

By: Senator(s) Blackmon

To: Finance

## SENATE BILL NO. 2569

1 AN ACT TO CREATE A NEW CODE SECTION TO BE CODIFIED AS SECTION  
2 25-11-126, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CERTAIN  
3 PERSONS RECEIVING A RETIREMENT ALLOWANCE FROM THE PUBLIC  
4 EMPLOYEES' RETIREMENT SYSTEM WHO ARE EMPLOYED AS TEACHERS IN THE  
5 PUBLIC SCHOOL SYSTEM AFTER THEIR RETIREMENT, AND CERTAIN PERSONS  
6 EMPLOYED AS TEACHERS IN THE PUBLIC SCHOOL SYSTEM WHO ARE ELIGIBLE  
7 TO RECEIVE A RETIREMENT ALLOWANCE FROM THE PUBLIC EMPLOYEES'  
8 RETIREMENT SYSTEM, MAY RECEIVE A RETIREMENT ALLOWANCE DURING THEIR  
9 EMPLOYMENT AS TEACHERS IN ADDITION TO RECEIVING A TEACHER'S  
10 SALARY; TO PROVIDE THAT THOSE PERSONS SHALL NOT BE CONTRIBUTING  
11 MEMBERS OF THE RETIREMENT SYSTEM NOR RECEIVE ANY CREDITABLE  
12 SERVICE FOR THE PERIOD DURING WHICH THEY RECEIVE A RETIREMENT  
13 ALLOWANCE DURING THEIR EMPLOYMENT AS TEACHERS; TO CREATE A NEW  
14 CODE SECTION TO BE CODIFIED AS SECTION 25-11-128, MISSISSIPPI CODE  
15 OF 1972, TO PROVIDE THAT PERSONS RECEIVING A RETIREMENT ALLOWANCE  
16 FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO ARE ELECTED TO  
17 PUBLIC OFFICE AFTER RETIREMENT AND ELECTED OFFICIALS WHO BECOME  
18 ELIGIBLE TO RECEIVE A RETIREMENT ALLOWANCE FROM THE PUBLIC  
19 EMPLOYEES' RETIREMENT SYSTEM WHILE HOLDING OFFICE MAY RECEIVE A  
20 RETIREMENT ALLOWANCE FROM THE SYSTEM WHILE HOLDING SUCH OFFICE IN  
21 ADDITION TO RECEIVING A SALARY AND OTHER COMPENSATION FOR SUCH  
22 OFFICE; TO PROVIDE THAT SUCH PERSONS SHALL NOT BE CONTRIBUTING  
23 MEMBERS OF THE RETIREMENT SYSTEM NOR RECEIVE ANY CREDITABLE  
24 SERVICE FOR THE PERIOD DURING WHICH THEY RECEIVE A RETIREMENT  
25 ALLOWANCE WHILE HOLDING OFFICE; TO AMEND SECTIONS 25-11-103,  
26 25-11-105 AND 25-11-127, MISSISSIPPI CODE OF 1972, IN CONFORMITY  
27 WITH THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

29 **SECTION 1.** The following shall be codified as Section

30 25-11-126, Mississippi Code of 1972:

31 25-11-126. (1) (a) Any person who has completed  
32 twenty-five (25) or more years of creditable service and is  
33 receiving a retirement allowance under this article, who was  
34 employed as a teacher in the public school system at the time of  
35 his retirement and who is employed as a teacher in the public  
36 school system after his retirement, may choose to continue  
37 receiving the retirement allowance under this article during his  
38 employment as a teacher after his retirement in addition to



39 receiving the salary authorized under Section 37-19-7, in the  
40 manner provided in this section.

41 (b) Any person who is employed as a teacher in the  
42 public school system who completes twenty-five (25) or more years  
43 of creditable service during his employment as a teacher, may  
44 choose to receive a retirement allowance under this article during  
45 his employment as a teacher in the public school system in  
46 addition to receiving the salary authorized under Section 37-19-7,  
47 in the manner provided in this section.

