

By: Senator(s) Tollison

To: Education; Finance

SENATE BILL NO. 2805

1 AN ACT TO AMEND SECTION 37-7-301, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE LOCAL SCHOOL DISTRICTS TO CONTRACT WITH PRIVATE
3 ENTITIES TO PROVIDE INSTRUCTIONAL SERVICES TO PUPILS; TO AMEND
4 SECTIONS 25-11-103 AND 25-11-127, MISSISSIPPI CODE OF 1972, TO
5 PROVIDE THAT FOR PURPOSES OF THE RETIREMENT SYSTEM, EMPLOYEES OF
6 SUCH PRIVATE ENTITIES SHALL NOT BE CONSIDERED IN STATE SERVICE AND
7 SHALL NOT BE PROHIBITED FROM RECEIVING RETIREMENT BENEFITS; AND
8 FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 37-7-301, Mississippi Code of 1972, is
11 amended as follows:

12 37-7-301. The school boards of all school districts shall
13 have the following powers, authority and duties in addition to all
14 others imposed or granted by law, to wit:

15 (a) To organize and operate the schools of the district
16 and to make such division between the high school grades and
17 elementary grades as, in their judgment, will serve the best
18 interests of the school;

19 (b) To introduce public school music, art, manual
20 training and other special subjects into either the elementary or
21 high school grades, as the board shall deem proper;

22 (c) To be the custodians of real and personal school
23 property and to manage, control and care for same, both during the
24 school term and during vacation;

25 (d) To have responsibility for the erection, repairing
26 and equipping of school facilities and the making of necessary
27 school improvements;

28 (e) To suspend or to expel a pupil or to change the
29 placement of a pupil to the school district's alternative school
30 or home-bound program for misconduct in the school or on school



31 property, as defined in Section 37-11-29, on the road to and from
32 school, or at any school-related activity or event, or for conduct
33 occurring on property other than school property or other than at
34 a school-related activity or event when such conduct by a pupil,
35 in the determination of the school superintendent or principal,
36 renders that pupil's presence in the classroom a disruption to the
37 educational environment of the school or a detriment to the best
38 interest and welfare of the pupils and teacher of such class as a
39 whole, and to delegate such authority to the appropriate officials
40 of the school district;

41 (f) To visit schools in the district, in their
42 discretion, in a body for the purpose of determining what can be
43 done for the improvement of the school in a general way;

44 (g) To support, within reasonable limits, the
45 superintendent, principal and teachers where necessary for the
46 proper discipline of the school;

47 (h) To exclude from the schools students with what
48 appears to be infectious or contagious diseases; provided,
49 however, such student may be allowed to return to school upon
50 presenting a certificate from a public health officer, duly
51 licensed physician or nurse practitioner that the student is free
52 from such disease;

53 (i) To require those vaccinations specified by the
54 State Health Officer as provided in Section 41-23-37, Mississippi
55 Code of 1972;

56 (j) To see that all necessary utilities and services
57 are provided in the schools at all times when same are needed;

58 (k) To authorize the use of the school buildings and
59 grounds for the holding of public meetings and gatherings of the
60 people under such regulations as may be prescribed by said board;

61 (l) To prescribe and enforce rules and regulations not
62 inconsistent with law or with the regulations of the State Board
63 of Education for their own government and for the government of



64 the schools, and to transact their business at regular and special
65 meetings called and held in the manner provided by law;

66 (m) To maintain and operate all of the schools under
67 their control for such length of time during the year as may be
68 required;

69 (n) To enforce in the schools the courses of study and
70 the use of the textbooks prescribed by the proper authorities;

71 (o) To make orders directed to the superintendent of
72 schools for the issuance of pay certificates for lawful purposes
73 on any available funds of the district and to have full control of
74 the receipt, distribution, allotment and disbursement of all funds
75 provided for the support and operation of the schools of such
76 school district whether such funds be derived from state
77 appropriations, local ad valorem tax collections, or otherwise;

78 (p) To select all school district personnel in the
79 manner provided by law, and to provide for such employee fringe
80 benefit programs, including accident reimbursement plans, as may
81 be deemed necessary and appropriate by the board;

82 (q) To provide athletic programs and other school
83 activities and to regulate the establishment and operation of such
84 programs and activities;

85 (r) To join, in their discretion, any association of
86 school boards and other public school-related organizations, and
87 to pay from local funds other than minimum foundation funds, any
88 membership dues;

