

By: Gadd, Stringer

To: Appropriations

HOUSE BILL NO. 1443

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 THE ACCOUNT WILL BE PAID TO THE MEMBER UPON COMPLETION OF THE DROP
9 PERIOD; TO PROVIDE THAT THE MEMBER MUST ELECT TO PARTICIPATE IN
10 THE PROGRAM WITHIN 12 MONTHS IMMEDIATELY FOLLOWING THE DATE UPON
11 WHICH THE MEMBER REACHED HIS OR HER NORMAL RETIREMENT DATE; TO
12 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; AN ACT TO AMEND SECTIONS 25-11-105,
26 25-11-109, 25-11-117 AND 25-11-127, MISSISSIPPI CODE OF 1972, IN
27 CONFORMITY TO THE PROVISIONS OF THIS ACT; TO BRING FORWARD SECTION
28 25-11-112, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR AN
29 ADDITIONAL ANNUAL PAYMENT FOR MEMBERS OF THE PUBLIC EMPLOYEES'
30 RETIREMENT SYSTEM; TO BRING FORWARD SECTION 25-11-115, MISSISSIPPI
31 CODE OF 1972, WHICH AUTHORIZES RETIREMENT ALLOWANCE PAYMENT
32 OPTIONS FOR MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM;
33 AND FOR RELATED PURPOSES.

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

35 SECTION 1. (1) There is established a Deferred Retirement
36 Option Program (DROP) for members of the Public Employees'
37 Retirement System, which shall be administered by the board of
38 trustees of the retirement system. The DROP program will allow
39 any eligible member of the retirement system to retire and
40 continue working as a public employee for any period selected by
41 the person not exceeding five (5) years. The eligible member

42 shall receive his or her regular salary during the selected DROP
43 period and the retirement allowance he or she would have otherwise
44 received during the DROP period will be paid into an account for
45 the benefit of the member. The proceeds of the account will be
46 paid to the member upon termination of the selected DROP period.
47 This payment shall be in addition to the member's regular
48 retirement allowance, which shall begin being paid directly to the
49 member at the termination of the selected DROP period.

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

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

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

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

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

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

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

107 SECTION 2. Section 25-11-105, Mississippi Code of 1972, is
108 amended as follows:[WAN1]

109 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

110 The membership of this retirement system shall be composed as
111 follows:

112 (a) All persons who shall become employees in the state
113 service after January 31, 1953, and whose wages are subject to
114 payroll taxes and are lawfully reported on IRS Form W-2, except
115 (i) those persons who are specifically excluded, (ii) those
116 persons to whom election is provided in Articles 1 and 3, and
117 (iii) those persons who are participating in the Deferred
118 Retirement Option Program established under Section 1 this act,
119 shall become members of the retirement system as a condition of
120 their employment.

121 (b) All persons who shall become employees in the state
122 service after January 31, 1953, except those specifically excluded
123 or as to whom election is provided in Articles 1 and 3, unless
124 they shall file with the board prior to the lapse of sixty (60)
125 days of employment or sixty (60) days after the effective date of
126 the cited articles, whichever is later, on a form prescribed by
127 the board, a notice of election not to be covered by the
128 membership of the retirement system and a duly executed waiver of
129 all present and prospective benefits which would otherwise inure
130 to them on account of their participation in the system, shall
131 become members of the retirement system; provided, however, that
132 no credit for prior service will be granted to members until they
133 have contributed to Article 3 of the retirement system for a
134 minimum period of at least four (4) years. Such members shall
135 receive credit for services performed prior to January 1, 1953, in
136 employment now covered by Article 3, but no credit shall be
137 granted for retroactive services between January 1, 1953, and the
138 date of their entry into the retirement system unless the employee
139 pays into the retirement system both the employer's and the
140 employee's contributions on wages paid him during the period from
141 January 31, 1953, to the date of his becoming a contributing
142 member, together with interest at the rate determined by the board
143 of trustees. Members reentering after withdrawal from service
144 shall qualify for prior service under the provisions of Section

145 25-11-117. From and after July 1, 1998, upon eligibility as noted
146 above, the member may receive credit for such retroactive service
147 provided:

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

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

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

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

168 (d) All persons who are employees in the state service
169 on January 31, 1953, and who are members of any nonfunded
170 retirement system operated by the State of Mississippi, or any of
171 its departments or agencies, shall become members of this system
172 with prior service credit unless, before February 1, 1953, they
173 shall file a written notice with the board of trustees that they
174 do not elect to become members.

