees to
510 make such transfer.

511 In the event any member of any other actuarially funded
512 system maintained by an agency of the state changes his employment
513 to an agency covered by this system, the board of trustees may
514 authorize the receipt of the transfer of the member's creditable
515 service and of the present value of the member's employer's
516 accumulation account and of the present value of the member's
517 accumulated membership contributions from such other system,
518 provided the employee agrees to the transfer of his accumulated
519 membership contributions to this system and provided the other
520 system is authorized and agrees to make such transfer.

521 (j) Wherever herein state employment is referred to, it
522 shall include joint employment by state and federal agencies of
523 all kinds.

524 (k) Employees of a political subdivision or
525 instrumentality who were employed by such political subdivision or
526 instrumentality prior to an agreement between such entity and the
527 Public Employees' Retirement System to extend the benefits of this
528 article to its employees, and which agreement provides for the
529 establishment of retroactive service credit, and who have been
530 members of the retirement system and have remained contributors to
531 the retirement system for four (4) years, may receive credit for
532 such retroactive service with such political subdivision or

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

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

(2) The member shall pay to the retirement system on the date he or she is eligible for such credit or at any time thereafter prior to the date of retirement the actuarial cost for each year of such creditable service. The provisions of this subparagraph (2) shall be subject to the limitations of Section 415 of the Internal Revenue Code and regulations promulgated thereunder.

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 such time shall be made in increments of not less than one-quarter (1/4) year of creditable service beginning with the most recent service. Upon the payment of all or part of such 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 such creditable service, may, at the member's option, be purchased in quarterly increments as provided above at such time as 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.

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 25-11-117, Mississippi Code of 1972, is

599 amended as follows:

600 25-11-117. (1) A member may be paid a refund of the amount
601 of accumulated contributions to the credit of the member in the
602 annuity savings account provided the member has withdrawn from
603 state service and further provided the member has not returned to
604 state service on the date the refund of the accumulated
605 contributions would be paid. However, a member may not receive a
606 refund of the amount of employee contributions, or interest earned
607 on those contributions, that were made during any period when he
608 received a retirement allowance during his employment as
609 authorized by Section 25-11-126. Such refund of the contributions
610 to the credit of the member in the annuity savings account shall
611 be paid within ninety (90) days from receipt in the office of the
612 retirement system of the properly completed form requesting such
613 payment. In the event of death prior to retirement of any member
614 whose spouse and/or children are not entitled to a retirement
615 allowance, the accumulated contributions to the credit of the
616 deceased member in the annuity savings account shall be paid to
617 the designated beneficiary on file in writing in the office of
618 executive director of the board of trustees within ninety (90)
619 days from receipt of a properly completed form requesting such
620 payment. If there is no such designated beneficiary on file for
621 such deceased member in the office of the system, upon the filing
622 of a proper request with the board, the contributions to the
623 credit of the deceased member in the annuity savings account shall
624 be refunded to the estate of the deceased member. The payment of
625 the said refund shall discharge all obligations of the retirement
626 system to the said member on account of any creditable service
627 rendered by the member prior to the receipt of the refund. By the
628 acceptance of the refund, the member shall waive and relinquish
629 all accrued rights in the system.

630 (2) Pursuant to the Unemployment Compensation Amendments of
631 1992 (P.L. 102-318 (UCA)), a member or eligible beneficiary

632 eligible for a refund under this section may elect on a form
633 prescribed by the board under rules and regulations established by
634 the board, to have an eligible rollover distribution of
635 accumulated contributions payable under this section paid directly
636 to an eligible retirement plan or individual retirement account.
637 If the member or eligible beneficiary makes such election and
638 specifies the eligible retirement plan or individual retirement
639 account to which such distribution is to be paid, the distribution
640 will be made in the form of a direct trustee-to-trustee transfer
641 to the specified eligible retirement plan. Flexible rollovers
642 under this subsection shall not be considered assignments under
643 Section 25-11-129.

644 (3) If any person who has received a refund reenters the
645 state service and again becomes a member of the system and remains
646 a contributor for two (2) years, the member may repay all or part
647 of the amounts previously received as a refund, together with
648 regular interest covering the period from the date of refund to
649 the date of repayment; provided, however, that the amounts that
650 are repaid by the member and the creditable service related
651 thereto shall not be used in any benefit calculation or
652 determination until the member has remained a contributor to the
653 system for a period of at least four (4) years subsequent to such
654 member's reentry into state service. Repayment for such time
655 shall be made in increments of not less than one-quarter (1/4)
656 year of creditable service beginning with the most recent service
657 for which refund has been made. Upon the repayment of all or part
658 of such refund and interest, the member shall again receive credit
659 for the period of creditable service for which full repayment has
660 been made to the system.