89 (s) To expend local school activity funds, or other
90 available school district funds, other than minimum education
91 program funds, for the purposes prescribed under this paragraph.
92 "Activity funds" shall mean all funds received by school officials
93 in all school districts paid or collected to participate in any
94 school activity, such activity being part of the school program
95 and partially financed with public funds or supplemented by public
96 funds. The term "activity funds" shall not include any funds



97 raised and/or expended by any organization unless commingled in a
98 bank account with existing activity funds, regardless of whether
99 the funds were raised by school employees or received by school
100 employees during school hours or using school facilities, and
101 regardless of whether a school employee exercises influence over
102 the expenditure or disposition of such funds. Organizations shall
103 not be required to make any payment to any school for the use of
104 any school facility if, in the discretion of the local school
105 governing board, the organization's function shall be deemed to be
106 beneficial to the official or extracurricular programs of the
107 school. For the purposes of this provision, the term
108 "organization" shall not include any organization subject to the
109 control of the local school governing board. Activity funds may
110 only be expended for any necessary expenses or travel costs,
111 including advances, incurred by students and their chaperons in
112 attending any in-state or out-of-state school-related programs,
113 conventions or seminars and/or any commodities, equipment, travel
114 expenses, purchased services or school supplies which the local
115 school governing board, in its discretion, shall deem beneficial
116 to the official or extracurricular programs of the district,
117 including items which may subsequently become the personal
118 property of individuals, including yearbooks, athletic apparel,
119 book covers and trophies. Activity funds may be used to pay
120 travel expenses of school district personnel. The local school
121 governing board shall be authorized and empowered to promulgate
122 rules and regulations specifically designating for what purposes
123 school activity funds may be expended. The local school governing
124 board shall provide (a) that such school activity funds shall be
125 maintained and expended by the principal of the school generating
126 the funds in individual bank accounts, or (b) that such school
127 activity funds shall be maintained and expended by the
128 superintendent of schools in a central depository approved by the
129 board. The local school governing board shall provide that such



130 school activity funds be audited as part of the annual audit
131 required in Section 37-9-18. The State Auditor shall prescribe a
132 uniform system of accounting and financial reporting for all
133 school activity fund transactions;

134 (t) To contract, on a shared savings, lease or
135 lease-purchase basis, for energy efficiency services and/or
136 equipment as provided for in Section 31-7-14, not to exceed ten
137 (10) years;

138 (u) To maintain accounts and issue pay certificates on
139 school food service bank accounts;

140 (v) (i) To lease a school building from an individual,
141 partnership, nonprofit corporation or a private for-profit
142 corporation for the use of such school district, and to expend
143 funds therefor as may be available from any nonminimum program
144 sources. The school board of the school district desiring to
145 lease a school building shall declare by resolution that a need
146 exists for a school building and that the school district cannot
147 provide the necessary funds to pay the cost or its proportionate
148 share of the cost of a school building required to meet the
149 present needs. The resolution so adopted by the school board
150 shall be published once each week for three (3) consecutive weeks
151 in a newspaper having a general circulation in the school district
152 involved, with the first publication thereof to be made not less
153 than thirty (30) days prior to the date upon which the school
154 board is to act on the question of leasing a school building. If
155 no petition requesting an election is filed prior to such meeting
156 as hereinafter provided, then the school board may, by resolution
157 spread upon its minutes, proceed to lease a school building. If
158 at any time prior to said meeting a petition signed by not less
159 than twenty percent (20%) or fifteen hundred (1500), whichever is
160 less, of the qualified electors of the school district involved
161 shall be filed with the school board requesting that an election
162 be called on the question, then the school board shall, not later



163 than the next regular meeting, adopt a resolution calling an
164 election to be held within such school district upon the question
165 of authorizing the school board to lease a school building. Such
166 election shall be called and held, and notice thereof shall be
167 given, in the same manner for elections upon the questions of the
168 issuance of the bonds of school districts, and the results thereof
169 shall be certified to the school board. If at least three-fifths
170 (3/5) of the qualified electors of the school district who voted
171 in such election shall vote in favor of the leasing of a school
172 building, then the school board shall proceed to lease a school
173 building. The term of the lease contract shall not exceed twenty
174 (20) years, and the total cost of such lease shall be either the
175 amount of the lowest and best bid accepted by the school board
176 after advertisement for bids or an amount not to exceed the
177 current fair market value of the lease as determined by the
178 averaging of at least two (2) appraisals by certified general
179 appraisers licensed by the State of Mississippi. The term "school
180 building" as used in this item (v) shall be construed to mean any
181 building or buildings used for classroom purposes in connection
182 with the operation of schools and shall include the site therefor,
183 necessary support facilities, and the equipment thereof and
184 appurtenances thereto such as heating facilities, water supply,
185 sewage disposal, landscaping, walks, drives and playgrounds. The
186 term "lease" as used in this item (v) (i) may include a
187 lease/purchase contract;

