

By: Representatives Fillingane, Lott,  
Roberson, Wells-Smith

To: Appropriations

HOUSE BILL NO. 618

1 AN ACT TO AUTHORIZE MEMBERS OF THE PUBLIC EMPLOYEES'  
2 RETIREMENT SYSTEM WHO HAVE REACHED THEIR NORMAL RETIREMENT DATE TO  
3 PARTICIPATE IN A DEFERRED RETIREMENT OPTION PROGRAM (DROP) UNDER  
4 WHICH THE EMPLOYEE MAY RETIRE AND CONTINUE WORKING FOR A SPECIFIED  
5 PERIOD AND RECEIVE HIS OR HER REGULAR SALARY, WHILE HAVING THE  
6 RETIREMENT BENEFIT HE OR SHE WOULD HAVE OTHERWISE RECEIVED PAID  
7 INTO AN ACCOUNT FOR THE MEMBER'S BENEFIT; TO PROVIDE THAT MONEY IN  
8 THE ACCOUNT WILL BE PAID TO THE MEMBER UPON COMPLETION OF THE DROP  
9 PERIOD; TO PROVIDE THAT THE MEMBER MUST ELECT TO PARTICIPATE IN  
10 THE PROGRAM WITHIN 12 MONTHS IMMEDIATELY FOLLOWING THE DATE UPON  
11 WHICH THE MEMBER REACHED HIS OR HER NORMAL RETIREMENT DATE; TO  
12 PROVIDE THAT THE DROP PERIOD MAY BE FOR ANY TIME NOT EXCEEDING  
13 FIVE YEARS; TO PROVIDE THAT THE DECISION TO PARTICIPATE IN THE  
14 DROP PROGRAM IS IRREVOCABLE ONCE IT IS MADE; TO PROVIDE THAT THE  
15 DROP ACCOUNT FOR THE BENEFIT OF THE MEMBER SHALL BE HELD IN  
16 RESERVE UNTIL THE END OF THE DROP PERIOD; TO PROVIDE THAT REGULAR  
17 INTEREST SHALL BE PAID ON MONIES IN THE DROP ACCOUNT DURING THE  
18 TIME THAT THE MEMBER PARTICIPATES IN THE DROP PROGRAM AND UNTIL  
19 THE MONIES ARE PAID TO THE MEMBER; TO PROVIDE THAT THE MEMBER  
20 SHALL RECEIVE THE ACCUMULATED MONIES IN THE DROP ACCOUNT IN  
21 ADDITION TO THE REGULAR RETIREMENT ALLOWANCE AT THE END OF THE  
22 DROP PERIOD; TO PROVIDE THAT ANY MEMBER PARTICIPATING IN THE DROP  
23 PROGRAM SHALL NOT BE AN ACTIVE MEMBER OF THE RETIREMENT SYSTEM AND  
24 SHALL NOT RECEIVE ANY CREDITABLE SERVICE FOR THE PERIOD OF  
25 PARTICIPATION IN THE PROGRAM; AN ACT TO AMEND SECTIONS 25-11-105,  
26 25-11-109, 25-11-117, AND 25-11-127, MISSISSIPPI CODE OF 1972, IN  
27 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

29 **SECTION 1.** (1) There is established a Deferred Retirement  
30 Option Program (DROP) for members of the Public Employees'  
31 Retirement System, which shall be administered by the board of  
32 trustees of the retirement system. The DROP program will allow  
33 any eligible member of the retirement system to retire and  
34 continue working as a public employee for any period selected by  
35 the person not exceeding five (5) years. The eligible member  
36 shall receive his or her regular salary during the selected DROP  
37 period and the retirement allowance he or she would have otherwise  
38 received during the DROP period will be paid into an account for  
39 the benefit of the member. The proceeds of the account will be



40 paid to the member upon termination of the selected DROP period.  
41 This payment shall be in addition to the member's regular  
42 retirement allowance, which shall begin being paid directly to the  
43 member at the termination of the selected DROP period.

44 (2) Members who desire to participate in the DROP program  
45 must sign up for the program within twelve (12) months immediately  
46 following the date upon which the member first reaches his or her  
47 normal retirement date. For purposes of this section, a person's  
48 normal retirement date is the date upon which the person  
49 accumulates twenty-five (25) years of creditable service; however,  
50 if a person reaches normal retirement age before age sixty (60),  
51 the decision to participate may be deferred to the twelve (12)  
52 months immediately following the date the member attains the age  
53 of fifty-five (55). The decision to participate in the DROP  
54 program is irrevocable once it is made, and a member participating  
55 in the DROP program may not terminate participation before the end  
56 of the selected period of participation without terminating  
57 employment.