48 (2) Any person described in subsection (1)(a) of this  
49 section shall notify the executive director of the retirement  
50 system, before being employed as a teacher in the public school  
51 system after his retirement, about his choice on continuing to  
52 receive the retirement allowance during his employment as a  
53 teacher. If the person chooses not to continue receiving the  
54 retirement allowance during his employment as a teacher, the  
55 retirement allowance shall cease on the day that he begins  
56 employment as a teacher after his retirement. After the person  
57 leaves employment as a teacher that he began after his retirement,  
58 in order to begin receiving a retirement allowance under this  
59 article again, the person shall make application to the executive  
60 director of the retirement system, and the retirement allowance  
61 shall begin on the first of the month following the date that the  
62 application is received by the executive director.

63 (3) Any person described in subsection (1)(b) who chooses to  
64 receive a retirement allowance during his employment as a teacher  
65 in the public school system shall make application to the  
66 executive director of the retirement system, and the retirement  
67 allowance shall begin on the first of the month following the date  
68 that the application is received by the executive director. Those  
69 persons shall not be required to withdraw from service in order to  
70 receive the retirement allowance.



71           (4) Any person to whom this section applies who receives or  
72 continues to receive a retirement allowance under this article  
73 during his employment as a teacher shall not be a contributing  
74 member of the retirement system nor receive any creditable service  
75 for the period during which he receives a retirement allowance  
76 during his employment as a teacher. Any person to whom this  
77 section applies who chooses not to receive a retirement allowance  
78 during his employment as a teacher shall be a contributing member  
79 of the retirement system and shall receive creditable service for  
80 the period during which he is employed as a teacher without  
81 receiving a retirement allowance. If the person has previously  
82 received a retirement allowance under this article and he is  
83 employed as a teacher for more than six (6) months without  
84 receiving a retirement allowance, he shall have his allowance  
85 recomputed when he retires again, which shall include the service  
86 after he again became a contributing member of the retirement  
87 system.

88           **SECTION 2.** The following shall be codified as Section  
89 25-11-128, Mississippi Code of 1972:

90           25-11-128. (1) Any person who is receiving a retirement  
91 allowance under this article and who is elected to an office in  
92 the state service after retirement, and any elected official in  
93 the state service who becomes eligible to receive a retirement  
94 allowance under this article while holding office, may choose to  
95 receive or continue to receive a retirement allowance under this  
96 article while holding office in addition to receiving the salary  
97 and other compensation for such office.

98           (2) Any person who is receiving a retirement allowance and  
99 who is elected to office after retirement shall notify the  
100 executive director of the system before taking office of his  
101 choice about continuing to receive the retirement allowance while  
102 holding office. If the person chooses not to continue receiving  
103 the retirement allowance while holding office, the retirement



104 allowance shall cease on the day that he begins serving in the  
105 office. After leaving office, in order to begin receiving a  
106 retirement allowance under this article again, such person shall  
107 make application to the executive director of the system, and the  
108 retirement allowance shall begin on the first of the month  
109 following the date that the application is received by the  
110 executive director.

111 (3) Any elected official who becomes eligible to receive a  
112 retirement allowance while holding office or who is in office on  
113 the effective date of this section and is eligible to receive a  
114 retirement allowance and who chooses to receive a retirement  
115 allowance while holding office shall make application to the  
116 executive director of the system, and the retirement allowance  
117 shall begin on the first of the month following the date that the  
118 application is received by the executive director. Such elected  
119 officials shall not be required to withdraw from service in order  
120 to receive the retirement allowance.

121 (4) Any person to whom this section applies who receives or  
122 continues to receive a retirement allowance under this article  
123 while holding office as authorized by this section shall not be a  
124 contributing member of the retirement system nor receive any  
125 creditable service for the period during which he receives a  
126 retirement allowance while holding office.

127 (5) Any person to whom this section applies who chooses not  
128 to receive a retirement allowance while holding office shall be a  
129 contributing member of the retirement system and shall receive  
130 creditable service for the period during which he holds office  
131 without receiving a retirement allowance. If such person has  
132 previously received a retirement allowance under this article and  
133 he holds office for more than six (6) months without receiving a  
134 retirement allowance, he shall have his allowance recomputed when  
135 he retires again, which shall include the service after he again  
136 became a contributing member of the retirement system.



137           (6) This section shall apply to officials who are elected to  
138 office, but shall not apply to persons in other positions of  
139 employment in the state service.

