

By: Senator(s) Harden

To: Finance

SENATE BILL NO. 2442

1 AN ACT TO AMEND SECTION 25-11-127, MISSISSIPPI CODE OF 1972,  
 2 TO AUTHORIZE RETIREES WHO HAD AT LEAST 30 YEARS OF CREDITABLE  
 3 SERVICE AT THE TIME OF THEIR RETIREMENT TO BE EMPLOYED IN STATE  
 4 SERVICE AND DRAW A RETIREMENT ALLOWANCE FOR A PERIOD OF TIME NOT  
 5 TO EXCEED 185 DAYS IN ANY FISCAL YEAR; TO PROVIDE THAT ANY PERSON  
 6 EMPLOYED PURSUANT TO THIS PROVISION SHALL NOT BE AN ACTIVE MEMBER  
 7 OF THE RETIREMENT SYSTEM AND SHALL NOT RECEIVE ANY CREDITABLE  
 8 SERVICE FOR THE PERIOD DURING WHICH HE IS EMPLOYED PURSUANT TO  
 9 THIS PROVISION; TO PROVIDE THAT THE EMPLOYER OF A PERSON EMPLOYED  
 10 PURSUANT TO SUCH PROVISION SHALL DEDUCT EMPLOYEE CONTRIBUTIONS AND  
 11 MAKE EMPLOYER CONTRIBUTIONS ON BEHALF OF SUCH PERSON; TO PROVIDE  
 12 THAT THE RETIREMENT ALLOWANCE OF SUCH PERSON SHALL NOT BE ENHANCED  
 13 OR DIMINISHED AS A RESULT OF SUCH EMPLOYMENT; TO AMEND SECTION  
 14 25-11-117, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A MEMBER  
 15 EMPLOYED UNDER THE ABOVE PROVISION MAY NOT RECEIVE A REFUND OF THE  
 16 AMOUNT OF EMPLOYEE CONTRIBUTIONS, OR INTEREST EARNED ON THOSE  
 17 CONTRIBUTIONS THAT WERE MADE DURING ANY PERIOD WHEN HE WAS SO  
 18 EMPLOYED; AND FOR RELATED PURPOSES.

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

20 **SECTION 1.** Section 25-11-127, Mississippi Code of 1972, is  
 21 amended as follows:

22 25-11-127. (1) No person who is being paid a retirement  
 23 allowance or a pension after retirement under this article shall  
 24 be employed or paid for any service by the State of Mississippi,  
 25 except as provided in this section. This section shall not apply  
 26 to any pensioner who has been elected to public office after  
 27 retirement, nor to any person employed because of special  
 28 knowledge or experience. This section shall not be construed to  
 29 mean that any person employed or elected under the above  
 30 exceptions shall become a member under Article 3 of the retirement  
 31 system, nor shall any retiree of this retirement system who is  
 32 reemployed or is reelected to office after retirement continue to  
 33 draw retirement benefits while so reemployed.

34 (2) Any person who has been retired under the provisions of  
 35 Articles 1 and 3 and who is later reemployed in service covered by



36 this article shall cease to receive benefits under this article  
37 and shall again become a contributing member of the retirement  
38 system. When the person retires again, if the reemployment  
39 exceeds six (6) months, the person shall have his or her benefit  
40 recomputed, including service after again becoming a member,  
41 provided that the total retirement allowance paid to the retired  
42 member in his or her previous retirement shall be deducted from  
43 the member's retirement reserve and taken into consideration in  
44 recalculating the retirement allowance under a new option  
45 selected.

46 (3) Nothing contained in this section shall be construed as  
47 prohibiting any county or city not a member of the Public  
48 Employees' Retirement System from employing persons up to the age  
49 of seventy-three (73). In addition, through June 30, 1988,  
50 nothing contained in this section shall be construed as  
51 prohibiting any governmental unit that is a member from employing  
52 persons up to the age of seventy-three (73) who are not eligible  
53 for membership at the time of employment under Article 3.

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

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

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

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



68 To determine the normal working days for a position under  
69 paragraph (a) of this subsection, the employer shall determine the  
70 required number of working days for the position on a full-time  
71 basis and the equivalent number of hours representing the  
72 full-time position. The retiree then may work up to one-half  
73 (1/2) of the required number of working days or up to one-half  
74 (1/2) of the equivalent number of hours and receive up to one-half  
75 (1/2) of the salary for the position. In the case of employment  
76 with multiple employers, the limitation shall equal one-half (1/2)  
77 of the number of days or hours for a single full-time position.

78 Notice shall be given in writing to the executive director of  
79 the system, setting forth the facts upon which the employment is  
80 being made, and the notice shall be given within five (5) days  
81 from the date of employment and also from the date of termination  
82 of the employment.