58 (3) Any eligible member who wishes to participate in the  
59 DROP program shall apply to the retirement system. In the  
60 application, the member must select a period of participation of  
61 one (1) to five (5) years, which period shall be irrevocable once  
62 it is made. Participation in the DROP program shall begin on the  
63 first day of the month following the month in which the member's  
64 application is approved by the board of trustees of the retirement  
65 system.

66 (4) During the time that a member participates in the DROP  
67 program, the member shall receive the regular salary for his or  
68 her position, and the retirement system shall deposit monthly into  
69 a DROP account for the benefit of the member the retirement  
70 allowance that the member would have received if the member had  
71 retired and not participated in the DROP program. The DROP  
72 account shall be held in reserve until the end of the period of



73 participation in the DROP program, and regular interest shall be  
74 paid on the monies in the DROP account during the time that the  
75 member participates in the DROP program and until the monies are  
76 paid to the member. At the end of the period that the member  
77 participates in the DROP program, the member shall receive the  
78 accumulated monies in the DROP account, including all interest  
79 earned on the account, in a lump sum or in monthly installment  
80 payments, as selected by the member. In addition, the member  
81 shall receive his or her regular retirement allowance under  
82 Section 25-11-111. The monies in the DROP account shall not be  
83 considered to be part of the member's regular retirement  
84 allowance; however, if the member chooses to have the monies in  
85 the DROP account paid in monthly installment payments, those  
86 monies shall be paid to the member at the same time as the regular  
87 retirement allowance.

88 (5) Any member participating in the DROP program shall not  
89 be an active member of the retirement system and shall not receive  
90 any creditable service for the period during which he or she  
91 participates in the program. In addition, the salary earned by  
92 the member while participating in the DROP program shall not be  
93 part of the member's earned compensation for the purposes of the  
94 retirement system and shall not be part of the member's average  
95 compensation used to calculate the member's retirement allowance.

96 (6) The board of the trustees of the retirement system may  
97 adopt rules and regulations as necessary for the implementation of  
98 the DROP program established under this section.

99 (7) The definitions in Section 25-11-103 shall be applicable  
100 to the terms used in this section.

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

103 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

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



106 (a) All persons who shall become employees in the state  
107 service after January 31, 1953, and whose wages are subject to  
108 payroll taxes and are lawfully reported on IRS Form W-2, except  
109 (i) those persons who are specifically excluded, (ii) those  
110 persons to whom election is provided in Articles 1 and 3, and  
111 (iii) those persons who are participating in the Deferred  
112 Retirement Option Program established under Section 1 of this act,  
113 shall become members of the retirement system as a condition of  
114 their employment.

115 (b) All persons who shall become employees in the state  
116 service after January 31, 1953, except those specifically excluded  
117 or as to whom election is provided in Articles 1 and 3, unless  
118 they shall file with the board prior to the lapse of sixty (60)  
119 days of employment or sixty (60) days after the effective date of  
120 the cited articles, whichever is later, on a form prescribed by  
121 the board, a notice of election not to be covered by the  
122 membership of the retirement system and a duly executed waiver of  
123 all present and prospective benefits which would otherwise inure  
124 to them on account of their participation in the system, shall  
125 become members of the retirement system; \* \* \* however, \* \* \* no  
126 credit for prior service will be granted to members until they  
127 have contributed to Article 3 of the retirement system for a  
128 minimum period of at least four (4) years. Such members shall  
129 receive credit for services performed prior to January 1, 1953, in  
130 employment now covered by Article 3, but no credit shall be  
131 granted for retroactive services between January 1, 1953, and the  
132 date of their entry into the retirement system unless the employee  
133 pays into the retirement system both the employer's and the  
134 employee's contributions on wages paid him during the period from  
135 January 31, 1953, to the date of his becoming a contributing  
136 member, together with interest at the rate determined by the board  
137 of trustees. Members reentering after withdrawal from service  
138 shall qualify for prior service under the provisions of Section



139 25-11-117. From and after July 1, 1998, upon eligibility as noted  
140 above, the member may receive credit for such retroactive service  
141 provided:

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

145 (2) The member shall pay to the retirement system  
146 on the date he or she is eligible for such credit or at any time  
147 thereafter prior to the date of retirement the actuarial cost for  
148 each year of such creditable service. The provisions of this  
149 subparagraph (2) shall be subject to the limitations of Section  
150 415 of the Internal Revenue Code and regulations promulgated  
151 thereunder.