140           **SECTION 3.** Section 25-11-103, Mississippi Code of 1972, is  
141 amended as follows:

142           25-11-103. The following words and phrases as used in  
143 Articles 1 and 3, unless a different meaning is plainly required  
144 by the context, shall have the following meanings:

145           (a) "Accumulated contributions" shall mean the sum of  
146 all the amounts deducted from the compensation of a member and  
147 credited to his individual account in the annuity savings account,  
148 together with regular interest thereon as provided in Section  
149 25-11-123.

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

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

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

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

164           (f) "Average compensation" shall mean the average of  
165 the four (4) highest years of earned compensation reported for an  
166 employee in a fiscal or calendar year period, or combination  
167 thereof which do not overlap, or the last forty-eight (48)  
168 consecutive months of earned compensation reported for an  
169 employee. The four (4) years need not be successive or joined



170 years of service. In no case shall the average compensation so  
171 determined be in excess of One Hundred Twenty-five Thousand  
172 Dollars (\$125,000.00). In computing the average compensation, any  
173 amount paid in a lump sum for personal leave shall be included in  
174 the calculation to the extent that such amount does not exceed an  
175 amount which is equal to thirty (30) days of earned compensation  
176 and to the extent that it does not cause the employees' earned  
177 compensation to exceed the maximum reportable amount specified in  
178 Section 25-11-103(k); provided, however, that such thirty-day  
179 limitation shall not prevent the inclusion in the calculation of  
180 leave earned under federal regulations prior to July 1, 1976, and  
181 frozen as of that date as referred to in Section 25-3-99. Only  
182 the amount of lump sum pay for personal leave due and paid upon  
183 the death of a member attributable for up to one hundred fifty  
184 (150) days shall be used in the deceased member's average  
185 compensation calculation in determining the beneficiary's  
186 benefits. In computing the average compensation, no amounts shall  
187 be used which are in excess of the amount on which contributions  
188 were required and paid. If any member who is or has been granted  
189 any increase in annual salary or compensation of more than eight  
190 percent (8%) retires within twenty-four (24) months from the date  
191 that such increase becomes effective, then the board shall exclude  
192 that part of the increase in salary or compensation that exceeds  
193 eight percent (8%) in calculating that member's average  
194 compensation for retirement purposes. The board may enforce this  
195 provision by rule or regulation. However, increases in  
196 compensation in excess of eight percent (8%) per year granted  
197 within twenty-four (24) months of the date of retirement may be  
198 included in such calculation of average compensation if  
199 satisfactory proof is presented to the board showing that the  
200 increase in compensation was the result of an actual change in the  
201 position held or services rendered, or that such compensation  
202 increase was authorized by the State Personnel Board or was



203 increased as a result of statutory enactment, and the employer  
204 furnishes an affidavit stating that such increase granted within  
205 the last twenty-four (24) months was not contingent on a promise  
206 or agreement of the employee to retire. Nothing in Section  
207 25-3-31 shall affect the calculation of the average compensation  
208 of any member for the purposes of this article. The average  
209 compensation of any member who retires before July 1, 1992, shall  
210 not exceed the annual salary of the Governor.

211 (g) "Beneficiary" shall mean any person entitled to  
212 receive a retirement allowance, an annuity or other benefit as  
213 provided by Articles 1 and 3. In the event of the death prior to  
214 retirement of any member whose spouse and/or children are not  
215 entitled to a retirement allowance on the basis that the member  
216 has less than four (4) years of service credit and/or has not been  
217 married for a minimum of one (1) year or the spouse has waived his  
218 or her entitlement to a retirement allowance pursuant to Section  
219 25-11-114, the lawful spouse of a member at the time of the death  
220 of such member shall be the beneficiary of such member unless the  
221 member has designated another beneficiary subsequent to the date  
222 of marriage in writing, and filed such writing in the office of  
223 the executive director of the board of trustees. No designation  
224 or change of beneficiary shall be made in any other manner.

