

By: Senator(s) King

To: Finance

SENATE BILL NO. 2728

1 AN ACT TO CREATE NEW SECTION 25-11-126, MISSISSIPPI CODE OF
2 1972, TO AUTHORIZE PERSONS WHO ARE RECEIVING A RETIREMENT
3 ALLOWANCE FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO BE
4 EMPLOYED AS BUS DRIVERS IN PUBLIC SCHOOL DISTRICTS AFTER
5 RETIREMENT AND TO CONTINUE TO RECEIVE THE RETIREMENT ALLOWANCE
6 DURING THEIR EMPLOYMENT AS BUS DRIVERS IN ADDITION TO RECEIVING
7 THE REGULAR COMPENSATION FOR BUS DRIVERS; TO PROVIDE THAT THOSE
8 PERSONS SHALL NOT BE CONTRIBUTING MEMBERS OF THE RETIREMENT SYSTEM
9 OR RECEIVE ANY CREDITABLE SERVICE FOR THE PERIOD DURING WHICH THEY
10 RECEIVE A RETIREMENT ALLOWANCE DURING THEIR EMPLOYMENT AS BUS
11 DRIVERS; TO AMEND SECTION 25-11-103, MISSISSIPPI CODE OF 1972, TO
12 PROVIDE THAT PUBLIC SCHOOL BUS DRIVERS SHALL BE ELIGIBLE TO BECOME
13 OR REMAIN MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM
14 REGARDLESS OF THE WEEKLY OR MONTHLY NUMBER OF HOURS WORKED; TO
15 AMEND SECTIONS 25-11-105 AND 25-11-127, MISSISSIPPI CODE OF 1972,
16 TO CONFORM TO THE PREVIOUS PROVISIONS; TO AMEND SECTION 25-15-3,
17 MISSISSIPPI CODE OF 1972, TO CLARIFY THAT BUS DRIVERS EMPLOYED
18 AFTER RETIREMENT UNDER THE AUTHORITY OF THIS ACT ARE FULL-TIME
19 EMPLOYEES FOR THE PURPOSES OF THE STATE AND SCHOOL EMPLOYEES LIFE
20 AND HEALTH INSURANCE PLAN EVEN THOUGH THEY ARE NOT CONTRIBUTING
21 MEMBERS OF THE RETIREMENT SYSTEM; TO AMEND SECTION 25-15-13,
22 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT BUS DRIVERS EMPLOYED
23 AFTER RETIREMENT UNDER THE AUTHORITY OF THIS ACT SHALL BE ELIGIBLE
24 TO CONTINUE HEALTH INSURANCE AND LIFE INSURANCE COVERAGE UNDER THE
25 PLAN UPON TERMINATION OF EMPLOYMENT AS A BUS DRIVER, IN THE SAME
26 MANNER AND SUBJECT TO THE SAME LIMITATIONS AS ANY OTHER RETIRED
27 EMPLOYEE; 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) Any person who is receiving a retirement
32 allowance under this article may be employed full-time or
33 part-time as a bus driver in any public school district in the
34 state, without having to wait any period of time before beginning
35 employment as a bus driver. Any person employed as a bus driver
36 after retirement under the authority of this section shall
37 continue to receive the retirement allowance under this article
38 during his employment as a bus driver after retirement, in
39 addition to receiving the regular compensation for a bus driver.



40 (2) Any person employed as a bus driver after retirement
41 under the authority of this section shall not be a contributing
42 member of the retirement system or receive any creditable service
43 for the period during which he receives a retirement allowance
44 during his employment as a bus driver.

45 **SECTION 2.** Section 25-11-103, Mississippi Code of 1972, is
46 amended as follows:

47 25-11-103. The following words and phrases as used in
48 Articles 1 and 3, unless a different meaning is plainly required
49 by the context, shall have the following meanings:

50 (a) "Accumulated contributions" shall mean the sum of
51 all the amounts deducted from the compensation of a member and
52 credited to his individual account in the annuity savings account,
53 together with regular interest thereon as provided in Section
54 25-11-123.

55 (b) "Actuarial cost" shall mean the amount of funds
56 presently required to provide future benefits as determined by the
57 board based on applicable tables and formulas provided by the
58 actuary.

59 (c) "Actuarial equivalent" shall mean a benefit of
60 equal value to the accumulated contributions, annuity or benefit,
61 as the case may be, when computed upon the basis of such mortality
62 tables as shall be adopted by the board of trustees, and regular
63 interest.

