

By: Representatives Janus, Eads

To: Appropriations

HOUSE BILL NO. 896

1 AN ACT TO CREATE NEW SECTION 21-29-325, MISSISSIPPI CODE OF
2 1972, TO PROVIDE THAT RETIRED MEMBERS OF A MUNICIPAL RETIREMENT
3 SYSTEM OR DISABILITY AND RELIEF FUND MAY BE REEMPLOYED BY THE SAME
4 OR ANY OTHER MUNICIPALITY OR ANY EMPLOYER PARTICIPATING IN THE
5 PUBLIC EMPLOYEES' RETIREMENT SYSTEM WITHOUT THE LOSS OF RETIREMENT
6 BENEFITS FROM THE SYSTEM OR FUND FROM WHICH THE MEMBER RETIRED; TO
7 AMEND SECTIONS 21-29-143, 21-29-251, 21-29-33, 21-29-139 AND
8 21-29-245, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING
9 PROVISION; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** The following shall be codified as Section
12 21-29-325, Mississippi Code of 1972:

13 21-29-325. From and after July 1, 2002, any member of a
14 municipal retirement system or disability and relief fund who
15 retires or who has previously retired from a municipality with a
16 retirement system or disability and relief fund under Articles 1,
17 3 or 5 of this chapter, may be reemployed by the same or any other
18 municipality or any employer participating in the Public
19 Employees' Retirement System without loss of retirement benefits
20 from the system or fund from which the member retired. The Board
21 of Trustees of the Public Employees' Retirement System shall have
22 the authority to establish rules and regulations defining what
23 constitutes retirement from active service for purposes of being
24 eligible to draw a retirement benefit from the municipal
25 retirement system or disability and relief fund.

26 **SECTION 2.** Section 21-29-143, Mississippi Code of 1972, is
27 amended as follows:

28 21-29-143. Any person receiving relief or benefits under the
29 provisions of this article shall not be entitled to those benefits
30 if the person attaches himself to a paid fire department or police



31 department in another city having a paid retirement benefit
32 program for firemen or policemen. This section is applicable to
33 periods of employment before July 1, 2002.

34 **SECTION 3.** Section 21-29-251, Mississippi Code of 1972, is
35 amended as follows:

36 21-29-251. Any municipality which has a population in excess
37 of twenty thousand (20,000) according to the 1970 federal
38 decennial census and which lies within any Class 1 county touching
39 the Mississippi River, located wholly within the Yazoo-Mississippi
40 Delta Levee District and which has an approximate land area of
41 five hundred seventy (570) square miles, is * * * authorized and
42 empowered, in its discretion, to adopt the following retirement
43 program for policemen and firemen as an alternative to the program
44 established in Sections 21-29-245 through 21-29-249, and which
45 shall otherwise conform with the provisions of this article.

46 Any member of the fire and/or police department who has been
47 in, and has received compensation for, fire and/or police
48 department service for twenty (20) years before the filing of an
49 application as hereinafter provided, with the preceding ten (10)
50 years of service being continuous in the city to which application
51 is made, may file a written application for retirement relief.
52 Thereupon, the board of disability and relief shall retire such
53 member from active service without a medical examination of
54 disability and shall order the monthly payment to him from the
55 fund of an amount equal to fifty percent (50%) of the average
56 monthly base salary and longevity pay received as salary by him in
57 the six-month period preceding the filing of such application.
58 Thereafter, such payment, to be known as "retirement relief,"
59 shall be made to such retired member for the remainder of his
60 life.

61 Any member of the fire and/or police department who has been
62 in, and has received compensation for, fire and/or police
63 department service for more than twenty (20) years shall be



64 entitled to, and shall receive, additional retirement relief for
65 the remainder of his life of an amount equal to one and
66 seven-tenths percent (1-7/10%) of the same average monthly base
67 salary and longevity pay received by such member as salary in the
68 six-month period preceding the filing of such application for each
69 full year of service in excess of twenty (20) years. However,
70 such retired member shall receive the additional retirement relief
71 provided in this paragraph only for each full year of service in
72 excess of twenty (20) years completed after July 1, 1966. No such
73 retired member shall receive such additional retirement relief in
74 excess of sixty-six and two-thirds percent (66-2/3%) of the same
75 average monthly base salary and longevity pay received as salary
76 by him in the six-month period preceding the filing of such
77 application, excluding such other benefits as may be hereinafter
78 provided.

