

By: Senator(s) Harden

To: Finance

SENATE BILL NO. 2310

1 AN ACT TO AUTHORIZE MEMBERS OF THE PUBLIC EMPLOYEES'
2 RETIREMENT SYSTEM WHO HAVE REACHED THEIR NORMAL RETIREMENT DATE TO
3 PARTICIPATE IN A DEFERRED RETIREMENT OPTION PROGRAM (DROP) UNDER
4 WHICH THE EMPLOYEE MAY RETIRE AND CONTINUE WORKING FOR A SPECIFIED
5 PERIOD AND RECEIVE HIS OR HER REGULAR SALARY, WHILE HAVING THE
6 RETIREMENT BENEFIT HE OR SHE WOULD HAVE OTHERWISE RECEIVED PAID
7 INTO AN ACCOUNT FOR THE MEMBER'S BENEFIT; TO PROVIDE THAT MONEY IN
8 SUCH ACCOUNT WILL BE PAID TO THE MEMBER UPON COMPLETION OF THE
9 DROP PERIOD; TO PROVIDE THAT THE MEMBER MUST ELECT TO PARTICIPATE
10 IN THE PROGRAM WITHIN 12 MONTHS IMMEDIATELY FOLLOWING THE DATE
11 UPON WHICH THE MEMBER REACHED HIS OR HER NORMAL RETIREMENT DATE;
12 TO PROVIDE THAT THE DROP PERIOD MAY BE FOR ANY TIME NOT EXCEEDING
13 FIVE YEARS; TO PROVIDE THAT THE DECISION TO PARTICIPATE IN THE
14 DROP PROGRAM IS IRREVOCABLE ONCE IT IS MADE; TO PROVIDE THAT THE
15 DROP ACCOUNT FOR THE BENEFIT OF THE MEMBER SHALL BE HELD IN
16 RESERVE UNTIL THE END OF THE DROP PERIOD; TO PROVIDE THAT REGULAR
17 INTEREST SHALL BE PAID ON MONIES IN THE DROP ACCOUNT DURING THE
18 TIME THAT THE MEMBER PARTICIPATES IN THE DROP PROGRAM AND UNTIL
19 THE MONIES ARE PAID TO THE MEMBER; TO PROVIDE THAT THE MEMBER
20 SHALL RECEIVE THE ACCUMULATED MONIES IN THE DROP ACCOUNT IN
21 ADDITION TO THE REGULAR RETIREMENT ALLOWANCE AT THE END OF THE
22 DROP PERIOD; TO PROVIDE THAT ANY MEMBER PARTICIPATING IN THE DROP
23 PROGRAM SHALL NOT BE AN ACTIVE MEMBER OF THE RETIREMENT SYSTEM AND
24 SHALL NOT RECEIVE ANY CREDITABLE SERVICE FOR THE PERIOD OF
25 PARTICIPATION IN THE PROGRAM; TO AMEND SECTIONS 25-11-105,
26 25-11-109, 25-11-117 AND 25-11-127, MISSISSIPPI CODE OF 1972, IN
27 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

29 **SECTION 1.** (1) There is established a Deferred Retirement
30 Option Program (DROP) for members of the Public Employees'
31 Retirement System which shall be administered by the board of
32 trustees of the retirement system. The DROP program will allow
33 any eligible member of the retirement system to retire and
34 continue working as a public employee for any period selected by
35 the person not exceeding five (5) years. The eligible member
36 shall receive his or her regular salary during the selected DROP
37 period and the retirement allowance he or she would have otherwise
38 received during the DROP period will be paid into an account for
39 the benefit of the member. The proceeds of the account will be

40 paid to the member upon termination of the selected DROP period.
41 This payment shall be in addition to the member's regular
42 retirement allowance which shall begin being paid directly to the
43 member at the termination of the selected DROP period.

44 (2) Members who desire to participate in the DROP program
45 must sign up for the program within twelve (12) months immediately
46 following the date upon which the member first reaches his or her
47 normal retirement date. For purposes of this section, a person's
48 normal retirement date is the date upon which the person
49 accumulates twenty-five (25) years of creditable service; however,
50 if a person reaches normal retirement age prior to age sixty (60),
51 the decision to participate may be deferred to the twelve (12)
52 months immediately following the date the member attains the age
53 of fifty-five (55). The decision to participate in the DROP
54 program is irrevocable once it is made, and a member participating
55 in the DROP program may not terminate participation before the end
56 of the selected period of participation without terminating
57 employment.

58 (3) Any eligible member who wishes to participate in the
59 DROP program shall apply to the retirement system. In the
60 application, the member must select a period of participation of
61 one (1) to five (5) years, which period shall be irrevocable once
62 it is made. Participation in the DROP program shall begin on the
63 first day of the month following the month in which the member's
64 application is approved by the board of trustees of the retirement
65 system.