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

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

69 (f) "Average compensation" shall mean the average of
70 the four (4) highest years of earned compensation reported for an
71 employee in a fiscal or calendar year period, or combination
72 thereof which do not overlap, or the last forty-eight (48)



73 consecutive months of earned compensation reported for an
74 employee. The four (4) years need not be successive or joined
75 years of service. In no case shall the average compensation so
76 determined be in excess of One Hundred Twenty-five Thousand
77 Dollars (\$125,000.00). In computing the average compensation, any
78 amount paid in a lump sum for personal leave shall be included in
79 the calculation to the extent that such amount does not exceed an
80 amount which is equal to thirty (30) days of earned compensation
81 and to the extent that it does not cause the employees' earned
82 compensation to exceed the maximum reportable amount specified in
83 Section 25-11-103(k); provided, however, that such thirty-day
84 limitation shall not prevent the inclusion in the calculation of
85 leave earned under federal regulations prior to July 1, 1976, and
86 frozen as of that date as referred to in Section 25-3-99. Only
87 the amount of lump sum pay for personal leave due and paid upon
88 the death of a member attributable for up to one hundred fifty
89 (150) days shall be used in the deceased member's average
90 compensation calculation in determining the beneficiary's
91 benefits. In computing the average compensation, no amounts shall
92 be used which are in excess of the amount on which contributions
93 were required and paid. If any member who is or has been granted
94 any increase in annual salary or compensation of more than eight
95 percent (8%) retires within twenty-four (24) months from the date
96 that such increase becomes effective, then the board shall exclude
97 that part of the increase in salary or compensation that exceeds
98 eight percent (8%) in calculating that member's average
99 compensation for retirement purposes. The board may enforce this
100 provision by rule or regulation. However, increases in
101 compensation in excess of eight percent (8%) per year granted
102 within twenty-four (24) months of the date of retirement may be
103 included in such calculation of average compensation if
104 satisfactory proof is presented to the board showing that the
105 increase in compensation was the result of an actual change in the



106 position held or services rendered, or that such compensation
107 increase was authorized by the State Personnel Board or was
108 increased as a result of statutory enactment, and the employer
109 furnishes an affidavit stating that such increase granted within
110 the last twenty-four (24) months was not contingent on a promise
111 or agreement of the employee to retire. Nothing in Section
112 25-3-31 shall affect the calculation of the average compensation
113 of any member for the purposes of this article. The average
114 compensation of any member who retires before July 1, 1992, shall
115 not exceed the annual salary of the Governor.

116 (g) "Beneficiary" shall mean any person entitled to
117 receive a retirement allowance, an annuity or other benefit as
118 provided by Articles 1 and 3. In the event of the death prior to
119 retirement of any member whose spouse and/or children are not
120 entitled to a retirement allowance on the basis that the member
121 has less than four (4) years of service credit and/or has not been
122 married for a minimum of one (1) year or the spouse has waived his
123 or her entitlement to a retirement allowance pursuant to Section
124 25-11-114, the lawful spouse of a member at the time of the death
125 of such member shall be the beneficiary of such member unless the
126 member has designated another beneficiary subsequent to the date
127 of marriage in writing, and filed such writing in the office of
128 the executive director of the board of trustees. No designation
129 or change of beneficiary shall be made in any other manner.

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

133 (i) "Creditable service" shall mean "prior service,"
134 "retroactive service" and all lawfully credited unused leave not
135 exceeding the accrual rates and limitations provided in Section
136 25-3-91 et seq., as of the date of withdrawal from service plus
137 "membership service" for which credit is allowable as provided in
138 Section 25-11-109. Except to limit creditable service reported to



139 the system for the purpose of computing an employee's retirement
140 allowance or annuity or benefits provided in this article, nothing
141 in this paragraph shall limit or otherwise restrict the power of
142 the governing authority of a municipality or other political
143 subdivision of the state to adopt such vacation and sick leave
144 policies as it deems necessary.

145 (j) "Child" means either a natural child of the member,
146 a child that has been made a child of the member by applicable
147 court action before the death of the member, or a child under the
148 permanent care of the member at the time of the latter's death,
149 which permanent care status shall be determined by evidence
150 satisfactory to the board.