83 (6) The provisions of this section shall not be construed to  
84 prohibit any retirant, regardless of age, who had at least thirty  
85 (30) years of creditable service at the time of his retirement  
86 from being employed and from drawing a retirement allowance for a  
87 period of time not to exceed one hundred eighty-five (185) days in  
88 any fiscal year. Such employment may begin at any time following  
89 the date of retirement. Notice shall be given in writing to the  
90 executive director of the system, setting forth the facts upon  
91 which the emergency employment is being made, and such notice  
92 shall be given within five (5) days from the date of employment  
93 and also from the date of termination of said employment. Any  
94 person employed pursuant to this subsection shall not be an active  
95 member of the retirement system and shall not receive any  
96 creditable service for the period during which he is employed.  
97 The employer shall deduct employee contributions for any person  
98 employed pursuant to this subsection and shall make employer  
99 contributions on behalf of the person in the same manner as  
100 provided in Section 25-1-123 for active members for the period



101 during which such person is employed, and the employer shall pay  
102 the contributions to the retirement system. The retirement  
103 allowance of any person employed pursuant to this subsection shall  
104 not be enhanced or diminished as a result of such employment.

105       (7) Any member who has attained seventy (70) years of age  
106 and who has forty (40) or more years of creditable service may  
107 continue in office or employment or be reemployed or elected,  
108 provided that the person files annually, in writing, in the office  
109 of the employer and the office of the executive director of the  
110 system before those services, a waiver of all salary or  
111 compensation and elects to receive in lieu of that salary or  
112 compensation a retirement allowance as provided in this section,  
113 in which event no salary or compensation shall thereafter be due  
114 or payable for those services. However, any such officer or  
115 employee may receive, in addition to the retirement allowance, any  
116 per diem, office expense allowance, mileage or travel expense  
117 authorized by any statute of the State of Mississippi.

118       (8) Any member may continue in municipal or county office or  
119 employment or be reemployed or elected in a municipality or  
120 county, provided that the person files annually, in writing, in  
121 the office of the employer and the office of the executive  
122 director of the system before those services, a waiver of all  
123 salary or compensation and elects to receive in lieu of that  
124 salary or compensation a retirement allowance as provided in this  
125 section, in which event no salary or compensation shall thereafter  
126 be due or payable for those services. However, any such officer  
127 or employee may receive, in addition to the retirement allowance,  
128 any per diem, office expense allowance, mileage or travel expense  
129 authorized by any statute of the State of Mississippi.

130       **SECTION 2.** Section 25-11-117, Mississippi Code of 1972, is  
131 amended as follows:

132       25-11-117. (1) A member may be paid a refund of the amount  
133 of accumulated contributions to the credit of the member in the



134 annuity savings account provided the member has withdrawn from  
135 state service and further provided the member has not returned to  
136 state service on the date the refund of the accumulated  
137 contributions would be paid. However, a member may not receive a  
138 refund of the amount of employee contributions, or interest earned  
139 on those contributions, that were made during any period when he  
140 was employed under the provisions of Section 25-11-127(3). Such  
141 refund of the contributions to the credit of the member in the  
142 annuity savings account shall be paid within ninety (90) days from  
143 receipt in the office of the retirement system of the properly  
144 completed form requesting such payment. In the event of death  
145 prior to retirement of any member whose spouse and/or children are  
146 not entitled to a retirement allowance, the accumulated  
147 contributions to the credit of the deceased member in the annuity  
148 savings account shall be paid to the designated beneficiary on  
149 file in writing in the office of the executive director of the  
150 board of trustees within ninety (90) days from receipt of a  
151 properly completed form requesting such payment. If there is no  
152 such designated beneficiary on file for such deceased member in  
153 the office of the system, upon the filing of a proper request with  
154 the board, the contributions to the credit of the deceased member  
155 in the annuity savings account shall be refunded pursuant to  
156 Section 25-11-117.1(1). The payment of the refund shall discharge  
157 all obligations of the retirement system to the member on account  
158 of any creditable service rendered by the member prior to the  
159 receipt of the refund. By the acceptance of the refund, the  
160 member shall waive and relinquish all accrued rights in the  
161 system.

162 (2) Pursuant to the Unemployment Compensation Amendments of  
163 1992 (Public Law 102-318 (UCA)), a member or the spouse of a  
164 member who is an eligible beneficiary entitled to a refund under  
165 this section may elect, on a form prescribed by the board under  
166 rules and regulations established by the board, to have an



167 eligible rollover distribution of accumulated contributions  
168 payable under this section paid directly to an eligible retirement  
169 plan or individual retirement account. If the member or the  
170 spouse of a member who is an eligible beneficiary makes such  
171 election and specifies the eligible retirement plan or individual  
172 retirement account to which such distribution is to be paid, the  
173 distribution will be made in the form of a direct  
174 trustee-to-trustee transfer to the specified eligible retirement  
175 plan. Flexible rollovers under this subsection shall not be  
176 considered assignments under Section 25-11-129.

177 (3) If any person who has received a refund reenters the  
178 state service and again becomes a member of the system, the member  
179 may repay all or part of the amounts previously received as a  
180 refund, together with regular interest covering the period from  
181 the date of refund to the date of repayment; provided, however,  
182 that the amounts that are repaid by the member and the creditable  
183 service related thereto shall not be used in any benefit  
184 calculation or determination until the member has remained a  
185 contributor to the system for a period of at least four (4) years  
186 subsequent to such member's reentry into state service. Repayment  
187 for such time shall be made in increments of not less than  
188 one-quarter (1/4) year of creditable service beginning with the  
189 most recent service for which refund has been made. Upon the  
190 repayment of all or part of such refund and interest, the member  
191 shall again receive credit for the period of creditable service  
192 for which full repayment has been made to the system.

193 **SECTION 3.** This act shall take effect and be in force from  
194 and after July 1, 2002.