175 (e) All persons who are employees in the state service
176 on January 31, 1953, and who under existing laws are members of
177 any fund operated for the retirement of employees by the State of

178 Mississippi, or any of its departments or agencies, shall not be
179 entitled to membership in this retirement system unless, before
180 February 1, 1953, any such person shall indicate by a notice filed
181 with the board, on a form prescribed by the board, his individual
182 election and choice to participate in this system, but no such
183 person shall receive prior service credit unless he becomes a
184 member on or before February 1, 1953.

185 (f) Each political subdivision of the state and each
186 instrumentality of the state or a political subdivision, or both,
187 is hereby authorized to submit, for approval by the board of
188 trustees, a plan for extending the benefits of this article to
189 employees of any such political subdivision or instrumentality.
190 Each such plan or any amendment to the plan for extending benefits
191 thereof shall be approved by the board of trustees if it finds
192 that such plan, or such plan as amended, is in conformity with
193 such requirements as are provided in Articles 1 and 3; however,
194 upon approval of such plan or any such plan heretofore approved by
195 the board of trustees, the approved plan shall not be subject to
196 cancellation or termination by the political subdivision or
197 instrumentality. No such plan shall be approved unless:

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

205 (2) It specifies the source or sources from which
206 the funds necessary to make the payments required by subsection
207 (d) of Section 25-11-123 and of subsections (f)(5)b and c of this
208 section are expected to be derived and contains reasonable
209 assurance that such sources will be adequate for such purpose;

210 (3) It provides for such methods of administration

211 of the plan by the political subdivision or instrumentality as are
212 found by the board of trustees to be necessary for the proper and
213 efficient administration thereof;

214 (4) It provides that the political subdivision or
215 instrumentality will make such reports, in such form and
216 containing such information, as the board of trustees may from
217 time to time require;

218 (5) It authorizes the board of trustees to
219 terminate the plan in its entirety in the discretion of the board
220 if it finds that there has been a failure to comply substantially
221 with any provision contained in such plan, such termination to
222 take effect at the expiration of such notice and on such
223 conditions as may be provided by regulations of the board and as
224 may be consistent with applicable federal law.

225 A. The board of trustees shall not finally
226 refuse to approve a plan submitted under subsection (f), and shall
227 not terminate an approved plan without reasonable notice and
228 opportunity for hearing to each political subdivision or
229 instrumentality affected thereby. The board's decision in any
230 such case shall be final, conclusive and binding unless an appeal
231 be taken by the political subdivision or instrumentality aggrieved
232 thereby to the Circuit Court of Hinds County, Mississippi, in
233 accordance with the provisions of law with respect to civil causes
234 by certiorari.

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

242 C. Every political subdivision or
243 instrumentality required to make payments under subsection (f)(5)b

244 hereof is authorized, in consideration of the employees' retention
245 in or entry upon employment after enactment of Articles 1 and 3,
246 to impose upon its employees, as to services which are covered by
247 an approved plan, a contribution with respect to wages (as defined
248 in Section 25-11-5) not exceeding the amount provided in Section
249 25-11-123(d) if such services constituted employment within the
250 meaning of Articles 1 and 3, and to deduct the amount of such
251 contribution from the wages as and when paid. Contributions so
252 collected shall be paid into the contribution fund as partial
253 discharge of the liability of such political subdivisions or
254 instrumentality under subsection (f)(5)b hereof. Failure to
255 deduct such contribution shall not relieve the employee or
256 employer of liability thereof.

257 D. Any state agency, school, political
258 subdivision, instrumentality or any employer that is required to
259 submit contribution payments or wage reports under any section of
260 this chapter shall be assessed interest on delinquent payments or
261 wage reports as determined by the board of trustees in accordance
262 with rules and regulations adopted by the board and such assessed
263 interest may be recovered by action in a court of competent
264 jurisdiction against such reporting agency liable therefor or may,
265 upon due certification of delinquency and at the request of the
266 board of trustees, be deducted from any other monies payable to
267 such reporting agency by any department or agency of the state.