151 (k) "Earned compensation" shall mean the full amount
152 earned by an employee for a given pay period including any
153 maintenance furnished up to a maximum of One Hundred Twenty-five
154 Thousand Dollars (\$125,000.00) per year, and proportionately for
155 less than one (1) year of service. The value of such maintenance
156 when not paid in money shall be fixed by the employing state
157 agency, and, in case of doubt, by the board of trustees as defined
158 in Section 25-11-15. In any case, earned compensation shall be
159 limited to the regular periodic compensation paid, exclusive of
160 litigation fees, bond fees, and other similar extraordinary
161 nonrecurring payments. In addition, any member in a covered
162 position, as defined by Public Employees' Retirement System laws
163 and regulations, who is also employed by another covered agency or
164 political subdivision shall have the earnings of that additional
165 employment reported to the Public Employees' Retirement System
166 regardless of whether the additional employment is sufficient in
167 itself to be a covered position. In the case of fee officials,
168 the net earnings from their office after deduction of expenses
169 shall apply, except that in no case shall earned compensation be
170 less than the total direct payments made by the state or
171 governmental subdivisions to the official, and employer and



172 employee contributions shall be paid thereon. In the case of
173 members of the state Legislature, all remuneration or amounts
174 paid, except mileage allowance, shall apply. The amount by which
175 an eligible employee's salary is reduced pursuant to a salary
176 reduction agreement authorized under Section 25-17-5 shall be
177 included as earned compensation under this paragraph, provided
178 this inclusion does not conflict with federal law, including
179 federal regulations and federal administrative interpretations
180 thereunder, pertaining to the Federal Insurance Contributions Act
181 or to Internal Revenue Code Section 125 cafeteria plans.

182 Compensation in addition to an employee's base salary that is paid
183 to the employee pursuant to the vacation and sick leave policies
184 of a municipality or other political subdivision of the state that
185 employs him which exceeds the maximums authorized by Section
186 25-3-91 et seq., shall be excluded from the calculation of earned
187 compensation under this article. The maximum salary applicable
188 for retirement purposes before July 1, 1992, shall be the salary
189 of the Governor. Nothing in Section 25-3-31 shall affect the
190 determination of the earned compensation of any member for the
191 purposes of this article.

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

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

198 (n) "Executive director" shall mean the secretary to
199 the board of trustees, as provided in Section 25-11-15(9), and the
200 administrator of the Public Employees' Retirement System and all
201 systems under the management of the board of trustees. Wherever
202 the term "Executive Secretary of the Public Employees' Retirement
203 System" or "executive secretary" appears in this article or in any



204 other provision of law, it shall be construed to mean the
205 Executive Director of the Public Employees' Retirement System.

206 (o) "Fiscal year" shall mean the period beginning on
207 July 1 of any year and ending on June 30 of the next succeeding
208 year.

209 (p) "Medical board" shall mean the board of physicians
210 or any governmental or nongovernmental disability determination
211 service designated by the board of trustees that is qualified to
212 make disability determinations as provided for in Section
213 25-11-119.

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

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

218 (s) "Position" means any office or any employment in
219 the state service, or two (2) or more of them, the duties of which
220 call for services to be rendered by one (1) person, including
221 positions jointly employed by federal and state agencies
222 administering federal and state funds. The employer shall
223 determine upon initial employment and during the course of
224 employment of an employee who does not meet the criteria for
225 coverage in the Public Employees' Retirement System based on the
226 position held, whether the employee is or becomes eligible for
227 coverage in the Public Employees' Retirement System based upon any
228 other employment in a covered agency or political subdivision. If
229 or when the employee meets the eligibility criteria for coverage
230 in such other position, then the employer must withhold
231 contributions and report wages from the noncovered position in
232 accordance with the provisions for reporting of earned
233 compensation. Failure to deduct and report those contributions
234 shall not relieve the employee or employer of liability thereof.
235 The board shall adopt such rules and regulations as necessary to
236 implement and enforce this provision.



237 (t) "Prior service" shall mean service rendered before
238 February 1, 1953, for which credit is allowable under Sections
239 25-11-105 and 25-11-109, and which shall allow prior service for
240 any person who is now or becomes a member of the Public Employees'
241 Retirement System and who does contribute to the system for a
242 minimum period of four (4) years.

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

246 (v) "Retirement allowance" shall mean an annuity for
247 life as provided in this article, payable each year in twelve (12)
248 equal monthly installments beginning as of the date fixed by the
249 board. The retirement allowance shall be calculated in accordance
250 with Section 25-11-111. Provided, any spouse who received a
251 spouse retirement benefit in accordance with Section 25-11-111(d)
252 prior to March 31, 1971, and said benefits were terminated because
253 of eligibility for a social security benefit, may again receive
254 his spouse retirement benefit from and after making application
255 with the board of trustees to reinstate such spouse retirement
256 benefit.