79 Any member of the fire and/or police department who (1) has
80 been in, and has received compensation for, fire and/or police
81 department service for a period equal to or greater than five (5)
82 years and less than twenty (20) years, and (2) has been forced to
83 retirement on account of age may file a written application for
84 pro rata retirement relief. Thereupon, the disability and relief
85 board shall retire such member from active service without a
86 medical examination for disability and shall order the monthly
87 payment to him from the fund of an amount equal to two and
88 one-half percent (2-1/2%) of the average monthly base salary and
89 longevity pay received as salary by him in the six-month period
90 preceding the filing of such application for each full year of
91 active service.

92 Periods of time in which a member may have been inactive on
93 account of physical or mental disability shall not be excluded in
94 computing the hereinbefore-mentioned time periods, except that
95 such periods of inactivity shall be excluded in computing the
96 aforementioned five-year pro rata eligibility period. Periods of



97 time in which a member may have been absent from such employment
98 on account of active service in the Army or Navy of the United
99 States, the United States Marine Corps or the United States Coast
100 Guard between September 16, 1940, and July 25, 1947, or while as a
101 civil employee engaged by the Army or Navy while serving outside
102 the continental United States shall not be excluded in computing
103 the hereinbefore-mentioned time period except that such periods of
104 inactivity shall be excluded in computing the aforementioned
105 five-year pro rata eligibility period. The discharge or release
106 of such member from such Armed Forces shall have been under
107 conditions other than dishonorable. Any member who has been
108 retired or is voluntarily retired under this section, or who has
109 received relief or disability benefits under this section, shall
110 be required to report such duties as required by the disability
111 and relief board.

112 The disability and relief board shall, when a member of the
113 fire and/or police department completes thirty-five (35) years of
114 paid employment or attains the age of sixty (60), whichever occurs
115 first, retire him from active service and order the payment of
116 such funds as the member is entitled to under the provisions of
117 this section. However, the continued employment of any member who
118 has not completed twenty (20) years of service may be authorized
119 by the governing authority of the municipality on a year-to-year
120 basis until the employee completes twenty (20) years of active
121 service or reaches the age of seventy (70), whichever occurs
122 first.

123 Any person receiving retirement relief under the provisions
124 of this section shall no longer be entitled to that relief upon
125 attachment with a paid fire department or police department in
126 another city having a paid retirement relief program for policemen
127 or firemen. This paragraph is applicable to periods of employment
128 before July 1, 2002.



129 The entitlement, under the particular retirement program in
130 operation prior to the adoption of the alternative retirement
131 program established in this section, of a policeman or fireman
132 thereunder to any benefits or rights thereof shall not be
133 diminished on account of the transition by such municipalities to
134 the alternative retirement program established by this section.

135 **SECTION 4.** Section 21-29-33, Mississippi Code of 1972, is
136 amended as follows:

137 21-29-33. Upon retirement from service as provided in
138 Section 21-29-31 a member shall receive a service retirement
139 allowance for the remainder of his life, payable monthly, which
140 allowance shall be a sum equal to fifty percent (50%) of his
141 average monthly salary for the last four (4) years of service
142 immediately prior to retirement; * * * however, * * * upon
143 retirement from service in any municipality having a commission
144 form of government on March 31, 1948, as provided in Section
145 21-29-5 and having a separate firemen and policemen retirement
146 system and having a population not in excess of forty-eight
147 thousand (48,000) according to the 1980 decennial census, which
148 municipality has established a retirement system according to the
149 provisions of this chapter, the service retirement allowance shall
150 be based upon the average monthly salary for the last two (2)
151 years of service immediately prior to retirement. Any member who
152 has been in paid service for longer than twenty (20) years shall
153 be entitled to receive additional payments for life in a sum equal
154 to one and seven-tenths percent (1-7/10%) of the average monthly
155 salary received by such member in the two-year period next
156 preceding the filing of said application for each full year of
157 service in excess of twenty (20) years' service. However, no
158 retired payment to any member shall exceed sixty-six and
159 two-thirds percent (66-2/3%) of the average monthly salary
160 received by a member for the four-year or two-year period, as the
161 case may be, next preceding the filing of the application.