188 (ii) If two (2) or more school districts propose
189 to enter into a lease contract jointly, then joint meetings of the
190 school boards having control may be held but no action taken shall
191 be binding on any such school district unless the question of
192 leasing a school building is approved in each participating school
193 district under the procedure hereinabove set forth in item (v) (i).
194 All of the provisions of item (v) (i) regarding the term and amount
195 of the lease contract shall apply to the school boards of school



196 districts acting jointly. Any lease contract executed by two (2)
197 or more school districts as joint lessees shall set out the amount
198 of the aggregate lease rental to be paid by each, which may be
199 agreed upon, but there shall be no right of occupancy by any
200 lessee unless the aggregate rental is paid as stipulated in the
201 lease contract. All rights of joint lessees under the lease
202 contract shall be in proportion to the amount of lease rental paid
203 by each;

204 (w) To employ all noninstructional and noncertificated
205 employees and fix the duties and compensation of such personnel
206 deemed necessary pursuant to the recommendation of the
207 superintendent of schools;

208 (x) To employ and fix the duties and compensation of
209 such legal counsel as deemed necessary;

210 (y) Subject to rules and regulations of the State Board
211 of Education, to purchase, own and operate trucks, vans and other
212 motor vehicles, which shall bear the proper identification
213 required by law;

214 (z) To expend funds for the payment of substitute
215 teachers and to adopt reasonable regulations for the employment
216 and compensation of such substitute teachers;

217 (aa) To acquire in its own name by purchase all real
218 property which shall be necessary and desirable in connection with
219 the construction, renovation or improvement of any public school
220 building or structure. Whenever the purchase price for such real
221 property is greater than Fifty Thousand Dollars (\$50,000.00), the
222 school board shall not purchase the property for an amount
223 exceeding the fair market value of such property as determined by
224 the average of at least two (2) independent appraisals by
225 certified general appraisers licensed by the State of Mississippi.
226 If the board shall be unable to agree with the owner of any such
227 real property in connection with any such project, the board shall
228 have the power and authority to acquire any such real property by



229 condemnation proceedings pursuant to Section 11-27-1 et seq.,
230 Mississippi Code of 1972, and for such purpose, the right of
231 eminent domain is hereby conferred upon and vested in said board.
232 Provided further, that the local school board is authorized to
233 grant an easement for ingress and egress over sixteenth section
234 land or lieu land in exchange for a similar easement upon
235 adjoining land where the exchange of easements affords substantial
236 benefit to the sixteenth section land; provided, however, the
237 exchange must be based upon values as determined by a competent
238 appraiser, with any differential in value to be adjusted by cash
239 payment. Any easement rights granted over sixteenth section land
240 under such authority shall terminate when the easement ceases to
241 be used for its stated purpose. No sixteenth section or lieu land
242 which is subject to an existing lease shall be burdened by any
243 such easement except by consent of the lessee or unless the school
244 district shall acquire the unexpired leasehold interest affected
245 by the easement;

246 (bb) To charge reasonable fees related to the
247 educational programs of the district, in the manner prescribed in
248 Section 37-7-335;

249 (cc) Subject to rules and regulations of the State
250 Board of Education, to purchase relocatable classrooms for the use
251 of such school district, in the manner prescribed in Section
252 37-1-13;

253 (dd) Enter into contracts or agreements with other
254 school districts, political subdivisions or governmental entities
255 to carry out one or more of the powers or duties of the school
256 board, or to allow more efficient utilization of limited resources
257 for providing services to the public;

258 (ee) To provide for in-service training for employees
259 of the district. Until June 30, 1994, the school boards may
260 designate two (2) days of the minimum school term, as defined in
261 Section 37-19-1, for employee in-service training for