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

156 (c) All persons who shall become employees in the state  
157 service after January 31, 1953, and who are eligible for  
158 membership in any other retirement system shall become members of  
159 this retirement system as a condition of their employment unless  
160 they elect at the time of their employment to become a member of  
161 such other system.

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

169 (e) All persons who are employees in the state service  
170 on January 31, 1953, and who under existing laws are members of  
171 any fund operated for the retirement of employees by the State of



172 Mississippi, or any of its departments or agencies, shall not be  
173 entitled to membership in this retirement system unless, before  
174 February 1, 1953, any such person shall indicate by a notice filed  
175 with the board, on a form prescribed by the board, his individual  
176 election and choice to participate in this system, but no such  
177 person shall receive prior service credit unless he becomes a  
178 member on or before February 1, 1953.

179 (f) Each political subdivision of the state and each  
180 instrumentality of the state or a political subdivision, or both,  
181 is hereby authorized to submit, for approval by the board of  
182 trustees, a plan for extending the benefits of this article to  
183 employees of any such political subdivision or instrumentality.  
184 Each such plan or any amendment to the plan for extending benefits  
185 thereof shall be approved by the board of trustees if it finds  
186 that such plan, or such plan as amended, is in conformity with  
187 such requirements as are provided in Articles 1 and 3; however,  
188 upon approval of such plan or any such plan heretofore approved by  
189 the board of trustees, the approved plan shall not be subject to  
190 cancellation or termination by the political subdivision or  
191 instrumentality, except that any community hospital serving a  
192 municipality that joined the Public Employees' Retirement System  
193 as of November 1, 1956, to offer social security coverage for its  
194 employees and subsequently extended retirement annuity coverage to  
195 its employees as of December 1, 1965, may, upon documentation of  
196 extreme financial hardship, have future retirement annuity  
197 coverage cancelled or terminated at the discretion of the board of  
198 trustees. No such plan shall be approved unless:

199 (1) It provides that all services which constitute  
200 employment as defined in Section 25-11-5 and are performed in the  
201 employ of the political subdivision or instrumentality, by any  
202 employees thereof, shall be covered by the plan; with the  
203 exception of municipal employees who are already covered by



204 existing retirement plans; \* \* \* however, those employees in this  
205 class may elect to come under the provisions of this article;

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

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

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

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

226 A. The board of trustees shall not finally  
227 refuse to approve a plan submitted under paragraph (f), and shall  
228 not terminate an approved plan without reasonable notice and  
229 opportunity for hearing to each political subdivision or  
230 instrumentality affected thereby. The board's decision in any  
231 such case shall be final, conclusive and binding unless an appeal  
232 be taken by the political subdivision or instrumentality aggrieved  
233 thereby to the Circuit Court of Hinds County, Mississippi, in  
234 accordance with the provisions of law with respect to civil causes  
235 by certiorari.



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

243 C. Every political subdivision or  
244 instrumentality required to make payments under paragraph (f)(5)B  
245 hereof is authorized, in consideration of the employees' retention  
246 in or entry upon employment after enactment of Articles 1 and 3,  
247 to impose upon its employees, as to services which are covered by  
248 an approved plan, a contribution with respect to wages (as defined  
249 in Section 25-11-5) not exceeding the amount provided in Section  
250 25-11-123(d) if such services constituted employment within the  
251 meaning of Articles 1 and 3, and to deduct the amount of such  
252 contribution from the wages as and when paid. Contributions so  
253 collected shall be paid into the contribution fund as partial  
254 discharge of the liability of such political subdivisions or  
255 instrumentalities under paragraph (f)(5)B hereof. Failure to  
256 deduct such contribution shall not relieve the employee or  
257 employer of liability thereof.

258 D. Any state agency, school, political  
259 subdivision, instrumentality or any employer that is required to  
260 submit contribution payments or wage reports under any section of  
261 this chapter shall be assessed interest on delinquent payments or  
262 wage reports as determined by the board of trustees in accordance  
263 with rules and regulations adopted by the board and such assessed  
264 interest may be recovered by action in a court of competent  
265 jurisdiction against such reporting agency liable therefor or may,  
266 upon due certification of delinquency and at the request of the  
267 board of trustees, be deducted from any other monies payable to  
268 such reporting agency by any department or agency of the state.