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

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

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

265 (z) "State service" shall mean all offices and
266 positions of trust or employment in the employ of the state, or
267 any political subdivision or instrumentality thereof, which elect
268 to participate as provided by Section 25-11-105(f), including the
269 position of elected or fee officials of the counties and their



270 deputies and employees performing public services or any
271 department, independent agency, board or commission thereof, and
272 shall also include all offices and positions of trust or
273 employment in the employ of joint state and federal agencies
274 administering state and federal funds and service rendered by
275 employees of the public schools. Effective July 1, 1973, all
276 nonprofessional public school employees, such as bus drivers,
277 janitors, maids, maintenance workers and cafeteria employees,
278 shall have the option to become members in accordance with Section
279 25-11-105(b), and shall be eligible to receive credit for services
280 prior to July 1, 1973, provided the contributions and interest are
281 paid by the employee in accordance with said section; provided,
282 further, that the county or municipal separate school district may
283 pay the employer contribution and pro rata share of interest of
284 the retroactive service from available funds. From and after July
285 1, 1998, retroactive service credit shall be purchased at the
286 actuarial cost in accordance with Section 25-11-105(b). Public
287 school bus drivers shall be eligible to become or remain members
288 of the retirement system regardless of the number of hours per
289 week or per month for which they receive compensation.

290 (aa) "Withdrawal from service" shall mean complete
291 severance of employment in the state service of any member by
292 resignation, dismissal or discharge.

293 (bb) The masculine pronoun, wherever used, shall
294 include the feminine pronoun.

295 **SECTION 3.** Section 25-11-105, Mississippi Code of 1972, is
296 amended as follows:

297 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

298 The membership of this retirement system shall be composed as
299 follows:

300 (a) All persons who shall become employees in the state
301 service after January 31, 1953, and whose wages are subject to
302 payroll taxes and are lawfully reported on IRS Form W-2, except



303 (i) those persons who are specifically excluded, (ii) those
304 persons to whom election is provided in Articles 1 and 3, or (iii)
305 those persons who continue to receive a retirement allowance
306 during their employment as bus drivers under the authority of
307 Section 25-11-126, shall become members of the retirement system
308 as a condition of their employment.

309 (b) All persons who shall become employees in the state
310 service after January 31, 1953, except those specifically excluded
311 or as to whom election is provided in Articles 1 and 3, unless
312 they shall file with the board prior to the lapse of sixty (60)
313 days of employment or sixty (60) days after the effective date of
314 the cited articles, whichever is later, on a form prescribed by
315 the board, a notice of election not to be covered by the
316 membership of the retirement system and a duly executed waiver of
317 all present and prospective benefits which would otherwise inure
318 to them on account of their participation in the system, shall
319 become members of the retirement system; provided, however, that
320 no credit for prior service will be granted to members until they
321 have contributed to Article 3 of the retirement system for a
322 minimum period of at least four (4) years. Such members shall
323 receive credit for services performed prior to January 1, 1953, in
324 employment now covered by Article 3, but no credit shall be
325 granted for retroactive services between January 1, 1953, and the
326 date of their entry into the retirement system unless the employee
327 pays into the retirement system both the employer's and the
328 employee's contributions on wages paid him during the period from
329 January 31, 1953, to the date of his becoming a contributing
330 member, together with interest at the rate determined by the board
331 of trustees. Members reentering after withdrawal from service
332 shall qualify for prior service under the provisions of Section
333 25-11-117. From and after July 1, 1998, upon eligibility as noted
334 above, the member may receive credit for such retroactive service
335 provided:



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

339 (2) The member shall pay to the retirement system
340 on the date he or she is eligible for such credit or at any time
341 thereafter prior to the date of retirement the actuarial cost for
342 each year of such creditable service. The provisions of this
343 subparagraph (2) shall be subject to the limitations of Section
344 415 of the Internal Revenue Code and regulations promulgated
345 thereunder.

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

350 (c) All persons who shall become employees in the state
351 service after January 31, 1953, and who are eligible for
352 membership in any other retirement system shall become members of
353 this retirement system as a condition of their employment unless
354 they elect at the time of their employment to become a member of
355 such other system.