262 implementation of the new statewide testing system as developed by
263 the State Board of Education. Such designation shall be subject
264 to approval by the State Board of Education pursuant to uniform
265 rules and regulations;

266 (ff) As part of their duties to prescribe the use of
267 textbooks, to provide that parents and legal guardians shall be
268 responsible for the textbooks and for the compensation to the
269 school district for any books which are not returned to the proper
270 schools upon the withdrawal of their dependent child. If a
271 textbook is lost or not returned by any student who drops out of
272 the public school district, the parent or legal guardian shall
273 also compensate the school district for the fair market value of
274 the textbooks;

275 (gg) To conduct fund-raising activities on behalf of
276 the school district that the local school board, in its
277 discretion, deems appropriate or beneficial to the official or
278 extracurricular programs of the district; provided that:

279 (i) Any proceeds of the fund-raising activities
280 shall be treated as "activity funds" and shall be accounted for as
281 are other activity funds under this section; and

282 (ii) Fund-raising activities conducted or
283 authorized by the board for the sale of school pictures, the
284 rental of caps and gowns or the sale of graduation invitations for
285 which the school board receives a commission, rebate or fee shall
286 contain a disclosure statement advising that a portion of the
287 proceeds of the sales or rentals shall be contributed to the
288 student activity fund;

289 (hh) To allow individual lessons for music, art and
290 other curriculum-related activities for academic credit or
291 nonacademic credit during school hours and using school equipment
292 and facilities, subject to uniform rules and regulations adopted
293 by the school board;



294 (ii) To charge reasonable fees for participating in an
295 extracurricular activity for academic or nonacademic credit for
296 necessary and required equipment such as safety equipment, band
297 instruments and uniforms;

298 (jj) To conduct or participate in any fund-raising
299 activities on behalf of or in connection with a tax-exempt
300 charitable organization;

301 (kk) To exercise such powers as may be reasonably
302 necessary to carry out the provisions of this section; * * *

303 (ll) To expend funds for the services of nonprofit arts
304 organizations or other such nonprofit organizations who provide
305 performances or other services for the students of the school
306 district; and

307 (mm) To contract with private entities to lease
308 employees to provide instructional services to pupils.

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

311 25-11-103. The following words and phrases as used in
312 Articles 1 and 3, unless a different meaning is plainly required
313 by the context, shall have the following meanings:

314 (a) "Accumulated contributions" shall mean the sum of
315 all the amounts deducted from the compensation of a member and
316 credited to his individual account in the annuity savings account,
317 together with regular interest thereon as provided in Section
318 25-11-123.

319 (b) "Actuarial cost" shall mean the amount of funds
320 presently required to provide future benefits as determined by the
321 board based on applicable tables and formulas provided by the
322 actuary.

323 (c) "Actuarial equivalent" shall mean a benefit of
324 equal value to the accumulated contributions, annuity or benefit,
325 as the case may be, when computed upon the basis of such mortality



326 tables as shall be adopted by the board of trustees, and regular
327 interest.

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

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

333 (f) "Average compensation" shall mean the average of
334 the four (4) highest years of earned compensation reported for an
335 employee in a fiscal or calendar year period, or combination
336 thereof which do not overlap, or the last forty-eight (48)
337 consecutive months of earned compensation reported for an
338 employee. The four (4) years need not be successive or joined
339 years of service. In no case shall the average compensation so
340 determined be in excess of One Hundred Twenty-five Thousand
341 Dollars (\$125,000.00). In computing the average compensation, any
342 amount paid in a lump sum for personal leave shall be included in
343 the calculation to the extent that such amount does not exceed an
344 amount which is equal to thirty (30) days of earned compensation
345 and to the extent that it does not cause the employees' earned
346 compensation to exceed the maximum reportable amount specified in
347 Section 25-11-103(k); provided, however, that such thirty-day
348 limitation shall not prevent the inclusion in the calculation of
349 leave earned under federal regulations prior to July 1, 1976, and
350 frozen as of that date as referred to in Section 25-3-99. Only
351 the amount of lump sum pay for personal leave due and paid upon
352 the death of a member attributable for up to one hundred fifty
353 (150) days shall be used in the deceased member's average
354 compensation calculation in determining the beneficiary's
355 benefits. In computing the average compensation, no amounts shall
356 be used which are in excess of the amount on which contributions
357 were required and paid. If any member who is or has been granted
358 any increase in annual salary or compensation of more than eight