268 E. Each political subdivision of the state
269 and each instrumentality of the state or a political subdivision
270 or subdivisions which submits a plan for approval of the board, as
271 provided in this section, shall reimburse the board for coverage
272 into the expense account, its pro rate share of the total expense
273 of administering Articles 1 and 3 as provided by regulations of
274 said board.

275 (g) The board may, in its discretion, deny the right of
276 membership in this system to any class of employees whose

277 compensation is only partly paid by the state or who are occupying
278 positions on a part-time or intermittent basis. The board may, in
279 its discretion, make optional with employees in any such classes
280 their individual entrance into this system.

281 (h) An employee whose membership in this system is
282 contingent on his own election, and who elects not to become a
283 member, may thereafter apply for and be admitted to membership;
284 but no such employee shall receive prior service credit unless he
285 becomes a member prior to July 1, 1953, except as provided in
286 subsection (b).

287 (i) In the event any member of this system should
288 change his employment to any agency of the state having an
289 actuarially funded retirement system, the board of trustees may
290 authorize the transfer of the member's creditable service and of
291 the present value of the member's employer's accumulation account
292 and of the present value of the member's accumulated membership
293 contributions to such other system, provided the employee agrees
294 to the transfer of his accumulated membership contributions and
295 provided such other system is authorized to receive and agrees to
296 make such transfer.

297 In the event any member of any other actuarially funded
298 system maintained by an agency of the state changes his employment
299 to an agency covered by this system, the board of trustees may
300 authorize the receipt of the transfer of the member's creditable
301 service and of the present value of the member's employer's
302 accumulation account and of the present value of the member's
303 accumulated membership contributions from such other system,
304 provided the employee agrees to the transfer of his accumulated
305 membership contributions to this system and provided the other
306 system is authorized and agrees to make such transfer.

307 (j) Wherever herein state employment is referred to, it
308 shall include joint employment by state and federal agencies of
309 all kinds.

310 (k) Employees of a political subdivision or
311 instrumentality who were employed by such political subdivision or
312 instrumentality prior to an agreement between such entity and the
313 Public Employees' Retirement System to extend the benefits of this
314 article to its employees, and which agreement provides for the
315 establishment of retroactive service credit, and who have been
316 members of the retirement system and have remained contributors to
317 the retirement system for four (4) years, may receive credit for
318 such retroactive service with such political subdivision or
319 instrumentality, provided the employee and/or employer, as
320 provided under the terms of the modification of the joinder
321 agreement in allowing such coverage, pay into the retirement
322 system the employer's and employee's contributions on wages paid
323 the member during such previous employment, together with interest
324 or actuarial cost as determined by the board covering the period
325 from the date the service was rendered until the payment for the
326 credit for such service was made. Such wages shall be verified by
327 the Social Security Administration or employer payroll records.
328 Effective July 1, 1998, upon eligibility as noted above, a member
329 may receive credit for such retroactive service with such
330 political subdivision or instrumentality provided:

331 (1) The member shall furnish proof satisfactory to
332 the board of trustees of certification of such services from the
333 political subdivision or instrumentality where the services were
334 rendered or verification by the Social Security Administration;
335 and

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

343 Nothing contained in this paragraph (k) shall be construed to
344 limit the authority of the board to allow the correction of
345 reporting errors or omissions based on the payment of employee and
346 employer contributions plus applicable interest. Payment for such
347 time shall be made in increments of not less than one-quarter
348 (1/4) year of creditable service beginning with the most recent
349 service. Upon the payment of all or part of such required
350 contributions, plus interest or the actuarial cost as provided
351 above, the member shall receive credit for the period of
352 creditable service for which full payment has been made to the
353 retirement system.

354 (1) Through June 30, 1998, any state service eligible
355 for retroactive service credit, no part of which has ever been
356 reported, and requiring the payment of employee and employer
357 contributions plus interest, or, from and after July 1, 1998, any
358 state service eligible for retroactive service credit, no part of
359 which has ever been reported to the retirement system, and
360 requiring the payment of the actuarial cost for such creditable
361 service, may, at the member's option, be purchased in quarterly
362 increments as provided above at such time as its purchase is
363 otherwise allowed.

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

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

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

371 (a) Patient or inmate help in state charitable, penal
372 or correctional institutions;

373 (b) Students of any state educational institution
374 employed by any agency of the state for temporary, part-time or
375 intermittent work;

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

379 **III. TERMINATION OF MEMBERSHIP**

380 Membership in this system shall cease by a member withdrawing
381 his accumulated contributions, or by a member withdrawing from
382 active service with a retirement allowance, or by a member's
383 death.