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

228 (i) "Creditable service" shall mean "prior service,"  
229 "retroactive service" and all lawfully credited unused leave not  
230 exceeding the accrual rates and limitations provided in Section  
231 25-3-91 et seq., as of the date of withdrawal from service plus  
232 "membership service" for which credit is allowable as provided in  
233 Section 25-11-109. Except to limit creditable service reported to  
234 the system for the purpose of computing an employee's retirement  
235 allowance or annuity or benefits provided in this article, nothing



236 in this paragraph shall limit or otherwise restrict the power of  
237 the governing authority of a municipality or other political  
238 subdivision of the state to adopt such vacation and sick leave  
239 policies as it deems necessary.

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

246 (k) "Earned compensation" shall mean the full amount  
247 earned by an employee for a given pay period including any  
248 maintenance furnished up to a maximum of One Hundred Twenty-five  
249 Thousand Dollars (\$125,000.00) per year, and proportionately for  
250 less than one (1) year of service. The value of such maintenance  
251 when not paid in money shall be fixed by the employing state  
252 agency, and, in case of doubt, by the board of trustees as defined  
253 in Section 25-11-15. In any case, earned compensation shall be  
254 limited to the regular periodic compensation paid, exclusive of  
255 litigation fees, bond fees, and other similar extraordinary  
256 nonrecurring payments. In addition, any member in a covered  
257 position, as defined by Public Employees' Retirement System laws  
258 and regulations, who is also employed by another covered agency or  
259 political subdivision shall have the earnings of that additional  
260 employment reported to the Public Employees' Retirement System  
261 regardless of whether the additional employment is sufficient in  
262 itself to be a covered position. In the case of fee officials,  
263 the net earnings from their office after deduction of expenses  
264 shall apply, except that in no case shall earned compensation be  
265 less than the total direct payments made by the state or  
266 governmental subdivisions to the official, and employer and  
267 employee contributions shall be paid thereon. In the case of  
268 members of the state Legislature, all remuneration or amounts





269 paid, except mileage allowance, shall apply. The amount by which  
270 an eligible employee's salary is reduced pursuant to a salary  
271 reduction agreement authorized under Section 25-17-5 shall be  
272 included as earned compensation under this paragraph, provided  
273 this inclusion does not conflict with federal law, including  
274 federal regulations and federal administrative interpretations  
275 thereunder, pertaining to the Federal Insurance Contributions Act  
276 or to Internal Revenue Code Section 125 cafeteria plans.

277 Compensation in addition to an employee's base salary that is paid  
278 to the employee pursuant to the vacation and sick leave policies  
279 of a municipality or other political subdivision of the state that  
280 employs him which exceeds the maximums authorized by Section  
281 25-3-91 et seq., shall be excluded from the calculation of earned  
282 compensation under this article. The maximum salary applicable  
283 for retirement purposes before July 1, 1992, shall be the salary  
284 of the Governor. Nothing in Section 25-3-31 shall affect the  
285 determination of the earned compensation of any member for the  
286 purposes of this article.

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

290 (m) "Employer" shall mean the State of Mississippi or  
291 any of its departments, agencies or subdivisions from which any  
292 employee receives his compensation.

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



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

304           (p) "Medical board" shall mean the board of physicians  
305 or any governmental or nongovernmental disability determination  
306 service designated by the board of trustees that is qualified to  
307 make disability determinations as provided for in Section  
308 25-11-119.

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

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

313           (s) "Position" means any office or any employment in  
314 the state service, or two (2) or more of them, the duties of which  
315 call for services to be rendered by one (1) person, including  
316 positions jointly employed by federal and state agencies  
317 administering federal and state funds. The employer shall  
318 determine upon initial employment and during the course of  
319 employment of an employee who does not meet the criteria for  
320 coverage in the Public Employees' Retirement System based on the  
321 position held, whether the employee is or becomes eligible for  
322 coverage in the Public Employees' Retirement System based upon any  
323 other employment in a covered agency or political subdivision. If  
324 or when the employee meets the eligibility criteria for coverage  
325 in such other position, then the employer must withhold  
326 contributions and report wages from the noncovered position in  
327 accordance with the provisions for reporting of earned  
328 compensation. Failure to deduct and report those contributions  
329 shall not relieve the employee or employer of liability thereof.  
330 The board shall adopt such rules and regulations as necessary to  
331 implement and enforce this provision.

