

By: Senator(s) Harden

To: Finance

SENATE BILL NO. 2438

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 SUCH ACCOUNT WILL BE PAID TO THE MEMBER UPON COMPLETION OF THE
9 DROP PERIOD; TO PROVIDE THAT THE MEMBER MUST ELECT TO PARTICIPATE
10 IN THE PROGRAM WITHIN 12 MONTHS IMMEDIATELY FOLLOWING THE DATE
11 UPON WHICH THE MEMBER REACHED HIS OR HER NORMAL RETIREMENT DATE;
12 TO 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; 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 prior to 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 trustees of the retirement system may adopt
97 rules and regulations as necessary for the implementation of the
98 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, or as to whom
110 election is provided in Articles 1 and 3, and (ii) those persons
111 who are participating in the Deferred Retirement Option Program
112 established under Section 1 of Senate Bill No. 2438, 2002 Regular
113 Session, shall become members of the retirement system as a
114 condition of 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; provided, however, that
126 no 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; provided, however, those employees in
205 this 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 said 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 Senate Bill No. 2438, 2002 Regular Session.

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 the executive
641 director of the board of trustees within ninety (90) days from
642 receipt of a properly completed form requesting such payment. If
643 there is no such designated beneficiary on file for such deceased
644 member in the office of the system, upon the filing of a proper
645 request with the board, the contributions to the credit of the
646 deceased member in the annuity savings account and any Deferred
647 Retirement Option Program account shall be refunded pursuant to
648 Section 25-11-117.1(1). The payment of the refund shall discharge
649 all obligations of the retirement system to the member on account
650 of any creditable service rendered by the member prior to the
651 receipt of the refund. By the acceptance of the refund, the
652 member shall waive and relinquish all accrued rights in the
653 system.

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



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

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

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

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



692 under Section 1 of Senate Bill No. 2438, 2002 Regular Session, in
693 which case Section 1 of Senate Bill No. 2438, 2002 Regular
694 Session, shall also apply. This section shall not apply to any
695 pensioner who has been elected to public office after retirement,
696 nor to any person employed because of special knowledge or
697 experience. This section shall not be construed to mean that any
698 person employed or elected under the above exceptions shall become
699 a member under Article 3 of the retirement system, nor shall any
700 retiree of this retirement system who is reemployed or is
701 reelected to office after retirement continue to draw retirement
702 benefits while so reemployed.

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

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



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

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

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

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

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

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

752 (6) Any member who has attained seventy (70) years of age
753 and who has forty (40) or more years of creditable service may
754 continue in office or employment or be reemployed or elected,
755 provided that the person files annually, in writing, in the office



756 of the employer and the office of the executive director of the
757 system before those services, a waiver of all salary or
758 compensation and elects to receive in lieu of that salary or
759 compensation a retirement allowance as provided in this section,
760 in which event no salary or compensation shall thereafter be due
761 or payable for those services. However, any such officer or
762 employee may receive, in addition to the retirement allowance, any
763 per diem, office expense allowance, mileage or travel expense
764 authorized by any statute of the State of Mississippi.

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

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