384 SECTION 3. Section 25-11-109, Mississippi Code of 1972, is
385 amended as follows:[WAN2]

386 25-11-109. (1) Under such rules and regulations as the
387 board of trustees shall adopt, each person who becomes a member of
388 this retirement system, as provided in Section 25-11-105, on or
389 prior to July 1, 1953, or who becomes a member and contributes to
390 the system for a minimum period of four (4) years, shall receive
391 credit for all state service rendered before February 1, 1953. To
392 receive such credit, such member shall file a detailed statement
393 of all services as an employee rendered by him in the state
394 service before February 1, 1953. For any member who joined the
395 system after July 1, 1953, any creditable service for which the
396 member is not required to make contributions shall not be credited
397 to the member until the member has contributed to the system for a
398 minimum period of at least four (4) years.

399 (2) In the computation of membership service or prior
400 service under the provisions of this article, the total months of
401 accumulative service during any fiscal year shall be calculated in
402 accordance with the schedule as follows: ten (10) or more months
403 of creditable service during any fiscal year shall constitute a
404 year of creditable service; seven (7) months to nine (9) months
405 inclusive, three-quarters (3/4) of a year of creditable service;
406 four (4) months to six (6) months inclusive, one-half-year of
407 creditable service; one (1) month to three (3) months inclusive,
408 one-quarter (1/4) of a year of creditable service. In no case

409 shall credit be allowed for any period of absence without
410 compensation except for disability while in receipt of a
411 disability retirement allowance, nor shall less than fifteen (15)
412 days of service in any month, or service less than the equivalent
413 of one-half (1/2) of the normal working load for the position and
414 less than one-half (1/2) of the normal compensation for the
415 position in any month, constitute a month of creditable service,
416 nor shall more than one (1) year of service be creditable for all
417 services rendered in any one (1) fiscal year; provided that for a
418 school employee, substantial completion of the legal school term
419 when and where the service was rendered shall constitute a year of
420 service credit for both prior service and membership service. Any
421 state or local elected official shall be deemed a full-time
422 employee for the purpose of creditable service for prior service
423 or membership service. However, an appointed or elected official
424 compensated on a per diem basis only shall not be allowed
425 creditable service for terms of office.

426 In the computation of any retirement allowance or any annuity
427 or benefits provided in this article, any fractional period of
428 service of less than one (1) year shall be taken into account and
429 a proportionate amount of such retirement allowance, annuity or
430 benefit shall be granted for any such fractional period of
431 service.

432 In the computation of unused leave for creditable service
433 authorized in Section 25-11-103, the following shall govern:
434 twenty-one (21) days of unused leave shall constitute one (1)
435 month of creditable service and in no case shall credit be allowed
436 for any period of unused leave of less than fifteen (15) days.
437 The number of months of unused leave shall determine the number of
438 quarters or years of creditable service in accordance with the
439 above schedule for membership and prior service. In order for the
440 member to receive creditable service for the number of days of
441 unused leave, the system must receive certification from the

442 governing authority.

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

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

450 (b) For service on and after July 1, 1984, the member
451 shall receive credit for personal and major medical leave
452 beginning July 1, 1984, at the rates authorized in Sections
453 25-3-93 and 25-3-95, computed as a full-time employee.

454 (3) Subject to the above restrictions and to such other
455 rules and regulations as the board may adopt, the board shall
456 verify, as soon as practicable after the filing of such statements
457 of service, the services therein claimed.

458 (4) Upon verification of the statement of prior service, the
459 board shall issue a prior service certificate certifying to each
460 member the length of prior service for which credit shall have
461 been allowed on the basis of his statement of service. So long as
462 membership continues, a prior service certificate shall be final
463 and conclusive for retirement purposes as to such service,
464 provided that any member may within five (5) years from the date
465 of issuance or modification of such certificate request the board
466 of trustees to modify or correct his prior service certificate.
467 Any modification or correction authorized shall only apply
468 prospectively.

469 When membership ceases, such prior service certificates shall
470 become void. Should the employee again become a member, he shall
471 enter the system as an employee not entitled to prior service
472 credit except as provided in Sections 25-11-105(I), 25-11-113 and
473 25-11-117.