269                   E. Each political subdivision of the state  
270 and each instrumentality of the state or a political subdivision  
271 or subdivisions which submits a plan for approval of the board, as  
272 provided in this section, shall reimburse the board for coverage  
273 into the expense account, its pro rata share of the total expense  
274 of administering Articles 1 and 3 as provided by regulations of  
275 the board.

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

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

288                   (i) In the event any member of this system should  
289 change his employment to any agency of the state having an  
290 actuarially funded retirement system, the board of trustees may  
291 authorize the transfer of the member's creditable service and of  
292 the present value of the member's employer's accumulation account  
293 and of the present value of the member's accumulated membership  
294 contributions to such other system, provided the employee agrees  
295 to the transfer of his accumulated membership contributions and  
296 provided such other system is authorized to receive and agrees to  
297 make such transfer.

298                   In the event any member of any other actuarially funded  
299 system maintained by an agency of the state changes his employment  
300 to an agency covered by this system, the board of trustees may  
301 authorize the receipt of the transfer of the member's creditable



302 service and of the present value of the member's employer's  
303 accumulation account and of the present value of the member's  
304 accumulated membership contributions from such other system,  
305 provided the employee agrees to the transfer of his accumulated  
306 membership contributions to this system and provided the other  
307 system is authorized and agrees to make such transfer.

308 (j) Wherever herein state employment is referred to, it  
309 shall include joint employment by state and federal agencies of  
310 all kinds.

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

332 (1) The member shall furnish proof satisfactory to  
333 the board of trustees of certification of such services from the  
334 political subdivision or instrumentality where the services were



335 rendered or verification by the Social Security Administration;  
336 and

337           (2) The member shall pay to the retirement system  
338 on the date he or she is eligible for such credit or at any time  
339 thereafter prior to the date of retirement the actuarial cost for  
340 each year of such creditable service. The provisions of this  
341 subparagraph (2) shall be subject to the limitations of Section  
342 415 of the Internal Revenue Code and regulations promulgated  
343 thereunder.

344           Nothing contained in this paragraph (k) shall be construed to  
345 limit the authority of the board to allow the correction of  
346 reporting errors or omissions based on the payment of employee and  
347 employer contributions plus applicable interest. Payment for such  
348 time shall be made in increments of not less than one-quarter  
349 (1/4) year of creditable service beginning with the most recent  
350 service. Upon the payment of all or part of such required  
351 contributions, plus interest or the actuarial cost as provided  
352 above, the member shall receive credit for the period of  
353 creditable service for which full payment has been made to the  
354 retirement system.

355           (1) Through June 30, 1998, any state service eligible  
356 for retroactive service credit, no part of which has ever been  
357 reported, and requiring the payment of employee and employer  
358 contributions plus interest, or, from and after July 1, 1998, any  
359 state service eligible for retroactive service credit, no part of  
360 which has ever been reported to the retirement system, and  
361 requiring the payment of the actuarial cost for such creditable  
362 service, may, at the member's option, be purchased in quarterly  
363 increments as provided above at such time as its purchase is  
364 otherwise allowed.

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



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

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

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

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

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

380                   **III. TERMINATION OF MEMBERSHIP**

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

385           **SECTION 3.** Section 25-11-109, Mississippi Code of 1972, is  
386 amended as follows:

387           25-11-109. (1) Under such rules and regulations as the  
388 board of trustees shall adopt, each person who becomes a member of  
389 this retirement system, as provided in Section 25-11-105, on or  
390 prior to July 1, 1953, or who becomes a member and contributes to  
391 the system for a minimum period of four (4) years, shall receive  
392 credit for all state service rendered before February 1, 1953. To  
393 receive such credit, such member shall file a detailed statement  
394 of all services as an employee rendered by him in the state  
395 service before February 1, 1953. For any member who joined the  
396 system after July 1, 1953, any creditable service for which the  
397 member is not required to make contributions shall not be credited  
398 to the member until the member has contributed to the system for a  
399 minimum period of at least four (4) years.