332           (t) "Prior service" shall mean service rendered before  
333 February 1, 1953, for which credit is allowable under Sections



334 25-11-105 and 25-11-109, and which shall allow prior service for  
335 any person who is now or becomes a member of the Public Employees'  
336 Retirement System and who does contribute to the system for a  
337 minimum period of four (4) years.

338 (u) "Regular interest" shall mean interest compounded  
339 annually at such a rate as shall be determined by the board in  
340 accordance with Section 25-11-121.

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

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

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

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

360 (z) "State service" shall mean all offices and  
361 positions of trust or employment in the employ of the state, or  
362 any political subdivision or instrumentality thereof, which elect  
363 to participate as provided by Section 25-11-105(f), including the  
364 position of elected or fee officials of the counties and their  
365 deputies and employees performing public services or any  
366 department, independent agency, board or commission thereof, and



367 shall also include all offices and positions of trust or  
368 employment in the employ of joint state and federal agencies  
369 administering state and federal funds and service rendered by  
370 employees of the public schools. Effective July 1, 1973, all  
371 nonprofessional public school employees, such as bus drivers,  
372 janitors, maids, maintenance workers and cafeteria employees,  
373 shall have the option to become members in accordance with Section  
374 25-11-105(b), and shall be eligible to receive credit for services  
375 prior to July 1, 1973, provided the contributions and interest are  
376 paid by the employee in accordance with said section; provided,  
377 further, that the county or municipal separate school district may  
378 pay the employer contribution and pro rata share of interest of  
379 the retroactive service from available funds. From and after July  
380 1, 1998, retroactive service credit shall be purchased at the  
381 actuarial cost in accordance with Section 25-11-105(b).

382 (aa) "Withdrawal from service" shall mean complete  
383 severance of employment in the state service of any member by  
384 resignation, dismissal or discharge, except in the case of (i)  
385 persons who become eligible to receive a retirement allowance  
386 under this article and who choose to receive or continue to  
387 receive a retirement allowance during their employment as teachers  
388 as authorized by Section 25-11-126 and (ii) elected officials who  
389 choose to receive or continue to receive a retirement allowance  
390 while holding office as authorized in Section 25-11-128.

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

393 **SECTION 4.** Section 25-11-105, Mississippi Code of 1972, is  
394 amended as follows:

395 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

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

398 (a) All persons who shall become employees in the state  
399 service after January 31, 1953, and whose wages are subject to



400 payroll taxes and are lawfully reported on IRS Form W-2, except  
401 (i) those persons who are specifically excluded, (ii) those  
402 persons as to whom election is provided in Articles 1 and 3, (iii)  
403 those persons who choose to receive or continue receiving a  
404 retirement allowance during their employment as teachers as  
405 authorized by Section 25-11-126, or (iv) those elected officials  
406 who choose to receive or continue to receive a retirement  
407 allowance while holding office as authorized by Section 25-11-128  
408 shall become members of the retirement system as a condition of  
409 their employment.

410 (b) All persons who shall become employees in the state  
411 service after January 31, 1953, except those specifically excluded  
412 or as to whom election is provided in Articles 1 and 3, unless  
413 they shall file with the board prior to the lapse of sixty (60)  
414 days of employment or sixty (60) days after the effective date of  
415 the cited articles, whichever is later, on a form prescribed by  
416 the board, a notice of election not to be covered by the  
417 membership of the retirement system and a duly executed waiver of  
418 all present and prospective benefits which would otherwise inure  
419 to them on account of their participation in the system, shall  
420 become members of the retirement system; provided, however, that  
421 no credit for prior service will be granted to members until they  
422 have contributed to Article 3 of the retirement system for a  
423 minimum period of at least four (4) years. Such members shall  
424 receive credit for services performed prior to January 1, 1953, in  
425 employment now covered by Article 3, but no credit shall be  
426 granted for retroactive services between January 1, 1953, and the  
427 date of their entry into the retirement system unless the employee  
428 pays into the retirement system both the employer's and the  
429 employee's contributions on wages paid him during the period from  
430 January 31, 1953, to the date of his becoming a contributing  
431 member, together with interest at the rate determined by the board  
432 of trustees. Members reentering after withdrawal from service



433 shall qualify for prior service under the provisions of Section  
434 25-11-117. From and after July 1, 1998, upon eligibility as noted  
435 above, the member may receive credit for such retroactive service  
436 provided:

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

440 (2) The member shall pay to the retirement system  
441 on the date he or she is eligible for such credit or at any time  
442 thereafter prior to the date of retirement the actuarial cost for  
443 each year of such creditable service. The provisions of this  
444 subparagraph (2) shall be subject to the limitations of Section  
445 415 of the Internal Revenue Code and regulations promulgated  
446 thereunder.