356 (d) All persons who are employees in the state service
357 on January 31, 1953, and who are members of any nonfunded
358 retirement system operated by the State of Mississippi, or any of
359 its departments or agencies, shall become members of this system
360 with prior service credit unless, before February 1, 1953, they
361 shall file a written notice with the board of trustees that they
362 do not elect to become members.

363 (e) All persons who are employees in the state service
364 on January 31, 1953, and who under existing laws are members of
365 any fund operated for the retirement of employees by the State of
366 Mississippi, or any of its departments or agencies, shall not be
367 entitled to membership in this retirement system unless, before
368 February 1, 1953, any such person shall indicate by a notice filed



369 with the board, on a form prescribed by the board, his individual
370 election and choice to participate in this system, but no such
371 person shall receive prior service credit unless he becomes a
372 member on or before February 1, 1953.

373 (f) Each political subdivision of the state and each
374 instrumentality of the state or a political subdivision, or both,
375 is hereby authorized to submit, for approval by the board of
376 trustees, a plan for extending the benefits of this article to
377 employees of any such political subdivision or instrumentality.
378 Each such plan or any amendment to the plan for extending benefits
379 thereof shall be approved by the board of trustees if it finds
380 that such plan, or such plan as amended, is in conformity with
381 such requirements as are provided in Articles 1 and 3; however,
382 upon approval of such plan or any such plan heretofore approved by
383 the board of trustees, the approved plan shall not be subject to
384 cancellation or termination by the political subdivision or
385 instrumentality, except that any community hospital serving a
386 municipality that joined the Public Employees' Retirement System
387 as of November 1, 1956, to offer social security coverage for its
388 employees and subsequently extended retirement annuity coverage to
389 its employees as of December 1, 1965, may, upon documentation of
390 extreme financial hardship, have future retirement annuity
391 coverage cancelled or terminated at the discretion of the board of
392 trustees. No such plan shall be approved unless:

393 (1) It provides that all services which constitute
394 employment as defined in Section 25-11-5 and are performed in the
395 employ of the political subdivision or instrumentality, by any
396 employees thereof, shall be covered by the plan; with the
397 exception of municipal employees who are already covered by
398 existing retirement plans; provided, however, those employees in
399 this class may elect to come under the provisions of this article;

400 (2) It specifies the source or sources from which
401 the funds necessary to make the payments required by paragraph (d)



402 of Section 25-11-123 and of paragraph (f) (5)B and C of this
403 section are expected to be derived and contains reasonable
404 assurance that such sources will be adequate for such purpose;

405 (3) It provides for such methods of administration
406 of the plan by the political subdivision or instrumentality as are
407 found by the board of trustees to be necessary for the proper and
408 efficient administration thereof;

409 (4) It provides that the political subdivision or
410 instrumentality will make such reports, in such form and
411 containing such information, as the board of trustees may from
412 time to time require;

413 (5) It authorizes the board of trustees to
414 terminate the plan in its entirety in the discretion of the board
415 if it finds that there has been a failure to comply substantially
416 with any provision contained in such plan, such termination to
417 take effect at the expiration of such notice and on such
418 conditions as may be provided by regulations of the board and as
419 may be consistent with applicable federal law.

420 A. The board of trustees shall not finally
421 refuse to approve a plan submitted under paragraph (f), and shall
422 not terminate an approved plan without reasonable notice and
423 opportunity for hearing to each political subdivision or
424 instrumentality affected thereby. The board's decision in any
425 such case shall be final, conclusive and binding unless an appeal
426 be taken by the political subdivision or instrumentality aggrieved
427 thereby to the Circuit Court of Hinds County, Mississippi, in
428 accordance with the provisions of law with respect to civil causes
429 by certiorari.

430 B. Each political subdivision or
431 instrumentality as to which a plan has been approved under this
432 section shall pay into the contribution fund, with respect to
433 wages (as defined in Section 25-11-5), at such time or times as
434 the board of trustees may by regulation prescribe, contributions



435 in the amounts and at the rates specified in the applicable
436 agreement entered into by the board.