400           (2) In the computation of membership service or prior  
401 service under the provisions of this article, the total months of  
402 accumulative service during any fiscal year shall be calculated in  
403 accordance with the schedule as follows: ten (10) or more months  
404 of creditable service during any fiscal year shall constitute a  
405 year of creditable service; seven (7) months to nine (9) months  
406 inclusive, three-quarters (3/4) of a year of creditable service;  
407 four (4) months to six (6) months inclusive, one-half-year of  
408 creditable service; one (1) month to three (3) months inclusive,  
409 one-quarter (1/4) of a year of creditable service. In no case  
410 shall credit be allowed for any period of absence without  
411 compensation except for disability while in receipt of a  
412 disability retirement allowance, nor shall less than fifteen (15)  
413 days of service in any month, or service less than the equivalent  
414 of one-half (1/2) of the normal working load for the position and  
415 less than one-half (1/2) of the normal compensation for the  
416 position in any month, constitute a month of creditable service,  
417 nor shall more than one (1) year of service be creditable for all  
418 services rendered in any one (1) fiscal year; provided that for a  
419 school employee, substantial completion of the legal school term  
420 when and where the service was rendered shall constitute a year of  
421 service credit for both prior service and membership service. Any  
422 state or local elected official shall be deemed a full-time  
423 employee for the purpose of creditable service for prior service  
424 or membership service. However, an appointed or elected official  
425 compensated on a per diem basis only shall not be allowed  
426 creditable service for terms of office.

427           In the computation of any retirement allowance or any annuity  
428 or benefits provided in this article, any fractional period of  
429 service of less than one (1) year shall be taken into account and  
430 a proportionate amount of such retirement allowance, annuity or  
431 benefit shall be granted for any such fractional period of  
432 service.



433 In the computation of unused leave for creditable service  
434 authorized in Section 25-11-103, the following shall govern:  
435 twenty-one (21) days of unused leave shall constitute one (1)  
436 month of creditable service and in no case shall credit be allowed  
437 for any period of unused leave of less than fifteen (15) days.  
438 The number of months of unused leave shall determine the number of  
439 quarters or years of creditable service in accordance with the  
440 above schedule for membership and prior service. In order for the  
441 member to receive creditable service for the number of days of  
442 unused leave, the system must receive certification from the  
443 governing authority.

444 For the purpose of this subsection, for members of the system  
445 who are elected officers and who retire on or after July 1, 1987,  
446 the following shall govern:

447 (a) For service prior to July 1, 1984, the members  
448 shall receive credit for leave (combined personal and major  
449 medical) for service as an elected official prior to that date at  
450 the rate of thirty (30) days per year.

451 (b) For service on and after July 1, 1984, the member  
452 shall receive credit for personal and major medical leave  
453 beginning July 1, 1984, at the rates authorized in Sections  
454 25-3-93 and 25-3-95, computed as a full-time employee.

455 (3) Subject to the above restrictions and to such other  
456 rules and regulations as the board may adopt, the board shall  
457 verify, as soon as practicable after the filing of such statements  
458 of service, the services therein claimed.

459 (4) Upon verification of the statement of prior service, the  
460 board shall issue a prior service certificate certifying to each  
461 member the length of prior service for which credit shall have  
462 been allowed on the basis of his statement of service. So long as  
463 membership continues, a prior service certificate shall be final  
464 and conclusive for retirement purposes as to such service,  
465 provided that any member may within five (5) years from the date



466 of issuance or modification of such certificate request the board  
467 of trustees to modify or correct his prior service certificate.  
468 Any modification or correction authorized shall only apply  
469 prospectively.

470 When membership ceases, such prior service certificates shall  
471 become void. Should the employee again become a member, he shall  
472 enter the system as an employee not entitled to prior service  
473 credit except as provided in Sections 25-11-105(I), 25-11-113 and  
474 25-11-117.

475 (5) Creditable service at retirement, on which the  
476 retirement allowance of a member shall be based, shall consist of  
477 the membership service rendered by him since he last became a  
478 member, and also, if he has a prior service certificate which is  
479 in full force and effect, the amount of the service certified on  
480 his prior service certificate. Creditable service shall not  
481 consist of any service rendered while participating in the  
482 Deferred Retirement Option Program established under Section 1 of  
483 this act.

484 (6) Anything in this article to the contrary  
485 notwithstanding, any member who served on active duty in the Armed  
486 Forces of the United States, or who served in maritime service  
487 during periods of hostility in World War II, shall be entitled to  
488 creditable service at no cost for his service on active duty in  
489 the Armed Forces or in such maritime service, provided he entered  
490 state service after his discharge from the Armed Forces or entered  
491 state service after he completed such maritime service. The  
492 maximum period for such creditable service for all military  
493 service as defined in this subsection (6) shall not exceed four  
494 (4) years unless positive proof can be furnished by such person  
495 that he was retained in the Armed Forces during World War II or in  
496 maritime service during World War II by causes beyond his control  
497 and without opportunity of discharge. The member shall furnish  
498 proof satisfactory to the board of trustees of certification of



499 military service or maritime service records showing dates of  
500 entrance into active duty service and the date of discharge. From  
501 and after July 1, 1993, no creditable service shall be granted for  
502 any military service or maritime service to a member who qualifies  
503 for a retirement allowance in another public retirement system  
504 administered by the Board of Trustees of the Public Employees'  
505 Retirement System based in whole or in part on such military or  
506 maritime service. In no case shall the member receive creditable  
507 service if the member received a dishonorable discharge from the  
508 Armed Forces of the United States.