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

451 (c) All persons who shall become employees in the state  
452 service after January 31, 1953, and who are eligible for  
453 membership in any other retirement system shall become members of  
454 this retirement system as a condition of their employment unless  
455 they elect at the time of their employment to become a member of  
456 such other system.

457 (d) All persons who are employees in the state service  
458 on January 31, 1953, and who are members of any nonfunded  
459 retirement system operated by the State of Mississippi, or any of  
460 its departments or agencies, shall become members of this system  
461 with prior service credit unless, before February 1, 1953, they  
462 shall file a written notice with the board of trustees that they  
463 do not elect to become members.

464 (e) All persons who are employees in the state service  
465 on January 31, 1953, and who under existing laws are members of



466 any fund operated for the retirement of employees by the State of  
467 Mississippi, or any of its departments or agencies, shall not be  
468 entitled to membership in this retirement system unless, before  
469 February 1, 1953, any such person shall indicate by a notice filed  
470 with the board, on a form prescribed by the board, his individual  
471 election and choice to participate in this system, but no such  
472 person shall receive prior service credit unless he becomes a  
473 member on or before February 1, 1953.

474 (f) Each political subdivision of the state and each  
475 instrumentality of the state or a political subdivision, or both,  
476 is hereby authorized to submit, for approval by the board of  
477 trustees, a plan for extending the benefits of this article to  
478 employees of any such political subdivision or instrumentality.  
479 Each such plan or any amendment to the plan for extending benefits  
480 thereof shall be approved by the board of trustees if it finds  
481 that such plan, or such plan as amended, is in conformity with  
482 such requirements as are provided in Articles 1 and 3; however,  
483 upon approval of such plan or any such plan heretofore approved by  
484 the board of trustees, the approved plan shall not be subject to  
485 cancellation or termination by the political subdivision or  
486 instrumentality, except that any community hospital serving a  
487 municipality that joined the Public Employees' Retirement System  
488 as of November 1, 1956, to offer social security coverage for its  
489 employees and subsequently extended retirement annuity coverage to  
490 its employees as of December 1, 1965, may, upon documentation of  
491 extreme financial hardship, have future retirement annuity  
492 coverage cancelled or terminated at the discretion of the board of  
493 trustees. No such plan shall be approved unless:

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



499 existing retirement plans; provided, however, those employees in  
500 this class may elect to come under the provisions of this article;

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

506           (3) It provides for such methods of administration  
507 of the plan by the political subdivision or instrumentality as are  
508 found by the board of trustees to be necessary for the proper and  
509 efficient administration thereof;

510           (4) It provides that the political subdivision or  
511 instrumentality will make such reports, in such form and  
512 containing such information, as the board of trustees may from  
513 time to time require;

514           (5) It authorizes the board of trustees to  
515 terminate the plan in its entirety in the discretion of the board  
516 if it finds that there has been a failure to comply substantially  
517 with any provision contained in such plan, such termination to  
518 take effect at the expiration of such notice and on such  
519 conditions as may be provided by regulations of the board and as  
520 may be consistent with applicable federal law.

521           A. The board of trustees shall not finally  
522 refuse to approve a plan submitted under paragraph (f), and shall  
523 not terminate an approved plan without reasonable notice and  
524 opportunity for hearing to each political subdivision or  
525 instrumentality affected thereby. The board's decision in any  
526 such case shall be final, conclusive and binding unless an appeal  
527 be taken by the political subdivision or instrumentality aggrieved  
528 thereby to the Circuit Court of Hinds County, Mississippi, in  
529 accordance with the provisions of law with respect to civil causes  
530 by certiorari.