359 percent (8%) retires within twenty-four (24) months from the date
360 that such increase becomes effective, then the board shall exclude
361 that part of the increase in salary or compensation that exceeds
362 eight percent (8%) in calculating that member's average
363 compensation for retirement purposes. The board may enforce this
364 provision by rule or regulation. However, increases in
365 compensation in excess of eight percent (8%) per year granted
366 within twenty-four (24) months of the date of retirement may be
367 included in such calculation of average compensation if
368 satisfactory proof is presented to the board showing that the
369 increase in compensation was the result of an actual change in the
370 position held or services rendered, or that such compensation
371 increase was authorized by the State Personnel Board or was
372 increased as a result of statutory enactment, and the employer
373 furnishes an affidavit stating that such increase granted within
374 the last twenty-four (24) months was not contingent on a promise
375 or agreement of the employee to retire. Nothing in Section
376 25-3-31 shall affect the calculation of the average compensation
377 of any member for the purposes of this article. The average
378 compensation of any member who retires before July 1, 1992, shall
379 not exceed the annual salary of the Governor.

380 (g) "Beneficiary" shall mean any person entitled to
381 receive a retirement allowance, an annuity or other benefit as
382 provided by Articles 1 and 3. In the event of the death prior to
383 retirement of any member whose spouse and/or children are not
384 entitled to a retirement allowance on the basis that the member
385 has less than four (4) years of service credit and/or has not been
386 married for a minimum of one (1) year or the spouse has waived his
387 or her entitlement to a retirement allowance pursuant to Section
388 25-11-114, the lawful spouse of a member at the time of the death
389 of such member shall be the beneficiary of such member unless the
390 member has designated another beneficiary subsequent to the date
391 of marriage in writing, and filed such writing in the office of



392 the executive director of the board of trustees. No designation
393 or change of beneficiary shall be made in any other manner.

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

397 (i) "Creditable service" shall mean "prior service,"
398 "retroactive service" and all lawfully credited unused leave not
399 exceeding the accrual rates and limitations provided in Section
400 25-3-91 et seq., as of the date of withdrawal from service plus
401 "membership service" for which credit is allowable as provided in
402 Section 25-11-109. Except to limit creditable service reported to
403 the system for the purpose of computing an employee's retirement
404 allowance or annuity or benefits provided in this article, nothing
405 in this paragraph shall limit or otherwise restrict the power of
406 the governing authority of a municipality or other political
407 subdivision of the state to adopt such vacation and sick leave
408 policies as it deems necessary.

409 (j) "Child" means either a natural child of the member,
410 a child that has been made a child of the member by applicable
411 court action before the death of the member, or a child under the
412 permanent care of the member at the time of the latter's death,
413 which permanent care status shall be determined by evidence
414 satisfactory to the board.

415 (k) "Earned compensation" shall mean the full amount
416 earned by an employee for a given pay period including any
417 maintenance furnished up to a maximum of One Hundred Twenty-five
418 Thousand Dollars (\$125,000.00) per year, and proportionately for
419 less than one (1) year of service. The value of such maintenance
420 when not paid in money shall be fixed by the employing state
421 agency, and, in case of doubt, by the board of trustees as defined
422 in Section 25-11-15. In any case, earned compensation shall be
423 limited to the regular periodic compensation paid, exclusive of
424 litigation fees, bond fees, and other similar extraordinary



425 nonrecurring payments. In addition, any member in a covered
426 position, as defined by Public Employees' Retirement System laws
427 and regulations, who is also employed by another covered agency or
428 political subdivision shall have the earnings of that additional
429 employment reported to the Public Employees' Retirement System
430 regardless of whether the additional employment is sufficient in
431 itself to be a covered position. In the case of fee officials,
432 the net earnings from their office after deduction of expenses
433 shall apply, except that in no case shall earned compensation be
434 less than the total direct payments made by the state or
435 governmental subdivisions to the official, and employer and
436 employee contributions shall be paid thereon. In the case of
437 members of the state Legislature, all remuneration or amounts
438 paid, except mileage allowance, shall apply. The amount by which
439 an eligible employee's salary is reduced pursuant to a salary
440 reduction agreement authorized under Section 25-17-5 shall be
441 included as earned compensation under this paragraph, provided
442 this inclusion does not conflict with federal law, including
443 federal regulations and federal administrative interpretations
444 thereunder, pertaining to the Federal Insurance Contributions Act
445 or to Internal Revenue Code Section 125 cafeteria plans.
446 Compensation in addition to an employee's base salary that is paid
447 to the employee pursuant to the vacation and sick leave policies
448 of a municipality or other political subdivision of the state that
449 employs him which exceeds the maximums authorized by Section
450 25-3-91 et seq., shall be excluded from the calculation of earned
451 compensation under this article. The maximum salary applicable
452 for retirement purposes before July 1, 1992, shall be the salary
453 of the Governor. Nothing in Section 25-3-31 shall affect the
454 determination of the earned compensation of any member for the
455 purposes of this article.