509       (7) (a) Any member of the Public Employees' Retirement  
510 System whose membership service is interrupted as a result of  
511 qualified military service within the meaning of Section 414(u)(5)  
512 of the Internal Revenue Code, and who has received the maximum  
513 service credit available under subsection (6) of this section,  
514 shall receive creditable service for the period of qualified  
515 military service that does not qualify as creditable service under  
516 subsection (6) of this section upon reentering membership service  
517 in an amount not to exceed five (5) years if:

518               (i) The member pays the contributions he would  
519 have made to the retirement system if he had remained in  
520 membership service for the period of qualified military service  
521 based upon his salary at the time his membership service was  
522 interrupted;

523               (ii) The member returns to membership service  
524 within ninety (90) days of the end of his qualified military  
525 service; and

526               (iii) The employer at the time the member's  
527 service was interrupted and to which employment the member returns  
528 pays the contributions it would have made into the retirement  
529 system for such period based on the member's salary at the time  
530 the service was interrupted.





531           (b) The payments required to be made in paragraph  
532 (a) (i) of this subsection may be made over a period beginning with  
533 the date of return to membership service and not exceeding three  
534 (3) times the member's qualified military service; provided,  
535 however, that in no event shall such period exceed fifteen (15)  
536 years.

537           (c) The member shall furnish proof satisfactory to the  
538 board of trustees of certification of military service showing  
539 dates of entrance into qualified service and the date of discharge  
540 as well as proof that the member has returned to active employment  
541 within the time specified.

542           (8) Any member of the Public Employees' Retirement System  
543 who has at least four (4) years of membership service credit shall  
544 be entitled to receive a maximum of five (5) years creditable  
545 service for service rendered in another state as a public employee  
546 of such other state, or a political subdivision, public education  
547 system or other governmental instrumentality thereof, or service  
548 rendered as a teacher in American overseas dependent schools  
549 conducted by the Armed Forces of the United States for children of  
550 citizens of the United States residing in areas outside the  
551 continental United States, provided that:

552           (a) The member shall furnish proof satisfactory to the  
553 board of trustees of certification of such services from the  
554 state, public education system, political subdivision or  
555 retirement system of the state where the services were performed  
556 or the governing entity of the American overseas dependent school  
557 where the services were performed; and

558           (b) The member is not receiving or will not be entitled  
559 to receive from the public retirement system of the other state or  
560 from any other retirement plan, including optional retirement  
561 plans, sponsored by the employer, a retirement allowance including  
562 such services; and



563           (c) The member shall pay to the retirement system on  
564 the date he or she is eligible for credit for such out-of-state  
565 service or at any time thereafter prior to date of retirement the  
566 actuarial cost as determined by the actuary for each year of  
567 out-of-state creditable service. The provisions of this  
568 subsection are subject to the limitations of Section 415 of the  
569 Internal Revenue Code and regulations promulgated thereunder.

570           (9) Any member of the Public Employees' Retirement System  
571 who has at least four (4) years of membership service credit and  
572 who receives, or has received, professional leave without  
573 compensation for professional purposes directly related to the  
574 employment in state service shall receive creditable service for  
575 the period of professional leave without compensation provided:

576           (a) The professional leave is performed with a public  
577 institution or public agency of this state, or another state or  
578 federal agency;

579           (b) The employer approves the professional leave  
580 showing the reason for granting the leave and makes a  
581 determination that the professional leave will benefit the  
582 employee and employer;

583           (c) Such professional leave shall not exceed two (2)  
584 years during any ten-year period of state service;

585           (d) The employee shall serve the employer on a  
586 full-time basis for a period of time equivalent to the  
587 professional leave period granted immediately following the  
588 termination of the leave period;

589           (e) The contributing member shall pay to the retirement  
590 system the actuarial cost as determined by the actuary for each  
591 year of professional leave. The provisions of this subsection are  
592 subject to the regulations of the Internal Revenue Code  
593 limitations;



594 (f) Such other rules and regulations consistent  
595 herewith as the board may adopt and in case of question, the board  
596 shall have final power to decide the questions.