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

538                   C. Every political subdivision or  
539 instrumentality required to make payments under paragraph (f)(5)B  
540 hereof is authorized, in consideration of the employees' retention  
541 in or entry upon employment after enactment of Articles 1 and 3,  
542 to impose upon its employees, as to services which are covered by  
543 an approved plan, a contribution with respect to wages (as defined  
544 in Section 25-11-5) not exceeding the amount provided in Section  
545 25-11-123(d) if such services constituted employment within the  
546 meaning of Articles 1 and 3, and to deduct the amount of such  
547 contribution from the wages as and when paid. Contributions so  
548 collected shall be paid into the contribution fund as partial  
549 discharge of the liability of such political subdivisions or  
550 instrumentalities under paragraph (f)(5)B hereof. Failure to  
551 deduct such contribution shall not relieve the employee or  
552 employer of liability thereof.

553                   D. Any state agency, school, political  
554 subdivision, instrumentality or any employer that is required to  
555 submit contribution payments or wage reports under any section of  
556 this chapter shall be assessed interest on delinquent payments or  
557 wage reports as determined by the board of trustees in accordance  
558 with rules and regulations adopted by the board and such assessed  
559 interest may be recovered by action in a court of competent  
560 jurisdiction against such reporting agency liable therefor or may,  
561 upon due certification of delinquency and at the request of the  
562 board of trustees, be deducted from any other monies payable to  
563 such reporting agency by any department or agency of the state.



564                   E. Each political subdivision of the state  
565 and each instrumentality of the state or a political subdivision  
566 or subdivisions which submits a plan for approval of the board, as  
567 provided in this section, shall reimburse the board for coverage  
568 into the expense account, its pro rata share of the total expense  
569 of administering Articles 1 and 3 as provided by regulations of  
570 said board.

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

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

583                   (i) In the event any member of this system should  
584 change his employment to any agency of the state having an  
585 actuarially funded retirement system, the board of trustees may  
586 authorize the transfer of the member's creditable service and of  
587 the present value of the member's employer's accumulation account  
588 and of the present value of the member's accumulated membership  
589 contributions to such other system, provided the employee agrees  
590 to the transfer of his accumulated membership contributions and  
591 provided such other system is authorized to receive and agrees to  
592 make such transfer.

593                   In the event any member of any other actuarially funded  
594 system maintained by an agency of the state changes his employment  
595 to an agency covered by this system, the board of trustees may  
596 authorize the receipt of the transfer of the member's creditable



597 service and of the present value of the member's employer's  
598 accumulation account and of the present value of the member's  
599 accumulated membership contributions from such other system,  
600 provided the employee agrees to the transfer of his accumulated  
601 membership contributions to this system and provided the other  
602 system is authorized and agrees to make such transfer.

603 (j) Wherever herein state employment is referred to, it  
604 shall include joint employment by state and federal agencies of  
605 all kinds.

606 (k) Employees of a political subdivision or  
607 instrumentality who were employed by such political subdivision or  
608 instrumentality prior to an agreement between such entity and the  
609 Public Employees' Retirement System to extend the benefits of this  
610 article to its employees, and which agreement provides for the  
611 establishment of retroactive service credit, and who have been  
612 members of the retirement system and have remained contributors to  
613 the retirement system for four (4) years, may receive credit for  
614 such retroactive service with such political subdivision or  
615 instrumentality, provided the employee and/or employer, as  
616 provided under the terms of the modification of the joinder  
617 agreement in allowing such coverage, pay into the retirement  
618 system the employer's and employee's contributions on wages paid  
619 the member during such previous employment, together with interest  
620 or actuarial cost as determined by the board covering the period  
621 from the date the service was rendered until the payment for the  
622 credit for such service was made. Such wages shall be verified by  
623 the Social Security Administration or employer payroll records.  
624 Effective July 1, 1998, upon eligibility as noted above, a member  
625 may receive credit for such retroactive service with such  
626 political subdivision or instrumentality provided:

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



630 rendered or verification by the Social Security Administration;  
631 and

632                   (2) The member shall pay to the retirement system  
633 on the date he or she is eligible for such credit or at any time  
634 thereafter prior to the date of retirement the actuarial cost for  
635 each year of such creditable service. The provisions of this  
636 subparagraph (2) shall be subject to the limitations of Section  
637 415 of the Internal Revenue Code and regulations promulgated  
638 thereunder.