437 C. Every political subdivision or
438 instrumentality required to make payments under paragraph (f) (5)B
439 hereof is authorized, in consideration of the employees' retention
440 in or entry upon employment after enactment of Articles 1 and 3,
441 to impose upon its employees, as to services which are covered by
442 an approved plan, a contribution with respect to wages (as defined
443 in Section 25-11-5) not exceeding the amount provided in Section
444 25-11-123(d) if such services constituted employment within the
445 meaning of Articles 1 and 3, and to deduct the amount of such
446 contribution from the wages as and when paid. Contributions so
447 collected shall be paid into the contribution fund as partial
448 discharge of the liability of such political subdivisions or
449 instrumentalities under paragraph (f) (5)B hereof. Failure to
450 deduct such contribution shall not relieve the employee or
451 employer of liability thereof.

452 D. Any state agency, school, political
453 subdivision, instrumentality or any employer that is required to
454 submit contribution payments or wage reports under any section of
455 this chapter shall be assessed interest on delinquent payments or
456 wage reports as determined by the board of trustees in accordance
457 with rules and regulations adopted by the board and such assessed
458 interest may be recovered by action in a court of competent
459 jurisdiction against such reporting agency liable therefor or may,
460 upon due certification of delinquency and at the request of the
461 board of trustees, be deducted from any other monies payable to
462 such reporting agency by any department or agency of the state.

463 E. Each political subdivision of the state
464 and each instrumentality of the state or a political subdivision
465 or subdivisions which submits a plan for approval of the board, as
466 provided in this section, shall reimburse the board for coverage
467 into the expense account, its pro rata share of the total expense



468 of administering Articles 1 and 3 as provided by regulations of
469 said board.

470 (g) The board may, in its discretion, deny the right of
471 membership in this system to any class of employees whose
472 compensation is only partly paid by the state or who are occupying
473 positions on a part-time or intermittent basis. The board may, in
474 its discretion, make optional with employees in any such classes
475 their individual entrance into this system. However, the board
476 may not deny the right of membership in the system to public
477 school bus drivers.

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

484 (i) In the event any member of this system should
485 change his employment to any agency of the state having an
486 actuarially funded retirement system, the board of trustees may
487 authorize the transfer of the member's creditable service and of
488 the present value of the member's employer's accumulation account
489 and of the present value of the member's accumulated membership
490 contributions to such other system, provided the employee agrees
491 to the transfer of his accumulated membership contributions and
492 provided such other system is authorized to receive and agrees to
493 make such transfer.

494 In the event any member of any other actuarially funded
495 system maintained by an agency of the state changes his employment
496 to an agency covered by this system, the board of trustees may
497 authorize the receipt of the transfer of the member's creditable
498 service and of the present value of the member's employer's
499 accumulation account and of the present value of the member's
500 accumulated membership contributions from such other system,



501 provided the employee agrees to the transfer of his accumulated
502 membership contributions to this system and provided the other
503 system is authorized and agrees to make such transfer.

504 (j) Wherever herein state employment is referred to, it
505 shall include joint employment by state and federal agencies of
506 all kinds.

507 (k) Employees of a political subdivision or
508 instrumentality who were employed by such political subdivision or
509 instrumentality prior to an agreement between such entity and the
510 Public Employees' Retirement System to extend the benefits of this
511 article to its employees, and which agreement provides for the
512 establishment of retroactive service credit, and who have been
513 members of the retirement system and have remained contributors to
514 the retirement system for four (4) years, may receive credit for
515 such retroactive service with such political subdivision or
516 instrumentality, provided the employee and/or employer, as
517 provided under the terms of the modification of the joinder
518 agreement in allowing such coverage, pay into the retirement
519 system the employer's and employee's contributions on wages paid
520 the member during such previous employment, together with interest
521 or actuarial cost as determined by the board covering the period
522 from the date the service was rendered until the payment for the
523 credit for such service was made. Such wages shall be verified by
524 the Social Security Administration or employer payroll records.
525 Effective July 1, 1998, upon eligibility as noted above, a member
526 may receive credit for such retroactive service with such
527 political subdivision or instrumentality provided:

528 (1) The member shall furnish proof satisfactory to
529 the board of trustees of certification of such services from the
530 political subdivision or instrumentality where the services were
531 rendered or verification by the Social Security Administration;
532 and



533 (2) The member shall pay to the retirement system
534 on the date he or she is eligible for such credit or at any time
535 thereafter prior to the date of retirement the actuarial cost for
536 each year of such creditable service. The provisions of this
537 subparagraph (2) shall be subject to the limitations of Section
538 415 of the Internal Revenue Code and regulations promulgated
539 thereunder.