474 (5) Creditable service at retirement, on which the

475 retirement allowance of a member shall be based, shall consist of
476 the membership service rendered by him since he last became a
477 member, and also, if he has a prior service certificate which is
478 in full force and effect, the amount of the service certified on
479 his prior service certificate. Creditable service shall not
480 consist of any service rendered while participating in the
481 Deferred Retirement Option Program established under Section 1 of
482 this act.

483 (6) Anything in this article to the contrary
484 notwithstanding, any member who served on active duty in the Armed
485 Forces of the United States, or who served in maritime service
486 during periods of hostility in World War II, shall be entitled to
487 creditable service for his service on active duty in the Armed
488 Forces or in such maritime service, provided he entered state
489 service after his discharge from the Armed Forces or entered state
490 service after he completed such maritime service. The maximum
491 period for such creditable service for all military service shall
492 not exceed four (4) years unless positive proof can be furnished
493 by such person that he was retained in the Armed Forces during
494 World War II or in maritime service during World War II by causes
495 beyond his control and without opportunity of discharge. The
496 member shall furnish proof satisfactory to the board of trustees
497 of certification of military service or maritime service records
498 showing dates of entrance into active duty service and the date of
499 discharge. From and after July 1, 1993, no creditable service
500 shall be granted for any military service or maritime service to a
501 member who qualifies for a retirement allowance in another public
502 retirement system administered by the Board of Trustees of the
503 Public Employees' Retirement System based in whole or in part on
504 such military or maritime service. In no case shall the member
505 receive creditable service if the member received a dishonorable
506 discharge from the Armed Forces of the United States.

507 (7) Any member of the Public Employees' Retirement System

508 who has at least four (4) years of membership service credit shall
509 be entitled to receive a maximum of five (5) years creditable
510 service for service rendered in another state as a public employee
511 of such other state, or a political subdivision, public education
512 system or other governmental instrumentality thereof, or service
513 rendered as a teacher in American overseas dependent schools
514 conducted by the Armed Forces of the United States for children of
515 citizens of the United States residing in areas outside the
516 continental United States, provided that:

517 (a) The member shall furnish proof satisfactory to the
518 board of trustees of certification of such services from the
519 state, public education system, political subdivision or
520 retirement system of the state where the services were performed
521 or the governing entity of the American overseas dependent school
522 where the services were performed; and

523 (b) The member is not receiving or will not be entitled
524 to receive from the public retirement system of the other state or
525 from any other retirement plan, including optional retirement
526 plans, sponsored by the employer, a retirement allowance including
527 such services; and

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

535 (8) Any member of the Public Employees' Retirement System
536 who has at least four (4) years of membership service credit and
537 who receives, or has received, professional leave without
538 compensation for professional purposes directly related to the
539 employment in state service shall receive creditable service for
540 the period of professional leave without compensation provided:

541 (a) The professional leave is performed with a public
542 institution or public agency of this state, or another state or
543 federal agency;

544 (b) The employer approves the professional leave
545 showing the reason for granting the leave and makes a
546 determination that the professional leave will benefit the
547 employee and employer;

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

550 (d) The employee shall serve the employer on a
551 full-time basis for a period of time equivalent to the
552 professional leave period granted immediately following the
553 termination of the leave period;

554 (e) The contributing member shall pay to the retirement
555 system the actuarial cost as determined by the actuary for each
556 year of professional leave. The provisions of this subsection are
557 subject to the regulations of the Internal Revenue Code
558 limitations;

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

562 Any actively contributing member participating in the School
563 Administrator Sabbatical Program established in Section 37-9-77
564 shall qualify for continued participation under this subsection
565 (8).

566 (9) Any member of the Public Employees' Retirement System
567 who has at least four (4) years of credited membership service
568 shall be entitled to receive a maximum of ten (10) years
569 creditable service for:

570 (a) Any service rendered as an employee of any
571 political subdivision of this state, or any instrumentality
572 thereof, which does not participate in the Public Employees'
573 Retirement System; or

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

578 (c) Any service rendered as an employee of any
579 political subdivision of this state, or any instrumentality
580 thereof, for which coverage of the employee's position was or is
581 excluded; provided that the member pays into the retirement system
582 the actuarial cost as determined by the actuary for each year, or
583 portion thereof, of such service. Payment for such service may be
584 made in increments of one-quarter-year of creditable service.
585 After a member has made full payment to the retirement system for
586 all or any part of such service, the member shall receive
587 creditable service for the period of such service for which full
588 payment has been made to the retirement system.