66 (4) During the time that a member participates in the DROP
67 program, the member shall receive the regular salary for his or
68 her position, and the retirement system shall deposit monthly into
69 a DROP account for the benefit of the member the retirement
70 allowance that the member would have received if the member had
71 retired and not participated in the DROP program. The DROP
72 account shall be held in reserve until the end of the period of

73 participation in the DROP program, and regular interest shall be
74 paid on the monies in the DROP account during the time that the
75 member participates in the DROP program and until the monies are
76 paid to the member. At the end of the period that the member
77 participates in the DROP program, the member shall receive the
78 accumulated monies in the DROP account, including all interest
79 earned on the account, in a lump sum or in monthly installment
80 payments, as selected by the member. In addition, the member
81 shall receive his or her regular retirement allowance under
82 Section 25-11-111. The monies in the DROP account shall not be
83 considered to be part of the member's regular retirement
84 allowance; however, if the member chooses to have the monies in
85 the DROP account paid in monthly installment payments, those
86 monies shall be paid to the member at the same time as the regular
87 retirement allowance.

88 (5) Any member participating in the DROP program shall not
89 be an active member of the retirement system and shall not receive
90 any creditable service for the period during which he or she
91 participates in the program. In addition, the salary earned by
92 the member while participating in the DROP program shall not be
93 part of the member's earned compensation for the purposes of the
94 retirement system and shall not be part of the member's average
95 compensation used to calculate the member's retirement allowance.

96 (6) The board of trustees of the retirement system may adopt
97 rules and regulations as necessary for the implementation of the
98 DROP program established under this section.

99 (7) The definitions in Section 25-11-103 shall be applicable
100 to the terms used in this section.

101 **SECTION 2.** Section 25-11-105, Mississippi Code of 1972, is
102 amended as follows:

103 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

104 The membership of this retirement system shall be composed as
105 follows:

106 (a) (i) All persons who become employees in the state
107 service after January 31, 1953, and whose wages are subject to
108 payroll taxes and are lawfully reported on IRS Form W-2, except
109 those specifically excluded, or as to whom election is provided in
110 Articles 1 and 3, and those persons who are participating in the
111 Deferred Retirement Option Program established under Section 1 of
112 Senate Bill No. 2310, 2005 Regular Session, shall become members
113 of the retirement system as a condition of their employment.

114 (ii) From and after July 1, 2002, any individual
115 who is employed by a governmental entity to perform professional
116 services shall become a member of the system if the individual is
117 paid regular periodic compensation for those services that is
118 subject to payroll taxes, is provided all other employee benefits
119 and meets the membership criteria established by the regulations
120 adopted by the board of trustees that apply to all other members
121 of the system; however, any active member employed in such a
122 position on July 1, 2002, will continue to be an active member for
123 as long as they are employed in any such position.

124 (b) All persons who become employees in the state
125 service after January 31, 1953, except those specifically excluded
126 or as to whom election is provided in Articles 1 and 3, unless
127 they file with the board before the lapse of sixty (60) days of
128 employment or sixty (60) days after the effective date of the
129 cited articles, whichever is later, on a form prescribed by the
130 board, a notice of election not to be covered by the membership of
131 the retirement system and a duly executed waiver of all present
132 and prospective benefits that would otherwise inure to them on
133 account of their participation in the system, shall become members
134 of the retirement system; however, no credit for prior service
135 will be granted to members until they have contributed to Article
136 3 of the retirement system for a minimum period of at least four
137 (4) years. Those members shall receive credit for services
138 performed before January 1, 1953, in employment now covered by

139 Article 3, but no credit shall be granted for retroactive services
140 between January 1, 1953, and the date of their entry into the
141 retirement system, unless the employee pays into the retirement
142 system both the employer's and the employee's contributions on
143 wages paid him during the period from January 31, 1953, to the
144 date of his becoming a contributing member, together with interest
145 at the rate determined by the board of trustees. Members
146 reentering after withdrawal from service shall qualify for prior
147 service under the provisions of Section 25-11-117. From and after
148 July 1, 1998, upon eligibility as noted above, the member may
149 receive credit for such retroactive service provided:

150 (1) The member shall furnish proof satisfactory to
151 the board of trustees of certification of that service from the
152 covered employer where the services were performed; and

153 (2) The member shall pay to the retirement system
154 on the date he or she is eligible for that credit or at any time
155 thereafter before the date of retirement the actuarial cost for
156 each year of that creditable service. The provisions of this
157 subparagraph (2) shall be subject to the limitations of Section
158 415 of the Internal Revenue Code and regulations promulgated under
159 Section 415.

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

164 (c) All persons who become employees in the state
165 service after January 31, 1953, and who are eligible for
166 membership in any other retirement system shall become members of
167 this retirement system as a condition of their employment, unless
168 they elect at the time of their employment to become a member of
169 that other system.