639           Nothing contained in this paragraph (k) shall be construed to  
640 limit the authority of the board to allow the correction of  
641 reporting errors or omissions based on the payment of employee and  
642 employer contributions plus applicable interest. Payment for such  
643 time shall be made in increments of not less than one-quarter  
644 (1/4) year of creditable service beginning with the most recent  
645 service. Upon the payment of all or part of such required  
646 contributions, plus interest or the actuarial cost as provided  
647 above, the member shall receive credit for the period of  
648 creditable service for which full payment has been made to the  
649 retirement system.

650           (1) Through June 30, 1998, any state service eligible  
651 for retroactive service credit, no part of which has ever been  
652 reported, and requiring the payment of employee and employer  
653 contributions plus interest, or, from and after July 1, 1998, any  
654 state service eligible for retroactive service credit, no part of  
655 which has ever been reported to the retirement system, and  
656 requiring the payment of the actuarial cost for such creditable  
657 service, may, at the member's option, be purchased in quarterly  
658 increments as provided above at such time as its purchase is  
659 otherwise allowed.

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



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

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

667           (a) Patient or inmate help in state charitable, penal  
668 or correctional institutions;

669           (b) Students of any state educational institution  
670 employed by any agency of the state for temporary, part-time or  
671 intermittent work;

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

675           **III. TERMINATION OF MEMBERSHIP**

676           Membership in this system shall cease by a member withdrawing  
677 his accumulated contributions, or by a member withdrawing from  
678 active service with a retirement allowance, or by a member's  
679 death.

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

682           25-11-127. (1) No person who is being paid a retirement  
683 allowance or a pension after retirement under this article shall  
684 be employed or paid for any service by the State of Mississippi,  
685 except as provided in this section, in Section 25-11-126 or in  
686 Section 25-11-128. This section shall not apply to any pensioner  
687 who has been elected to public office after retirement, nor to any  
688 person employed because of special knowledge or experience. This  
689 section shall not be construed to mean that any person employed or  
690 elected under the above exceptions shall become a member under  
691 Article 3 of the retirement system, nor shall any retiree of this  
692 retirement system who is reemployed or is reelected to office  
693 after retirement continue to draw retirement benefits while so  
694 reemployed or reelected except (i) those persons who choose to  
695 continue receiving a retirement allowance during their employment



696 as teachers as authorized by Section 25-11-126, and (ii) those  
697 elected officials who choose to continue to receive a retirement  
698 allowance while holding office as authorized by Section 25-11-128.

699 (2) Any person who has been retired under the provisions of  
700 Articles 1 and 3 and who is later reemployed in service covered by  
701 this article shall cease to receive benefits under this article  
702 unless he chooses to continue receiving a retirement allowance  
703 during his employment as a teacher as authorized by Section  
704 25-11-126, or while holding office as authorized in Section  
705 25-11-128 and the person shall again become a contributing member  
706 of the retirement system. When the person retires again, if he  
707 has been a contributing member of the retirement system during his  
708 reemployment and the reemployment exceeds six (6) months, the  
709 person shall have his or her benefit recomputed, including service  
710 after again becoming a member, provided that the total retirement  
711 allowance paid to the retired member in his or her previous  
712 retirement shall be deducted from the member's retirement reserve  
713 and taken into consideration in recalculating the retirement  
714 allowance under a new option 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.** The Attorney General of the State of Mississippi  
778 shall submit this act, immediately upon approval by the Governor,  
779 or upon approval by the Legislature subsequent to a veto, to the  
780 Attorney General of the United States or to the United States  
781 District Court for the District of Columbia in accordance with the  
782 provisions of the Voting Rights Act of 1965, as amended and  
783 extended.

784 **SECTION 7.** This act shall take effect and be in force from  
785 and after July 1, 2002, if it is effectuated on or before that  
786 date under Section 5 of the Voting Rights Act of 1965, as amended  
787 and extended. If it is effectuated under Section 5 of the Voting  
788 Rights Act of 1965, as amended and extended, after July 1, 2002,  
789 this act shall take effect and be in force from and after the date  
790 it is effectuated under Section 5 of the Voting Rights Act of  
791 1965, as amended and extended.