589 SECTION 4. Section 25-11-117, Mississippi Code of 1972, is
590 amended as follows:[WAN3]

591 25-11-117. (1) A member may be paid a refund of the amount
592 of accumulated contributions to the credit of the member in the
593 annuity savings account provided the member has withdrawn from
594 state service and further provided the member has not returned to
595 state service on the date the refund of the accumulated
596 contributions would be paid. Such refund of the contributions to
597 the credit of the member in the annuity savings account shall be
598 paid within ninety (90) days from receipt in the office of the
599 retirement system of the properly completed form requesting such
600 payment. In the event of death prior to retirement of any member
601 whose spouse and/or children are not entitled to a retirement
602 allowance, the accumulated contributions to the credit of the
603 deceased member in the annuity savings account and any Deferred
604 Option Program account shall be paid to the designated beneficiary
605 on file in writing in the office of executive director of the
606 board of trustees within ninety (90) days from receipt of a

607 properly completed form requesting such payment. If there is no
608 such designated beneficiary on file for such deceased member in
609 the office of the system, upon the filing of a proper request with
610 the board, the contributions to the credit of the deceased member
611 in the annuity savings account and any Deferred Option Program
612 account shall be refunded to the estate of the deceased member.
613 The payment of the refund shall discharge all obligations of the
614 retirement system to the member on account of any creditable
615 service rendered by the member prior to the receipt of the refund.

616 By the acceptance of the refund, the member shall waive and
617 relinquish all accrued rights in the system.

618 (2) Pursuant to the Unemployment Compensation Amendments of
619 1992 (Public Law 102-318 (UCA)), a member or eligible beneficiary
620 eligible for a refund under this section may elect on a form
621 prescribed by the board under rules and regulations established by
622 the board, to have an eligible rollover distribution of
623 accumulated contributions payable under this section paid directly
624 to an eligible retirement plan or individual retirement account.
625 If the member or eligible beneficiary makes such election and
626 specifies the eligible retirement plan or individual retirement
627 account to which such distribution is to be paid, the distribution
628 will be made in the form of a direct trustee-to-trustee transfer
629 to the specified eligible retirement plan. Flexible rollovers
630 under this subsection shall not be considered assignments under
631 Section 25-11-129.

632 (3) If any person who has received a refund reenters the
633 state service and again becomes a member of the system, the member
634 may repay all or part of the amounts previously received as a
635 refund, together with regular interest covering the period from
636 the date of refund to the date of repayment; provided, however,
637 that the amounts that are repaid by the member and the creditable
638 service related thereto shall not be used in any benefit
639 calculation or determination until the member has remained a

640 contributor to the system for a period of at least four (4) years
641 subsequent to such member's reentry into state service. Repayment
642 for such time shall be made in increments of not less than
643 one-quarter (1/4) year of creditable service beginning with the
644 most recent service for which refund has been made. Upon the
645 repayment of all or part of such refund and interest, the member
646 shall again receive credit for the period of creditable service
647 for which full repayment has been made to the system.

648 SECTION 5. Section 25-11-127, Mississippi Code of 1972, is
649 amended as follows:[WAN4]

650 25-11-127. No person who is being paid a retirement
651 allowance, or a pension after retirement under this article shall
652 be employed or paid for any service by the State of Mississippi,
653 except as provided in this section, unless the person was a
654 participant in the Deferred Retirement Option Program established
655 under Section 1 of this act, in which case Section 1 of this act
656 shall also apply. This section shall not apply to any pensioner
657 who has been elected to public office after retirement, nor to any
658 person employed because of special knowledge or experience. This
659 section shall not be construed to mean that any person employed or
660 elected under the above exceptions shall become a member under
661 Article 3 of the retirement system, nor shall any retirant of this
662 retirement system who is reemployed or is reelected to office,
663 after retirement continue to draw retirement benefits while so
664 reemployed. Any person who has been retired under the provisions
665 of Articles 1 and 3 and who is later reemployed in service covered
666 by this article shall cease to receive benefits under this section
667 and shall again become a contributing member of the retirement
668 system; and when the person again retires, if his reemployment
669 exceeds six (6) months, he shall have his benefit recomputed,
670 including service after again becoming a member, provided, * * *
671 that the total retirement allowance paid to the retired member in
672 his previous retirement shall be deducted from his retirement