170 (d) All persons who are employees in the state service
171 on January 31, 1953, and who are members of any nonfunded

172 retirement system operated by the State of Mississippi, or any of
173 its departments or agencies, shall become members of this system
174 with prior service credit unless, before February 1, 1953, they
175 file a written notice with the board of trustees that they do not
176 elect to become members.

177 (e) All persons who are employees in the state service
178 on January 31, 1953, and who under existing laws are members of
179 any fund operated for the retirement of employees by the State of
180 Mississippi, or any of its departments or agencies, shall not be
181 entitled to membership in this retirement system unless, before
182 February 1, 1953, any such person indicates by a notice filed with
183 the board, on a form prescribed by the board, his individual
184 election and choice to participate in this system, but no such
185 person shall receive prior service credit unless he becomes a
186 member on or before February 1, 1953.

187 (f) Each political subdivision of the state and each
188 instrumentality of the state or a political subdivision, or both,
189 is authorized to submit, for approval by the board of trustees, a
190 plan for extending the benefits of this article to employees of
191 any such political subdivision or instrumentality. Each such plan
192 or any amendment to the plan for extending benefits thereof shall
193 be approved by the board of trustees if it finds that the plan, or
194 the plan as amended, is in conformity with such requirements as
195 are provided in Articles 1 and 3; however, upon approval of the
196 plan or any such plan previously approved by the board of
197 trustees, the approved plan shall not be subject to cancellation
198 or termination by the political subdivision or instrumentality,
199 except that any community hospital serving a municipality that
200 joined the Public Employees' Retirement System as of November 1,
201 1956, to offer social security coverage for its employees and
202 subsequently extended retirement annuity coverage to its employees
203 as of December 1, 1965, may, upon documentation of extreme
204 financial hardship, have future retirement annuity coverage

205 cancelled or terminated at the discretion of the board of
206 trustees. No such plan shall be approved unless:

207 (1) It provides that all services that constitute
208 employment as defined in Section 25-11-5 and are performed in the
209 employ of the political subdivision or instrumentality, by any
210 employees thereof, shall be covered by the plan, with the
211 exception of municipal employees who are already covered by
212 existing retirement plans; however, those employees in this class
213 may elect to come under the provisions of this article;

214 (2) It specifies the source or sources from which
215 the funds necessary to make the payments required by paragraph (d)
216 of Section 25-11-123 and of paragraph (f)(5)B and C of this
217 section are expected to be derived and contains reasonable
218 assurance that those sources will be adequate for that purpose;

219 (3) It provides for such methods of administration
220 of the plan by the political subdivision or instrumentality as are
221 found by the board of trustees to be necessary for the proper and
222 efficient administration thereof;

223 (4) It provides that the political subdivision or
224 instrumentality will make such reports, in such form and
225 containing such information, as the board of trustees may from
226 time to time require;

227 (5) It authorizes the board of trustees to
228 terminate the plan in its entirety in the discretion of the board
229 if it finds that there has been a failure to comply substantially
230 with any provision contained in the plan, the termination to take
231 effect at the expiration of such notice and on such conditions as
232 may be provided by regulations of the board and as may be
233 consistent with applicable federal law.

234 A. The board of trustees shall not finally
235 refuse to approve a plan submitted under paragraph (f), and shall
236 not terminate an approved plan without reasonable notice and
237 opportunity for hearing to each political subdivision or

238 instrumentality affected by the board's decision. The board's
239 decision in any such case shall be final, conclusive and binding
240 unless an appeal is taken by the political subdivision or
241 instrumentality aggrieved by the decision to the Circuit Court of
242 Hinds County, Mississippi, in accordance with the provisions of
243 law with respect to civil causes by certiorari.

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

251 C. Every political subdivision or
252 instrumentality required to make payments under paragraph (f)(5)B
253 of this section is authorized, in consideration of the employees'
254 retention in or entry upon employment after enactment of Articles
255 1 and 3, to impose upon its employees, as to services that are
256 covered by an approved plan, a contribution with respect to wages
257 (as defined in Section 25-11-5) not exceeding the amount provided
258 in Section 25-11-123(d) if those services constituted employment
259 within the meaning of Articles 1 and 3, and to deduct the amount
260 of the contribution from the wages as and when paid.

261 Contributions so collected shall be paid into the contribution
262 fund as partial discharge of the liability of the political
263 subdivisions or instrumentalities under paragraph (f)(5)B of this
264 section. Failure to deduct the contribution shall not relieve the
265 employee or employer of liability for the contribution.

266 D. Any state agency, school, political
267 subdivision, instrumentality or any employer that is required to
268 submit contribution payments or wage reports under any section of
269 this chapter shall be assessed interest on delinquent payments or
270 wage reports as determined by the board of trustees in accordance

271 with rules and regulations adopted by the board and delinquent
272 payments, assessed interest and any other amount certified by the
273 board as owed by an employer, may be recovered by action in a
274 court of competent jurisdiction against the reporting agency
275 liable therefor or may, upon due certification of delinquency and
276 at the request of the board of trustees, be deducted from any
277 other monies payable to the reporting agency by any department or
278 agency of the state.