162 Periods of time in which a member may have been inactive on
163 account of physical or mental disability shall not be excluded in
164 computing the twenty-year period and the seven-year period
165 hereinbefore mentioned, provided the employee continues to
166 contribute his share to the program based on the average of his
167 last two (2) months' compensation. This contribution shall
168 continue during the total time the employee shall be inactive.

169 Nothing in this section shall be construed to prohibit a
170 retired member of the retirement system from being reemployed by
171 the same or any other municipality or any employer participating
172 in the Public Employees' Retirement System without the loss of
173 retirement benefits from the retirement system, as authorized by
174 Section 21-29-325.

175 **SECTION 5.** Section 21-29-139, Mississippi Code of 1972, is
176 amended as follows:

177 21-29-139. If any member of the fire and/or police
178 department who has been in paid fire and/or police department
179 service for as long as twenty (20) years before making application
180 hereinafter mentioned, the last ten (10) years of which shall have
181 been continuous in the city in which the application is made,
182 shall make written application for retirement and relief, the
183 board of disability and relief shall, without medical examination
184 of disability, retire him from active service in said fire and/or
185 police department. Upon such retirement from active service, the
186 board of disability and relief shall order the payment to such
187 retired member monthly from the fund a sum equal to fifty percent
188 (50%) of the average monthly base salary and longevity pay
189 received as salary by such member in the six-month period next
190 before the filing of such application in the fire and/or police
191 department. Such payments shall thereafter be made to the retired
192 member for life, such payment to be known as "retired relief."

193 Any member of the fire and/or police department who has been
194 in paid fire and/or police department service for longer than



195 twenty (20) years in a municipality shall be entitled and shall
196 receive additional retired relief payment for life in a sum equal
197 to one and seven-tenths percent (1-7/10%) of the same average
198 monthly base salary and longevity pay received by such member in
199 the six-month period next preceding the filing of the application,
200 for each full year of service in excess of twenty (20) years'
201 service. However, no retired relief payment to any member shall
202 exceed sixty-six and two-thirds percent (66-2/3%) of the average
203 monthly base salary and longevity pay received by a member for the
204 six-month period next preceding the filing of the application.

205 The * * * board shall, when a member of the fire and/or
206 police department reaches the age of sixty-five (65), retire him
207 from active service in the fire and/or police department and order
208 the payment of such funds as the member is entitled to hereunder.

209 Periods of time in which a member may have been inactive on
210 account of physical or mental disability shall not be excluded in
211 computing the twenty-year period and the ten-year period
212 hereinbefore mentioned. Periods of time within which a member may
213 have been absent from his employment while in active service of
214 the Army or Navy of the United States, United States Marine Corps
215 or the United States Coast Guard between September 16, 1940, and
216 July 25, 1947, or while as a civil employee engaged by the Army
217 and Navy while serving outside the continental United States shall
218 not be excluded in computing the twenty-year period and the
219 ten-year period hereinbefore mentioned, provided that the
220 discharge or release of such member from the Armed Forces was
221 under conditions other than dishonorable. Any member who has been
222 retired or is voluntarily retired hereunder, or who has received
223 relief or disability benefits hereunder, shall be required to
224 perform such duties as then may be required of him.