673 reserve and taken into consideration in recalculating the
674 retirement allowance under a new option selected. Nothing
675 contained in this section shall be construed as prohibiting any
676 county or city not a member of the Public Employees' Retirement
677 System from employing persons up to the age of seventy-three (73);
678 and in addition, through June 30, 1988, nothing contained in this
679 section shall be construed as prohibiting any governmental unit
680 that is a member from employing persons up to the age of
681 seventy-three (73) who are not eligible for membership at the time
682 of employment under Article 3.

683 The board of trustees of the retirement system shall have the
684 right to prescribe rules and regulations for the carrying out of
685 this provision.

686 The provisions of this section shall not be construed to
687 prohibit any retirant regardless of age from being employed and
688 from drawing retirement allowance either (a) for a period of time
689 not to exceed one hundred twenty (120) days in any fiscal year,
690 but less than one-half (1/2) of the normal working days for the
691 position in any fiscal year, or (b) for a period of time in any
692 fiscal year sufficient in length to permit a retirant to earn not
693 in excess of twenty-five percent (25%) of retirant's average
694 compensation or the current rate of the salary in effect for the
695 regular position filled. Notice shall be given in writing to the
696 executive director of the system, setting forth the facts upon
697 which the * * * employment is being made, and the notice shall be
698 given within five (5) days from the date of employment and also
699 from the date of termination of the employment.

700 * * * Any member who has attained seventy (70) years of age
701 and who has forty (40) or more years of creditable service may
702 continue in office or employment or be reemployed or elected,
703 provided the person files annually, in writing, in the office of
704 the employer and the office of the executive director of the
705 system before those services, a waiver of all salary or

706 compensation and elects to receive in lieu of that salary or
707 compensation a retirement allowance as provided in this section,
708 in which event no salary or compensation shall thereafter be due
709 or payable for those services. However, any such officer or
710 employee may receive in addition to the retirement allowance any
711 per diem, office expense allowance, mileage or travel expense
712 authorized by any statute of the State of Mississippi. Any other
713 member may continue in municipal or county office or employment or
714 be reemployed or elected in a municipality or county, provided the
715 person files annually, in writing, in the office of the employer
716 and the office of the executive director of the system before
717 those services, a waiver of all salary or compensation and elects
718 to receive in lieu of that salary or compensation a retirement
719 allowance as provided in this section, in which event no salary or
720 compensation shall thereafter be due or payable for those
721 services. However, any such officer or employee may receive in
722 addition to the retirement allowance any per diem, office expense
723 allowance, mileage or travel expense authorized by any statute of
724 the State of Mississippi.

725 SECTION 6. Section 25-11-112, Mississippi Code of 1972, is
726 brought forward as follows:[RF5]

727 25-11-112. (1) Any member who is receiving a retirement
728 allowance for service or disability retirement, or any beneficiary
729 thereof, who has received a monthly benefit for at least one (1)
730 full fiscal year, shall be eligible to receive an additional
731 benefit, on December 1 or July 1 of the year as provided in
732 subsection (3) of this section, equal to the greater of the
733 amounts calculated under paragraph (a) or (b) below:

734 (a) An amount equal to four percent (4%) of the annual
735 retirement allowance multiplied by the number of full fiscal years
736 in retirement through June 30, 1998; or

737 (b) The sum of:

738 (i) An amount equal to three percent (3%) of the

739 annual retirement allowance multiplied by the number of full
740 fiscal years in retirement before the end of the fiscal year in
741 which the member reaches age fifty-five (55), plus

742 (ii) An additional amount equal to three percent
743 (3%) compounded by the number of full fiscal years in retirement
744 beginning with the fiscal year in which the member reaches age
745 fifty-five (55), multiplied by the amount of the annual retirement
746 allowance.

747 (2) The calculation of the beneficiary's additional benefit
748 under subsection (1)(b)(i) or (1)(b)(ii) of this section shall be
749 based on the member's age and full fiscal years in retirement as
750 if the member had lived.