279 E. Each political subdivision of the state
280 and each instrumentality of the state or a political subdivision
281 or subdivisions that submit a plan for approval of the board, as
282 provided in this section, shall reimburse the board for coverage
283 into the expense account, its pro rata share of the total expense
284 of administering Articles 1 and 3 as provided by regulations of
285 the board.

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

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

298 (i) If any member of this system changes his employment
299 to any agency of the state having an actuarially funded retirement
300 system, the board of trustees may authorize the transfer of the
301 member's creditable service and of the present value of the
302 member's employer's accumulation account and of the present value
303 of the member's accumulated membership contributions to that other

304 system, provided that the employee agrees to the transfer of his
305 accumulated membership contributions and provided that the other
306 system is authorized to receive and agrees to make the transfer.

307 If any member of any other actuarially funded system
308 maintained by an agency of the state changes his employment to an
309 agency covered by this system, the board of trustees may authorize
310 the receipt of the transfer of the member's creditable service and
311 of the present value of the member's employer's accumulation
312 account and of the present value of the member's accumulated
313 membership contributions from the other system, provided that the
314 employee agrees to the transfer of his accumulated membership
315 contributions to this system and provided that the other system is
316 authorized and agrees to make the transfer.

317 (j) Wherever state employment is referred to in this
318 section, it includes joint employment by state and federal
319 agencies of all kinds.

320 (k) Employees of a political subdivision or
321 instrumentality who were employed by the political subdivision or
322 instrumentality before an agreement between the entity and the
323 Public Employees' Retirement System to extend the benefits of this
324 article to its employees, and which agreement provides for the
325 establishment of retroactive service credit, and who have been
326 members of the retirement system and have remained contributors to
327 the retirement system for four (4) years, may receive credit for
328 that retroactive service with the political subdivision or
329 instrumentality, provided that the employee and/or employer, as
330 provided under the terms of the modification of the joinder
331 agreement in allowing that coverage, pay into the retirement
332 system the employer's and employee's contributions on wages paid
333 the member during the previous employment, together with interest
334 or actuarial cost as determined by the board covering the period
335 from the date the service was rendered until the payment for the
336 credit for the service was made. Those wages shall be verified by

337 the Social Security Administration or employer payroll records.
338 Effective July 1, 1998, upon eligibility as noted above, a member
339 may receive credit for that retroactive service with the political
340 subdivision or instrumentality provided:

341 (1) The member shall furnish proof satisfactory to
342 the board of trustees of certification of those services from the
343 political subdivision or instrumentality where the services were
344 rendered or verification by the Social Security Administration;
345 and

346 (2) The member shall pay to the retirement system
347 on the date he or she is eligible for that credit or at any time
348 thereafter before the date of retirement the actuarial cost for
349 each year of that creditable service. The provisions of this
350 subparagraph (2) shall be subject to the limitations of Section
351 415 of the Internal Revenue Code and regulations promulgated under
352 Section 415.

353 Nothing contained in this paragraph (k) shall be construed to
354 limit the authority of the board to allow the correction of
355 reporting errors or omissions based on the payment of employee and
356 employer contributions plus applicable interest. Payment for that
357 time shall be made in increments of not less than one-quarter
358 (1/4) year of creditable service beginning with the most recent
359 service. Upon the payment of all or part of the required
360 contributions, plus interest or the actuarial cost as provided
361 above, the member shall receive credit for the period of
362 creditable service for which full payment has been made to the
363 retirement system.

364 (1) Through June 30, 1998, any state service eligible
365 for retroactive service credit, no part of which has ever been
366 reported, and requiring the payment of employee and employer
367 contributions plus interest, or, from and after July 1, 1998, any
368 state service eligible for retroactive service credit, no part of
369 which has ever been reported to the retirement system, and

370 requiring the payment of the actuarial cost for that creditable
371 service, may, at the member's option, be purchased in quarterly
372 increments as provided above at the time that its purchase is
373 otherwise allowed.

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

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

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

381 (a) Patient or inmate help in state charitable, penal
382 or correctional institutions;

383 (b) Students of any state educational institution
384 employed by any agency of the state for temporary, part-time or
385 intermittent work;

386 (c) Participants of Comprehensive Employment and
387 Training Act of 1973 (CETA) being Public Law 93-203, who enroll on
388 or after July 1, 1979;

389 (d) From and after July 1, 2002, individuals who are
390 employed by a governmental entity to perform professional service
391 on less than a full-time basis who do not meet the criteria
392 established in I(a)(ii) of this section.