540 Nothing contained in this paragraph (k) shall be construed to
541 limit the authority of the board to allow the correction of
542 reporting errors or omissions based on the payment of employee and
543 employer contributions plus applicable interest. Payment for such
544 time shall be made in increments of not less than one-quarter
545 (1/4) year of creditable service beginning with the most recent
546 service. Upon the payment of all or part of such required
547 contributions, plus interest or the actuarial cost as provided
548 above, the member shall receive credit for the period of
549 creditable service for which full payment has been made to the
550 retirement system.

551 (1) Through June 30, 1998, any state service eligible
552 for retroactive service credit, no part of which has ever been
553 reported, and requiring the payment of employee and employer
554 contributions plus interest, or, from and after July 1, 1998, any
555 state service eligible for retroactive service credit, no part of
556 which has ever been reported to the retirement system, and
557 requiring the payment of the actuarial cost for such creditable
558 service, may, at the member's option, be purchased in quarterly
559 increments as provided above at such time as its purchase is
560 otherwise allowed.

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

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



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

568 (a) Patient or inmate help in state charitable, penal
569 or correctional institutions;

570 (b) Students of any state educational institution
571 employed by any agency of the state for temporary, part-time or
572 intermittent work;

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

576 **III. TERMINATION OF MEMBERSHIP**

577 Membership in this system shall cease by a member withdrawing
578 his accumulated contributions, or by a member withdrawing from
579 active service with a retirement allowance, or by a member's
580 death.

581 **SECTION 4.** Section 25-11-127, Mississippi Code of 1972, is
582 amended as follows:

583 25-11-127. (1) No person who is being paid a retirement
584 allowance or a pension after retirement under this article shall
585 be employed or paid for any service by the State of Mississippi,
586 except as provided in this section or in Section 25-11-126. This
587 section shall not apply to any pensioner who has been elected to
588 public office after retirement, nor to any person employed because
589 of special knowledge or experience. This section shall not be
590 construed to mean that any person employed or elected under the
591 above exceptions shall become a member under Article 3 of the
592 retirement system, nor shall any retiree of this retirement system
593 who is reemployed or is reelected to office after retirement
594 continue to draw retirement benefits while so reemployed or
595 reelected except those persons who continue to receive a
596 retirement allowance during their employment as bus drivers under
597 the authority of Section 25-11-126.



598 (2) Any person who has been retired under the provisions of
599 Articles 1 and 3 and who is later reemployed in service covered by
600 this article shall cease to receive benefits under this article
601 unless he continues to receive a retirement allowance during his
602 employment as a bus driver under the authority of Section
603 25-11-126, and the person shall again become a contributing member
604 of the retirement system. When the person retires again, if he
605 has been a contributing members of the retirement system during
606 his reemployment and the reemployment exceeds six (6) months, the
607 person shall have his or her benefit recomputed, including service
608 after again becoming a member, provided that the total retirement
609 allowance paid to the retired member in his or her previous
610 retirement shall be deducted from the member's retirement reserve
611 and taken into consideration in recalculating the retirement
612 allowance under a new option selected.

613 (3) Nothing contained in this section shall be construed as
614 prohibiting any county or city not a member of the Public
615 Employees' Retirement System from employing persons up to the age
616 of seventy-three (73). In addition, through June 30, 1988,
617 nothing contained in this section shall be construed as
618 prohibiting any governmental unit that is a member from employing
619 persons up to the age of seventy-three (73) who are not eligible
620 for membership at the time of employment under Article 3.

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

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

627 (a) For a period of time not to exceed one-half (1/2)
628 of the normal working days for the position in any fiscal year
629 during which the retiree will receive no more than one-half (1/2)



630 of the salary in effect for the position at the time of
631 employment, or

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

635 To determine the normal working days for a position under
636 paragraph (a) of this subsection, the employer shall determine the
637 required number of working days for the position on a full-time
638 basis and the equivalent number of hours representing the
639 full-time position. The retiree then may work up to one-half
640 (1/2) of the required number of working days or up to one-half
641 (1/2) of the equivalent number of hours and receive up to one-half
642 (1/2) of the salary for the position. In the case of employment
643 with multiple employers, the limitation shall equal one-half (1/2)
644 of the number of days or hours for a single full-time position.

645 Notice shall be given in writing to the executive director of
646 the system, setting forth the facts upon which the employment is
647 being made, and the notice shall be given within five (5) days
648 from the date of employment and also from the date of termination
649 of the employment.