661 SECTION 5. Section 25-11-127, Mississippi Code of 1972, is
662 amended as follows:

663 25-11-127. No person who is being paid a retirement
664 allowance, or a pension after retirement under this article, shall

be employed or paid for any service by the State of Mississippi, except as provided in this section or in Section 25-11-126. This section shall not apply to any pensioner who has been elected to public office after retirement, nor to any person employed because of special knowledge or experience. This section shall not be construed to mean that any person employed or elected under the above exceptions shall become a member under Article 3 of the retirement system, nor shall any retirant of this retirement system who is reemployed or is reelected to office, after retirement continue to draw retirement benefits while so reemployed or reelected except those elected or appointed officials who choose to continue to receive a retirement allowance while holding office as authorized by Section 25-11-126. Any person who has been retired under the provisions of Articles 1 and 3 and who is later reemployed in service covered by this article shall cease to receive benefits hereunder and shall again become a contributing member of the retirement system; and upon again retiring, if his reemployment exceeds six (6) months, shall have his benefit recomputed, including service after again becoming a member. Provided, further, that the total retirement allowance paid to the retired member in his previous retirement shall be deducted from his retirement reserve and taken into consideration in recalculating the retirement allowance under a new option selected. Nothing contained in this section shall be construed as prohibiting any county or city not a member of the Public Employees' Retirement System from employing persons up to the age of seventy-three (73); and provided further that, through June 30, 1988, nothing contained in this section shall be construed as prohibiting any governmental unit which is a member from employing persons up to the age of seventy-three (73) who are not eligible for membership at the time of employment under Article 3.

The board of trustees of the retirement system shall have the right to prescribe rules and regulations for the carrying out of

698 this provision.

699 The provisions of this section shall not be construed to
700 prohibit any retirant regardless of age from being employed and
701 from drawing retirement allowance either (a) for a period of time
702 not to exceed one hundred twenty (120) days in any fiscal year,
703 but less than one-half (1/2) of the normal working days for the
704 position in any fiscal year, or (b) for a period of time in any
705 fiscal year sufficient in length to permit a retirant to earn not
706 in excess of twenty-five percent (25%) of retirant's average
707 compensation or the current rate of the salary in effect for the
708 regular position filled. Notice shall be given in writing to the
709 executive secretary of the system, setting forth the facts upon
710 which the emergency employment is being made, and such notice
711 shall be given within five (5) days from the date of employment
712 and also from the date of termination of said employment. It is
713 further provided that any member who has attained seventy (70)
714 years of age and who has forty (40) or more years of creditable
715 service may continue in office or employment or be reemployed or
716 elected provided such person files annually, in writing, in the
717 office of the employer and the office of the executive secretary
718 of the system prior to such services, a waiver of all salary or
719 compensation and elects to receive in lieu of such salary or
720 compensation a retirement allowance as provided in this section,
721 in which event no salary or compensation shall thereafter be due
722 or payable for such services and provided further, that any such
723 officer or employee may receive in addition to such retirement
724 allowance any per diem, office expense allowance, mileage or
725 travel expense authorized by any statute of the State of
726 Mississippi. Any other member may continue in municipal or county
727 office or employment or be reemployed * * * in a municipality or
728 county provided such person files annually, in writing, in the
729 office of the employer and the office of the executive secretary
730 of the system prior to such services, a waiver of all salary or

731 compensation and elects to receive in lieu of such salary or
732 compensation a retirement allowance as provided in this section,
733 in which event no salary or compensation shall thereafter be due
734 or payable for such services and provided, further, that any such
735 officer or employee may receive in addition to such retirement
736 allowance any per diem, office expense allowance, mileage or
737 travel expense authorized by any statute of the State of
738 Mississippi.

739 SECTION 6. The Attorney General of the State of Mississippi
740 is hereby directed to submit this act, immediately upon approval
741 by the Governor, or upon approval by the Legislature subsequent to
742 a veto, to the Attorney General of the United States or to the
743 United States District Court for the District of Columbia in
744 accordance with the provisions of the Voting Rights Act of 1965,
745 as amended and extended.

746 SECTION 7. This act shall take effect and be in force from
747 and after July 1, 1999, if it is effectuated on or before that
748 date under Section 5 of the Voting Rights Act of 1965, as amended
749 and extended. If it is effectuated under Section 5 of the Voting
750 Rights Act of 1965, as amended and extended, after July 1, 1999,
751 this act shall take effect and be in force from and after the date
752 it is effectuated under Section 5 of the Voting Rights Act of
753 1965, as amended and extended.