393 **III. TERMINATION OF MEMBERSHIP**

394 Membership in this system shall cease by a member withdrawing
395 his accumulated contributions, or by a member withdrawing from
396 active service with a retirement allowance, or by a member's
397 death.

398 **SECTION 3.** Section 25-11-109, Mississippi Code of 1972, is
399 amended as follows:

400 25-11-109. (1) Under such rules and regulations as the
401 board of trustees shall adopt, each person who becomes a member of
402 this retirement system, as provided in Section 25-11-105, on or

403 prior to July 1, 1953, or who becomes a member and contributes to
404 the system for a minimum period of four (4) years, shall receive
405 credit for all state service rendered before February 1, 1953. To
406 receive such credit, such member shall file a detailed statement
407 of all services as an employee rendered by him in the state
408 service before February 1, 1953. For any member who joined the
409 system after July 1, 1953, any creditable service for which the
410 member is not required to make contributions shall not be credited
411 to the member until the member has contributed to the system for a
412 minimum period of at least four (4) years.

413 (2) In the computation of membership service or prior
414 service under the provisions of this article, the total months of
415 accumulative service during any fiscal year shall be calculated in
416 accordance with the schedule as follows: ten (10) or more months
417 of creditable service during any fiscal year shall constitute a
418 year of creditable service; seven (7) months to nine (9) months
419 inclusive, three-quarters (3/4) of a year of creditable service;
420 four (4) months to six (6) months inclusive, one-half-year of
421 creditable service; one (1) month to three (3) months inclusive,
422 one-quarter (1/4) of a year of creditable service. In no case
423 shall credit be allowed for any period of absence without
424 compensation except for disability while in receipt of a
425 disability retirement allowance, nor shall less than fifteen (15)
426 days of service in any month, or service less than the equivalent
427 of one-half (1/2) of the normal working load for the position and
428 less than one-half (1/2) of the normal compensation for the
429 position in any month, constitute a month of creditable service,
430 nor shall more than one (1) year of service be creditable for all
431 services rendered in any one (1) fiscal year; however, for a
432 school employee, substantial completion of the legal school term
433 when and where the service was rendered shall constitute a year of
434 service credit for both prior service and membership service. Any
435 state or local elected official shall be deemed a full-time

436 employee for the purpose of creditable service for prior service
437 or membership service. However, an appointed or elected official
438 compensated on a per diem basis only shall not be allowed
439 creditable service for terms of office.

440 In the computation of any retirement allowance or any annuity
441 or benefits provided in this article, any fractional period of
442 service of less than one (1) year shall be taken into account and
443 a proportionate amount of such retirement allowance, annuity or
444 benefit shall be granted for any such fractional period of
445 service.

446 In the computation of unused leave for creditable service
447 authorized in Section 25-11-103, the following shall govern:
448 twenty-one (21) days of unused leave shall constitute one (1)
449 month of creditable service and in no case shall credit be allowed
450 for any period of unused leave of less than fifteen (15) days.
451 The number of months of unused leave shall determine the number of
452 quarters or years of creditable service in accordance with the
453 above schedule for membership and prior service. In order for the
454 member to receive creditable service for the number of days of
455 unused leave, the system must receive certification from the
456 governing authority.

457 For the purpose of this subsection, for members of the system
458 who are elected officers and who retire on or after July 1, 1987,
459 the following shall govern:

460 (a) For service prior to July 1, 1984, the members
461 shall receive credit for leave (combined personal and major
462 medical) for service as an elected official prior to that date at
463 the rate of thirty (30) days per year.

464 (b) For service on and after July 1, 1984, the member
465 shall receive credit for personal and major medical leave
466 beginning July 1, 1984, at the rates authorized in Sections
467 25-3-93 and 25-3-95, computed as a full-time employee.

468 (3) Subject to the above restrictions and to such other
469 rules and regulations as the board may adopt, the board shall
470 verify, as soon as practicable after the filing of such statements
471 of service, the services therein claimed.

472 (4) Upon verification of the statement of prior service, the
473 board shall issue a prior service certificate certifying to each
474 member the length of prior service for which credit shall have
475 been allowed on the basis of his statement of service. So long as
476 membership continues, a prior service certificate shall be final
477 and conclusive for retirement purposes as to such service,
478 provided that any member may within five (5) years from the date
479 of issuance or modification of such certificate request the board
480 of trustees to modify or correct his prior service certificate.
481 Any modification or correction authorized shall only apply
482 prospectively.

483 When membership ceases, such prior service certificates shall
484 become void. Should the employee again become a member, he shall
485 enter the system as an employee not entitled to prior service
486 credit except as provided in Sections 25-11-105(I), 25-11-113 and
487 25-11-117.

488 (5) Creditable service at retirement, on which the
489 retirement allowance of a member shall be based, shall consist of
490 the membership service rendered by him since he last became a
491 member, and also, if he has a prior service certificate which is
492 in full force and effect, the amount of the service certified on
493 his prior service certificate. Creditable service shall not
494 consist of any service rendered while participating in the
495 Deferred Retirement Option Program established under Section 1 of
496 Senate Bill No. 2310, 2005 Regular Session.