650 (6) Any member who has attained seventy (70) years of age
651 and who has forty (40) or more years of creditable service may
652 continue in office or employment or be reemployed or elected,
653 provided that the person files annually, in writing, in the office
654 of the employer and the office of the executive director of the
655 system before those services, a waiver of all salary or
656 compensation and elects to receive in lieu of that salary or
657 compensation a retirement allowance as provided in this section,
658 in which event no salary or compensation shall thereafter be due
659 or payable for those services. However, any such officer or
660 employee may receive, in addition to the retirement allowance, any
661 per diem, office expense allowance, mileage or travel expense
662 authorized by any statute of the State of Mississippi.



663 (7) Any member may continue in municipal or county office or
664 employment or be reemployed or elected in a municipality or
665 county, provided that the person files annually, in writing, in
666 the office of the employer and the office of the executive
667 director of the system before those services, a waiver of all
668 salary or compensation and elects to receive in lieu of that
669 salary or compensation a retirement allowance as provided in this
670 section, in which event no salary or compensation shall thereafter
671 be due or payable for those services. However, any such officer
672 or employee may receive, in addition to the retirement allowance,
673 any per diem, office expense allowance, mileage or travel expense
674 authorized by any statute of the State of Mississippi.

675 **SECTION 5.** Section 25-15-3, Mississippi Code of 1972, is
676 amended as follows:

677 25-15-3. For the purposes of this article, the words and
678 phrases used herein shall have the following meanings:

679 (a) "Employee" means any person who works full time for
680 the State of Mississippi and receives his compensation in a direct
681 payment from a department, agency or institution of the state
682 government and any person who works full time for any school
683 district, community/junior college, public library or
684 university-based program authorized under Section 37-23-31 for
685 deaf, aphasic and emotionally disturbed children or any regular
686 nonstudent bus driver. This term includes legislators, employees
687 of the legislative branch and the judicial branch of the
688 state, * * * full-time salaried judges and full-time district
689 attorneys and their staff and full-time compulsory school
690 attendance officers. For the purposes of this article, any
691 "employee" making contributions to the Public Employees'
692 Retirement System or the Mississippi Highway Patrol Retirement
693 System shall be considered a full-time employee; however, any
694 person who is employed as a bus driver under the authority of
695 Section 25-11-126 shall be considered a full-time employee even



696 though the person is not a contributing member of the Public
697 Employees' Retirement System.

698 (b) "Department" means the Department of Finance and
699 Administration.

700 (c) "Plan" means the State and School Employees Life
701 and Health Insurance Plan created under this article.

702 (d) "Fund" means the State and School Employees
703 Insurance Fund set up under this article.

704 (e) "Retiree" or "retired employee" means any employee
705 who is retired under the Public Employees' Retirement System or
706 the Mississippi Highway Patrol Retirement System and is receiving
707 a retirement allowance from either system.

708 (f) "Board" means the State and School Employees Health
709 Insurance Management Board created under Section 25-15-303.

710 **SECTION 6.** Section 25-15-13, Mississippi Code of 1972, is
711 amended as follows:

712 25-15-13. Each eligible employee may participate in the
713 plan by signing up for the plan at the time of employment. Each
714 eligible employee who declines coverage under the plan must sign a
715 waiver of coverage. After acceptance in the plan, the employee
716 may cease his or her participation by filing a specific disclaimer
717 with the board. Forms for this purpose shall be prescribed and
718 issued by the board. All eligible employees will be eligible to
719 participate in the plan on the effective date of the plan or on
720 the date on which they are employed by the state, whichever is
721 later, provided they make the necessary contributions as provided
722 in this article. Spouses of employees, unmarried dependent
723 children from birth to age nineteen (19) years, unmarried
724 dependent children who are full-time students up to age
725 twenty-five (25) years, and physically or mentally handicapped
726 children, regardless of age, are eligible under the plan as of the
727 date the employee becomes eligible. If both spouses are eligible
728 employees who participate in the plan, the benefits shall apply



729 individually to each spouse by virtue of his or her participation
730 in the plan. If those spouses also have one or more eligible
731 dependents participating in the plan, the cost of their dependents
732 shall be calculated at a special family plan rate. The cost for
733 participation by the dependents shall be paid by the spouse who
734 elects to carry such dependents under his or her coverage.

735 Any person who is employed as a bus driver under the
736 authority of Section 25-11-126 shall be eligible to continue
737 health insurance and life insurance coverage under the plan upon
738 termination of employment as a bus driver, in the same manner and
739 subject to the same limitations as any other retired employee.

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