597 Any actively contributing member participating in the School  
598 Administrator Sabbatical Program established in Section 37-9-77  
599 shall qualify for continued participation under this subsection  
600 (9).

601 (10) Any member of the Public Employees' Retirement System  
602 who has at least four (4) years of credited membership service  
603 shall be entitled to receive a maximum of ten (10) years  
604 creditable service for:

605 (a) Any service rendered as an employee of any  
606 political subdivision of this state, or any instrumentality  
607 thereof, which does not participate in the Public Employees'  
608 Retirement System; or

609 (b) Any service rendered as an employee of any  
610 political subdivision of this state, or any instrumentality  
611 thereof, which participates in the Public Employees' Retirement  
612 System but did not elect retroactive coverage; or

613 (c) Any service rendered as an employee of any  
614 political subdivision of this state, or any instrumentality  
615 thereof, for which coverage of the employee's position was or is  
616 excluded; provided that the member pays into the retirement system  
617 the actuarial cost as determined by the actuary for each year, or  
618 portion thereof, of such service. Payment for such service may be  
619 made in increments of one-quarter-year of creditable service.  
620 After a member has made full payment to the retirement system for  
621 all or any part of such service, the member shall receive  
622 creditable service for the period of such service for which full  
623 payment has been made to the retirement system.

624 **SECTION 4.** Section 25-11-117, Mississippi Code of 1972, is  
625 amended as follows:



626           25-11-117. (1) A member may be paid a refund of the amount  
627 of accumulated contributions to the credit of the member in the  
628 annuity savings account provided the member has withdrawn from  
629 state service and further provided the member has not returned to  
630 state service on the date the refund of the accumulated  
631 contributions would be paid. Such refund of the contributions to  
632 the credit of the member in the annuity savings account shall be  
633 paid within ninety (90) days from receipt in the office of the  
634 retirement system of the properly completed form requesting such  
635 payment. In the event of death prior to retirement of any member  
636 whose spouse and/or children are not entitled to a retirement  
637 allowance, the accumulated contributions to the credit of the  
638 deceased member in the annuity savings account and any Deferred  
639 Retirement Option Program account shall be paid to the designated  
640 beneficiary on file in writing in the office of executive director  
641 of the board of trustees within ninety (90) days from receipt of a  
642 properly completed form requesting such payment. If there is no  
643 such designated beneficiary on file for such deceased member in  
644 the office of the system, upon the filing of a proper request with  
645 the board, the contributions to the credit of the deceased member  
646 in the annuity savings account and any Deferred Retirement Option  
647 Program account shall be refunded pursuant to Section  
648 25-11-117.1(1). The payment of the refund shall discharge all  
649 obligations of the retirement system to the member on account of  
650 any creditable service rendered by the member prior to the receipt  
651 of the refund. By the acceptance of the refund, the member shall  
652 waive and relinquish all accrued rights in the system.

653           (2) Pursuant to the Unemployment Compensation Amendments of  
654 1992 (Public Law 102-318 (UCA)), a member or the spouse of a  
655 member who is an eligible beneficiary entitled to a refund under  
656 this section may elect, on a form prescribed by the board under  
657 rules and regulations established by the board, to have an  
658 eligible rollover distribution of accumulated contributions



659 payable under this section paid directly to an eligible retirement  
660 plan or individual retirement account. If the member or the  
661 spouse of a member who is an eligible beneficiary makes such  
662 election and specifies the eligible retirement plan or individual  
663 retirement account to which such distribution is to be paid, the  
664 distribution will be made in the form of a direct  
665 trustee-to-trustee transfer to the specified eligible retirement  
666 plan. Flexible rollovers under this subsection shall not be  
667 considered assignments under Section 25-11-129.

668 (3) If any person who has received a refund reenters the  
669 state service and again becomes a member of the system, the member  
670 may repay all or part of the amounts previously received as a  
671 refund, together with regular interest covering the period from  
672 the date of refund to the date of repayment; provided, however,  
673 that the amounts that are repaid by the member and the creditable  
674 service related thereto shall not be used in any benefit  
675 calculation or determination until the member has remained a  
676 contributor to the system for a period of at least four (4) years  
677 subsequent to such member's reentry into state service. Repayment  
678 for such time shall be made in increments of not less than  
679 one-quarter (1/4) year of creditable service beginning with the  
680 most recent service for which refund has been made. Upon the  
681 repayment of all or part of such refund and interest, the member  
682 shall again receive credit for the period of creditable service  
683 for which full repayment has been made to the system.