456 (1) "Employee" means any person legally occupying a
457 position in the state service, and shall include the employees of



458 the retirement system created hereunder. The term "employee"
459 shall not include any employee of a private entity which leases
460 staff to a local school board to provide instructional services
461 pursuant to Section 37-7-301(mm).

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

465 (n) "Executive director" shall mean the secretary to
466 the board of trustees, as provided in Section 25-11-15(9), and the
467 administrator of the Public Employees' Retirement System and all
468 systems under the management of the board of trustees. Wherever
469 the term "Executive Secretary of the Public Employees' Retirement
470 System" or "executive secretary" appears in this article or in any
471 other provision of law, it shall be construed to mean the
472 Executive Director of the Public Employees' Retirement System.

473 (o) "Fiscal year" shall mean the period beginning on
474 July 1 of any year and ending on June 30 of the next succeeding
475 year.

476 (p) "Medical board" shall mean the board of physicians
477 or any governmental or nongovernmental disability determination
478 service designated by the board of trustees that is qualified to
479 make disability determinations as provided for in Section
480 25-11-119.

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

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

485 (s) "Position" means any office or any employment in
486 the state service, or two (2) or more of them, the duties of which
487 call for services to be rendered by one (1) person, including
488 positions jointly employed by federal and state agencies
489 administering federal and state funds. The employer shall
490 determine upon initial employment and during the course of



491 employment of an employee who does not meet the criteria for
492 coverage in the Public Employees' Retirement System based on the
493 position held, whether the employee is or becomes eligible for
494 coverage in the Public Employees' Retirement System based upon any
495 other employment in a covered agency or political subdivision. If
496 or when the employee meets the eligibility criteria for coverage
497 in such other position, then the employer must withhold
498 contributions and report wages from the noncovered position in
499 accordance with the provisions for reporting of earned
500 compensation. Failure to deduct and report those contributions
501 shall not relieve the employee or employer of liability thereof.
502 The board shall adopt such rules and regulations as necessary to
503 implement and enforce this provision.

504 (t) "Prior service" shall mean service rendered before
505 February 1, 1953, for which credit is allowable under Sections
506 25-11-105 and 25-11-109, and which shall allow prior service for
507 any person who is now or becomes a member of the Public Employees'
508 Retirement System and who does contribute to the system for a
509 minimum period of four (4) years.

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

513 (v) "Retirement allowance" shall mean an annuity for
514 life as provided in this article, payable each year in twelve (12)
515 equal monthly installments beginning as of the date fixed by the
516 board. The retirement allowance shall be calculated in accordance
517 with Section 25-11-111. Provided, any spouse who received a
518 spouse retirement benefit in accordance with Section 25-11-111(d)
519 prior to March 31, 1971, and said benefits were terminated because
520 of eligibility for a social security benefit, may again receive
521 his spouse retirement benefit from and after making application
522 with the board of trustees to reinstate such spouse retirement
523 benefit.



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

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

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

532 (z) "State service" shall mean all offices and
533 positions of trust or employment in the employ of the state, or
534 any political subdivision or instrumentality thereof, which elect
535 to participate as provided by Section 25-11-105(f), including the
536 position of elected or fee officials of the counties and their
537 deputies and employees performing public services or any
538 department, independent agency, board or commission thereof, and
539 shall also include all offices and positions of trust or
540 employment in the employ of joint state and federal agencies
541 administering state and federal funds and service rendered by
542 employees of the public schools. Effective July 1, 1973, all
543 nonprofessional public school employees, such as bus drivers,
544 janitors, maids, maintenance workers and cafeteria employees,
545 shall have the option to become members in accordance with Section
546 25-11-105(b), and shall be eligible to receive credit for services
547 prior to July 1, 1973, provided the contributions and interest are
548 paid by the employee in accordance with said section; provided,
549 further, that the county or municipal separate school district may
550 pay the employer contribution and pro rata share of interest of
551 the retroactive service from available funds. From and after July
552 1, 1998, retroactive service credit shall be purchased at the
553 actuarial cost in accordance with Section 25-11-105(b).