497 (6) Any member who served on active duty in the Armed Forces
498 of the United States, who served in the Commissioned Corps of the
499 United States Public Health Service prior to 1972 or who served in
500 maritime service during periods of hostility in World War II,

501 shall be entitled to creditable service at no cost for his service
502 on active duty in the Armed Forces, in the Commissioned Corps of
503 the United States Public Health Service prior to 1972 or in such
504 maritime service, provided he entered state service after his
505 discharge from the Armed Forces or entered state service after he
506 completed such maritime service. The maximum period for such
507 creditable service for all military service as defined in this
508 subsection (6) shall not exceed four (4) years unless positive
509 proof can be furnished by such person that he was retained in the
510 Armed Forces during World War II or in maritime service during
511 World War II by causes beyond his control and without opportunity
512 of discharge. The member shall furnish proof satisfactory to the
513 board of trustees of certification of military service or maritime
514 service records showing dates of entrance into active duty service
515 and the date of discharge. From and after July 1, 1993, no
516 creditable service shall be granted for any military service or
517 maritime service to a member who qualifies for a retirement
518 allowance in another public retirement system administered by the
519 Board of Trustees of the Public Employees' Retirement System based
520 in whole or in part on such military or maritime service. In no
521 case shall the member receive creditable service if the member
522 received a dishonorable discharge from the Armed Forces of the
523 United States.

524 (7) (a) Any member of the Public Employees' Retirement
525 System whose membership service is interrupted as a result of
526 qualified military service within the meaning of Section 414(u)(5)
527 of the Internal Revenue Code, and who has received the maximum
528 service credit available under subsection (6) of this section,
529 shall receive creditable service for the period of qualified
530 military service that does not qualify as creditable service under
531 subsection (6) of this section upon reentering membership service
532 in an amount not to exceed five (5) years if:

533 (i) The member pays the contributions he would
534 have made to the retirement system if he had remained in
535 membership service for the period of qualified military service
536 based upon his salary at the time his membership service was
537 interrupted;

538 (ii) The member returns to membership service
539 within ninety (90) days of the end of his qualified military
540 service; and

541 (iii) The employer at the time the member's
542 service was interrupted and to which employment the member returns
543 pays the contributions it would have made into the retirement
544 system for such period based on the member's salary at the time
545 the service was interrupted.

546 (b) The payments required to be made in paragraph
547 (a)(i) of this subsection may be made over a period beginning with
548 the date of return to membership service and not exceeding three
549 (3) times the member's qualified military service; however, in no
550 event shall such period exceed five (5) years.

551 (c) The member shall furnish proof satisfactory to the
552 board of trustees of certification of military service showing
553 dates of entrance into qualified service and the date of discharge
554 as well as proof that the member has returned to active employment
555 within the time specified.

556 (8) Any member of the Public Employees' Retirement System
557 who has at least four (4) years of membership service credit shall
558 be entitled to receive a maximum of five (5) years creditable
559 service for service rendered in another state as a public employee
560 of such other state, or a political subdivision, public education
561 system or other governmental instrumentality thereof, or service
562 rendered as a teacher in American overseas dependent schools
563 conducted by the Armed Forces of the United States for children of
564 citizens of the United States residing in areas outside the
565 continental United States, provided that:

566 (a) The member shall furnish proof satisfactory to the
567 board of trustees of certification of such services from the
568 state, public education system, political subdivision or
569 retirement system of the state where the services were performed
570 or the governing entity of the American overseas dependent school
571 where the services were performed; and

572 (b) The member is not receiving or will not be entitled
573 to receive from the public retirement system of the other state or
574 from any other retirement plan, including optional retirement
575 plans, sponsored by the employer, a retirement allowance including
576 such services; and

577 (c) The member shall pay to the retirement system on
578 the date he or she is eligible for credit for such out-of-state
579 service or at any time thereafter prior to date of retirement the
580 actuarial cost as determined by the actuary for each year of
581 out-of-state creditable service. The provisions of this
582 subsection are subject to the limitations of Section 415 of the
583 Internal Revenue Code and regulations promulgated thereunder.