684 **SECTION 5.** Section 25-11-127, Mississippi Code of 1972, is  
685 amended as follows:

686 25-11-127. (1) No person who is being paid a retirement  
687 allowance or a pension after retirement under this article shall  
688 be employed or paid for any service by the State of Mississippi,  
689 except as provided in this section, unless the person was a  
690 participant in the Deferred Retirement Option Program established  
691 under Section 1 of this act, in which case Section 1 of this act



692 also shall apply. This section shall not apply to any pensioner  
693 who has been elected to public office after retirement, nor to any  
694 person employed because of special knowledge or experience. This  
695 section shall not be construed to mean that any person employed or  
696 elected under the above exceptions shall become a member under  
697 Article 3 of the retirement system, nor shall any retiree of this  
698 retirement system who is reemployed or is reelected to office  
699 after retirement continue to draw retirement benefits while so  
700 reemployed.

701 (2) Any person who has been retired under the provisions of  
702 Articles 1 and 3 and who is later reemployed in service covered by  
703 this article shall cease to receive benefits under this article  
704 and shall again become a contributing member of the retirement  
705 system. When the person retires again, if the reemployment  
706 exceeds six (6) months, the person shall have his or her benefit  
707 recomputed, including service after again becoming a member,  
708 provided that the total retirement allowance paid to the retired  
709 member in his or her previous retirement shall be deducted from  
710 the member's retirement reserve and taken into consideration in  
711 recalculating the retirement allowance under a new option  
712 selected.

713 (3) Nothing contained in this section shall be construed as  
714 prohibiting any county or city not a member of the Public  
715 Employees' Retirement System from employing persons up to the age  
716 of seventy-three (73). In addition, through June 30, 1988,  
717 nothing contained in this section shall be construed as  
718 prohibiting any governmental unit that is a member from employing  
719 persons up to the age of seventy-three (73) who are not eligible  
720 for membership at the time of employment under Article 3.

721 (4) The board of trustees of the retirement system shall  
722 have the right to prescribe rules and regulations for carrying out  
723 the provisions of this section.



724 (5) The provisions of this section shall not be construed to  
725 prohibit any retiree, regardless of age, from being employed and  
726 drawing a retirement allowance either:

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

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

735 To determine the normal working days for a position under  
736 paragraph (a) of this subsection, the employer shall determine the  
737 required number of working days for the position on a full-time  
738 basis and the equivalent number of hours representing the  
739 full-time position. The retiree then may work up to one-half  
740 (1/2) of the required number of working days or up to one-half  
741 (1/2) of the equivalent number of hours and receive up to one-half  
742 (1/2) of the salary for the position. In the case of employment  
743 with multiple employers, the limitation shall equal one-half (1/2)  
744 of the number of days or hours for a single full-time position.

745 Notice shall be given in writing to the executive director of  
746 the system, setting forth the facts upon which the employment is  
747 being made, and the notice shall be given within five (5) days  
748 from the date of employment and also from the date of termination  
749 of the employment.

750 (6) Any member who has attained seventy (70) years of age  
751 and who has forty (40) or more years of creditable service may  
752 continue in office or employment or be reemployed or elected,  
753 provided that the person files annually, in writing, in the office  
754 of the employer and the office of the executive director of the  
755 system before those services, a waiver of all salary or  
756 compensation and elects to receive in lieu of that salary or



757 compensation a retirement allowance as provided in this section,  
758 in which event no salary or compensation shall thereafter be due  
759 or payable for those services. However, any such officer or  
760 employee may receive, in addition to the retirement allowance, any  
761 per diem, office expense allowance, mileage or travel expense  
762 authorized by any statute of the State of Mississippi.

763 (7) Any member may continue in municipal or county office or  
764 employment or be reemployed or elected in a municipality or  
765 county, provided that the person files annually, in writing, in  
766 the office of the employer and the office of the executive  
767 director of the system before those services, a waiver of all  
768 salary or compensation and elects to receive in lieu of that  
769 salary or compensation a retirement allowance as provided in this  
770 section, in which event no salary or compensation shall thereafter  
771 be due or payable for those services. However, any such officer  
772 or employee may receive, in addition to the retirement allowance,  
773 any per diem, office expense allowance, mileage or travel expense  
774 authorized by any statute of the State of Mississippi.

775 **SECTION 6.** This act shall take effect and be in force from  
776 and after July 1, 2002.