225 * * * However, in any city having a population of nineteen
226 thousand (19,000) but less than twenty thousand (20,000),
227 according to the 1970 census, the periods of time not exceeding



228 four (4) years within which a member of the fire or police
229 departments may have been absent from his employment while in
230 active service in the Armed Forces of the United States, shall not
231 be excluded in computing the twenty-year period and the ten-year
232 period mentioned in this section.

233 Nothing in this section shall be construed to prohibit a
234 retired member of the disability and relief fund from being
235 reemployed by the same or any other municipality or any employer
236 participating in the Public Employees' Retirement System without
237 the loss of retirement benefits from the disability and relief
238 fund, as authorized by Section 21-29-325.

239 **SECTION 6.** Section 21-29-245, Mississippi Code of 1972, is
240 amended as follows:

241 21-29-245. If any member of the fire and/or police
242 department who has been in paid fire and/or police department
243 service for as long as twenty (20) years before making application
244 hereinafter mentioned, the last ten (10) years of which * * * have
245 been continuous in the city in which the application is made,
246 shall make written application for retirement and relief, the
247 board of disability and relief shall without medical examinations
248 of disability, retire him from active service in said fire and/or
249 police department. Upon such retirement from active service the
250 disability and relief board shall order the payment to such
251 retired member monthly from said fund a sum equal to fifty percent
252 (50%) of the average monthly base salary and longevity pay
253 received as salary by such member in the six-month period next
254 before the filing of such application in the fire and/or police
255 department. Such payments shall thereafter be made to the retired
256 member for life, such payments to be known as "retired relief."

257 Any member of the fire and/or police department who has been
258 in paid fire and/or police department service for longer than
259 twenty (20) years shall be entitled to and shall receive
260 additional retired relief payment for life in a sum equal to one



261 and seven-tenths percent (1-1/7%) of the same monthly base salary
262 and longevity pay received by such member in the six-month period
263 next preceding the filing of the application for each full year of
264 service in excess of twenty (20) years' service. However, such
265 additional retired relief payment shall be paid only for each year
266 served after July 1, 1966. No retired relief payment to any
267 member shall exceed sixty-six and two-thirds percent (66-2/3%) of
268 the average monthly base salary and longevity pay received by a
269 member for the six-month period next preceding the filing of the
270 application, except such other additional benefits as may be
271 hereinafter provided.

272 The board of disability and relief shall, when a member of
273 the fire and/or police department completes thirty-five (35) years
274 of paid employment, or attains the age of sixty (60), whichever
275 occurs first, retire him from active service in the fire and/or
276 police department and order the payment of such funds as the
277 member is entitled to under this article.

278 Periods of time in which a member may have been inactive on
279 account of physical or mental disability shall not be excluded in
280 computing the twenty-year period and the ten-year period
281 hereinabove mentioned. Neither shall there be excluded therefrom
282 periods of time within which a member may have been absent from
283 his employment while serving in the Armed Forces of the United
284 States, or any civil employee engaged by the Armed Forces of the
285 United States while serving outside the continental United States,
286 in time of war during World War I, World War II, the Korean
287 Conflict, Cuban Crisis, Berlin Crisis, Vietnam Conflict, or when
288 involuntarily called on active duty, provided that the maximum
289 period for such creditable service shall be four (4) years unless
290 positive proof can be furnished by such person that he was
291 retained in the Armed Forces by cause beyond his control, and
292 without opportunity of discharge, and provided that the discharge
293 or release of such member from the Armed Forces was under



294 conditions other than dishonorable. Any member who has been
295 retired or is voluntarily retired hereunder, or who has received
296 relief or disability benefits hereunder, shall be required to
297 report such duties as then may be required of them.

298 Nothing in this section shall be construed to prohibit a
299 retired member of the disability and relief fund from being
300 reemployed by the same or any other municipality or any employer
301 participating in the Public Employees' Retirement System without
302 the loss of retirement benefits from the disability and relief
303 fund, as authorized by Section 21-29-325.

304 **SECTION 7.** This act shall take effect and be in force from
305 and after July 1, 2002.