584 (9) Any member of the Public Employees' Retirement System
585 who has at least four (4) years of membership service credit and
586 who receives, or has received, professional leave without
587 compensation for professional purposes directly related to the
588 employment in state service shall receive creditable service for
589 the period of professional leave without compensation provided:

590 (a) The professional leave is performed with a public
591 institution or public agency of this state, or another state or
592 federal agency;

593 (b) The employer approves the professional leave
594 showing the reason for granting the leave and makes a
595 determination that the professional leave will benefit the
596 employee and employer;

597 (c) Such professional leave shall not exceed two (2)
598 years during any ten-year period of state service;

599 (d) The employee shall serve the employer on a
600 full-time basis for a period of time equivalent to the
601 professional leave period granted immediately following the
602 termination of the leave period;

603 (e) The contributing member shall pay to the retirement
604 system the actuarial cost as determined by the actuary for each
605 year of professional leave. The provisions of this subsection are
606 subject to the regulations of the Internal Revenue Code
607 limitations;

608 (f) Such other rules and regulations consistent
609 herewith as the board may adopt and in case of question, the board
610 shall have final power to decide the questions.

611 Any actively contributing member participating in the School
612 Administrator Sabbatical Program established in Section 37-9-77
613 shall qualify for continued participation under this subsection
614 (9).

615 (10) Any member of the Public Employees' Retirement System
616 who has at least four (4) years of credited membership service
617 shall be entitled to receive a maximum of ten (10) years
618 creditable service for:

619 (a) Any service rendered as an employee of any
620 political subdivision of this state, or any instrumentality
621 thereof, which does not participate in the Public Employees'
622 Retirement System; or

623 (b) Any service rendered as an employee of any
624 political subdivision of this state, or any instrumentality
625 thereof, which participates in the Public Employees' Retirement
626 System but did not elect retroactive coverage; or

627 (c) Any service rendered as an employee of any
628 political subdivision of this state, or any instrumentality
629 thereof, for which coverage of the employee's position was or is
630 excluded; provided that the member pays into the retirement system
631 the actuarial cost as determined by the actuary for each year, or

632 portion thereof, of such service. Payment for such service may be
633 made in increments of one-quarter-year of creditable service.
634 After a member has made full payment to the retirement system for
635 all or any part of such service, the member shall receive
636 creditable service for the period of such service for which full
637 payment has been made to the retirement system.

638 **SECTION 4.** Section 25-11-117, Mississippi Code of 1972, is
639 amended as follows:

640 25-11-117. (1) A member may be paid a refund of the amount
641 of accumulated contributions to the credit of the member in the
642 annuity savings account, provided that the member has withdrawn
643 from state service and has not returned to state service on the
644 date the refund of the accumulated contributions would be paid.
645 That refund of the contributions to the credit of the member in
646 the annuity savings account shall be paid within ninety (90) days
647 from receipt in the office of the retirement system of the
648 properly completed form requesting the payment. In the event of
649 death before retirement of any member whose spouse and/or children
650 are not entitled to a retirement allowance, the accumulated
651 contributions to the credit of the deceased member in the annuity
652 savings account and any Deferred Retirement Option Plan account
653 shall be paid to the designated beneficiary on file in writing in
654 the office of the executive director of the board of trustees
655 within ninety (90) days from receipt of a properly completed form
656 requesting the payment. If there is no such designated
657 beneficiary on file for the deceased member in the office of the
658 system, upon the filing of a proper request with the board, the
659 contributions to the credit of the deceased member in the annuity
660 savings account and any Deferred Retirement Option Plan account
661 shall be refunded pursuant to Section 25-11-117.1(1). The payment
662 of the refund shall discharge all obligations of the retirement
663 system to the member on account of any creditable service rendered
664 by the member prior to the receipt of the refund. By the

665 acceptance of the refund, the member shall waive and relinquish
666 all accrued rights in the system.

667 (2) Under the Unemployment Compensation Amendments of 1992
668 (Public Law 102-318 (UCA)), a member or the spouse of a member who
669 is an eligible beneficiary entitled to a refund under this section
670 may elect, on a form prescribed by the board under rules and
671 regulations established by the board, to have an eligible rollover
672 distribution of accumulated contributions payable under this
673 section paid directly to an eligible retirement plan, as defined
674 under applicable federal law, or an individual retirement account.
675 If the member or the spouse of a member who is an eligible
676 beneficiary makes that election and specifies the eligible
677 retirement plan or individual retirement account to which the
678 distribution is to be paid, the distribution will be made in the
679 form of a direct trustee-to-trustee transfer to the specified
680 eligible retirement plan. Flexible rollovers under this
681 subsection shall not be considered assignments under Section
682 25-11-129.

683 (3) If any person who has received a refund reenters the
684 state service and again becomes a member of the system, the member
685 may repay all or part of the amounts previously received as a
686 refund, together with regular interest covering the period from
687 the date of refund to the date of repayment; however, the amounts
688 that are repaid by the member and the creditable service related
689 thereto shall not be used in any benefit calculation or
690 determination until the member has remained a contributor to the
691 system for a period of at least four (4) years after the member's
692 reentry into state service. Repayment for that time shall be made
693 in increments of not less than one-quarter (1/4) year of
694 creditable service beginning with the most recent service for
695 which refund has been made. Upon the repayment of all or part of
696 that refund and interest, the member shall again receive credit

697 for the period of creditable service for which full repayment has
698 been made to the system.