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



557 (bb) The masculine pronoun, wherever used, shall
558 include the feminine pronoun.

559 **SECTION 3.** Section 25-11-127, Mississippi Code of 1972, is
560 amended as follows:

561 25-11-127. (1) No person who is being paid a retirement
562 allowance or a pension after retirement under this article shall
563 be employed or paid for any service by the State of Mississippi,
564 except as provided in this section. This section shall not apply
565 to any pensioner who has been elected to public office after
566 retirement, nor to any person employed because of special
567 knowledge or experience. This section shall not be construed to
568 mean that any person employed or elected under the above
569 exceptions shall become a member under Article 3 of the retirement
570 system, nor shall any retiree of this retirement system who is
571 reemployed or is reelected to office after retirement continue to
572 draw retirement benefits while so reemployed.

573 (2) Any person who has been retired under the provisions of
574 Articles 1 and 3 and who is later reemployed in service covered by
575 this article shall cease to receive benefits under this article
576 and shall again become a contributing member of the retirement
577 system. When the person retires again, if the reemployment
578 exceeds six (6) months, the person shall have his or her benefit
579 recomputed, including service after again becoming a member,
580 provided that the total retirement allowance paid to the retired
581 member in his or her previous retirement shall be deducted from
582 the member's retirement reserve and taken into consideration in
583 recalculating the retirement allowance under a new option
584 selected.

585 (3) Nothing contained in this section shall be construed as
586 prohibiting any county or city not a member of the Public
587 Employees' Retirement System from employing persons up to the age
588 of seventy-three (73). In addition, through June 30, 1988,
589 nothing contained in this section shall be construed as



590 prohibiting any governmental unit that is a member from employing
591 persons up to the age of seventy-three (73) who are not eligible
592 for membership at the time of employment under Article 3.

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

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

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

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

607 To determine the normal working days for a position under
608 paragraph (a) of this subsection, the employer shall determine the
609 required number of working days for the position on a full-time
610 basis and the equivalent number of hours representing the
611 full-time position. The retiree then may work up to one-half
612 (1/2) of the required number of working days or up to one-half
613 (1/2) of the equivalent number of hours and receive up to one-half
614 (1/2) of the salary for the position. In the case of employment
615 with multiple employers, the limitation shall equal one-half (1/2)
616 of the number of days or hours for a single full-time position.

617 Notice shall be given in writing to the executive director of
618 the system, setting forth the facts upon which the employment is
619 being made, and the notice shall be given within five (5) days
620 from the date of employment and also from the date of termination
621 of the employment.



622 (6) Any member who has attained seventy (70) years of age
623 and who has forty (40) or more years of creditable service may
624 continue in office or employment or be reemployed or elected,
625 provided that the person files annually, in writing, in the office
626 of the employer and the office of the executive director of the
627 system before those services, a waiver of all salary or
628 compensation and elects to receive in lieu of that salary or
629 compensation a retirement allowance as provided in this section,
630 in which event no salary or compensation shall thereafter be due
631 or payable for those services. However, any such officer or
632 employee may receive, in addition to the retirement allowance, any
633 per diem, office expense allowance, mileage or travel expense
634 authorized by any statute of the State of Mississippi.

635 (7) Any member may continue in municipal or county office or
636 employment or be reemployed or elected in a municipality or
637 county, provided that the person files annually, in writing, in
638 the office of the employer and the office of the executive
639 director of the system before those services, a waiver of all
640 salary or compensation and elects to receive in lieu of that
641 salary or compensation a retirement allowance as provided in this
642 section, in which event no salary or compensation shall thereafter
643 be due or payable for those services. However, any such officer
644 or employee may receive, in addition to the retirement allowance,
645 any per diem, office expense allowance, mileage or travel expense
646 authorized by any statute of the State of Mississippi.

647 (8) This section shall not apply to any employee of a
648 private entity which leases staff to local school boards to
649 provide instructional services as authorized in Section
650 37-7-301(mm).

651 **SECTION 4.** This act shall take effect and be in force from
652 and after July 1, 2002.