699 (4) (a) In order to provide a source of income to members
700 who have applied for disability benefits under Section 25-11-113
701 or 25-11-114, the board may provide, at the employee's election, a
702 temporary benefit to be paid from the member's accumulated
703 contributions, if any, without forfeiting the right to pursue
704 disability benefits, provided that the member has exhausted all
705 personal and medical leave and has terminated his or her
706 employment. The board may prescribe rules and regulations for
707 carrying out the provisions of this subsection (4).

708 (b) If a member who has elected to receive temporary
709 benefits under this subsection later applies for a refund of his
710 or her accumulated contributions, all amounts paid under this
711 subsection shall be deducted from the accumulated contributions
712 and the balance will be paid to the member. If a member who has
713 elected to receive temporary benefits under this subsection is
714 later approved for a disability retirement allowance, and a
715 service retirement allowance or survivor benefits are paid on the
716 account, the board shall adjust the benefits in such a manner that
717 no more than the actuarial equivalent of the benefits to which the
718 member or beneficiary was or is entitled shall be paid.

719 (c) The board may study, develop and propose a
720 disability benefit structure, including short and long term
721 disability benefits, provided that it is the actuarial equivalent
722 of the benefits currently provided in Section 25-11-113 or
723 25-11-114.

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

726 25-11-127. (1) (a) No person who is being paid a
727 retirement allowance or a pension after retirement under this
728 article shall be employed or paid for any service by the State of
729 Mississippi, except as provided in this section, unless the person

730 is a participant in the Deferred Retirement Option Program
731 established under Section 1 of Senate Bill No. 2310, 2005 Regular
732 Session, in which case Section 1 of Senate Bill No. 2310, 2005
733 Regular Session, shall also apply.

734 (b) No retiree of this retirement system who is
735 reemployed or is reelected to office after retirement shall
736 continue to draw retirement benefits while so reemployed, except
737 as provided in this section.

738 (c) No person employed or elected under the exceptions
739 provided for in this section shall become a member under Article 3
740 of the retirement system.

741 (2) Any person who has been retired under the provisions of
742 Article 3 and who is later reemployed in service covered by this
743 article shall cease to receive benefits under this article and
744 shall again become a contributing member of the retirement system.
745 When the person retires again, if the reemployment exceeds six (6)
746 months, the person shall have his or her benefit recomputed,
747 including service after again becoming a member, provided that the
748 total retirement allowance paid to the retired member in his or
749 her previous retirement shall be deducted from the member's
750 retirement reserve and taken into consideration in recalculating
751 the retirement allowance under a new option selected.

752 (3) The board shall have the right to prescribe rules and
753 regulations for carrying out the provisions of this section.

754 (4) The provisions of this section shall not be construed to
755 prohibit any retiree, regardless of age, from being employed and
756 drawing a retirement allowance either:

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

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

765 To determine the normal working days for a position under
766 paragraph (a) of this subsection, the employer shall determine the
767 required number of working days for the position on a full-time
768 basis and the equivalent number of hours representing the
769 full-time position. The retiree then may work up to one-half
770 (1/2) of the required number of working days or up to one-half
771 (1/2) of the equivalent number of hours and receive up to one-half
772 (1/2) of the salary for the position. In the case of employment
773 with multiple employers, the limitation shall equal one-half (1/2)
774 of the number of days or hours for a single full-time position.

775 Notice shall be given in writing to the executive director,
776 setting forth the facts upon which the employment is being made,
777 and the notice shall be given within five (5) days from the date
778 of employment and also from the date of termination of the
779 employment.

780 (5) Any member may continue in municipal or county elected
781 office or be elected to a municipal or county office, provided
782 that the person:

783 (a) Files annually, in writing, in the office of the
784 employer and the office of the executive director of the system
785 before the person takes office or as soon as possible after
786 retirement, a waiver of all salary or compensation and elects to
787 receive in lieu of that salary or compensation a retirement
788 allowance as provided in this section, in which event no salary or
789 compensation shall thereafter be due or payable for those
790 services; however, any such officer or employee may receive, in
791 addition to the retirement allowance, office expense allowance,
792 mileage or travel expense authorized by any statute of the State
793 of Mississippi; or

794 (b) Elects to receive compensation for that elective
795 office in an amount not to exceed twenty-five percent (25%) of the
796 retiree's average compensation. As used in this paragraph, the
797 term "compensation" shall not include office expense allowance,
798 mileage or travel expense authorized by a statute of the State of
799 Mississippi. In order to receive compensation as allowed in this
800 paragraph, the member shall file annually, in writing, in the
801 office of the employer and the office of the executive director of
802 the system, an election to receive, in addition to a retirement
803 allowance, compensation as allowed in this paragraph.

804 **SECTION 6.** This act shall take effect and be in force from
805 and after July 1, 2005.