751 (3) The additional benefit provided for under this section
752 shall be paid in one (1) payment in December of each year to those
753 persons who are receiving a retirement allowance on December 1 of
754 that year, unless an election is made under this subsection.
755 However, if a person who is receiving a retirement allowance that
756 will terminate upon the person's death is receiving the additional
757 benefit in one (1) payment and dies on or after July 1 but before
758 December 1, the beneficiary or estate of the person shall receive
759 in a single payment a fractional part of the additional benefit
760 based on the number of months in which a retirement allowance was
761 received during the fiscal year. Retired members or beneficiaries
762 thereof who on July 1, 1999, or July 1 of any fiscal year
763 thereafter, are receiving a retirement allowance, may elect by an
764 irrevocable agreement in writing filed in the office of the Public
765 Employees' Retirement System no less than thirty (30) days before
766 July 1 of the appropriate year, to begin receiving the additional
767 benefit provided for under this section in twelve (12) equal
768 monthly installments beginning July 1, 1999, or July 1 of any
769 fiscal year thereafter. This irrevocable agreement shall be
770 binding on the member and subsequent beneficiaries. Payment of
771 those monthly installments shall not extend beyond the month in

772 which a retirement allowance is due and payable.

773 (4) The additional payment or payments provided for under
774 this section are for the fiscal year in which they are paid.

775 (5) The amount provided for under subsection (1)(b)(ii) of
776 this section is calculated using the following formula:

777 $[(1.03)^n - 1] \times [\text{annual retirement allowance}]$,

778 where n is the number of full fiscal years in retirement beginning
779 with the fiscal year in which the member reaches age fifty-five
780 (55).

781 (6) Any retired member or beneficiary thereof who has
782 previously elected to receive the additional annual payment in
783 monthly installments may elect, upon application on a form
784 prescribed by the board of trustees, to have that payment made in
785 one (1) additional payment each year. This written election must
786 be filed in the office of the Public Employees' Retirement System
787 before June 1, 2000, and shall be effective for the fiscal year
788 beginning July 1, 2000.

789 (7) In the event of death of a retired member or a
790 beneficiary thereof who is receiving the additional annual payment
791 in two (2) to six (6) monthly installments pursuant to an election
792 made before July 1, 1999, and who would otherwise be eligible to
793 receive the additional benefit provided for under this section in
794 one (1) payment in December of the current fiscal year, any
795 remaining amounts shall be paid in a lump sum to the designated
796 beneficiary.

797 SECTION 7. Section 25-11-115, Mississippi Code of 1972, is
798 brought forward as follows:[RF6]

799 25-11-115. (1) Upon application for superannuation or
800 disability retirement, any member may elect to receive his benefit
801 in a retirement allowance payable throughout life with no further
802 payments to anyone at his death, except that in the event his
803 total retirement payments under this article do not equal his
804 total contributions under this article, his named beneficiary

805 shall receive the difference in cash at his death. Or he may
806 elect upon retirement, or upon becoming eligible for retirement,
807 to receive the actuarial equivalent subject to the provisions of
808 subsection (3) of this section of his retirement allowance in a
809 reduced retirement allowance payable throughout life with the
810 provision that:

811 **Option 1.** If he dies before he has received in annuity
812 payment the value of the member's annuity savings account as it
813 was at the time of his retirement, the balance shall be paid to
814 his legal representative or to such person as he shall nominate by
815 written designation duly acknowledged and filed with the board; or

816 **Option 2.** Upon his death, his reduced retirement allowance
817 shall be continued throughout the life of, and paid to, such
818 person as he has nominated by written designation duly
819 acknowledged and filed with the board of trustees at the time of
820 his retirement;

821 **Option 3.** Upon his death, one-half (1/2) of his reduced
822 retirement allowance shall be continued throughout the life of,
823 and paid to, such person as he shall have nominated by written
824 designation duly acknowledged and filed with the board of trustees
825 at the time of his retirement, and the other one-half (1/2) of his
826 reduced retirement allowance to some other designated beneficiary;

827 **Option 4-A.** Upon his death, one-half (1/2) of his reduced
828 retirement allowance, or such other specified amount, shall be
829 continued throughout the life of, and paid to, such person as he
830 shall have nominated by written designation duly acknowledged and
831 filed with the board of trustees at the time of his retirement; or

832 **Option 4-B.** A reduced retirement allowance shall be
833 continued throughout the life of the retirant, but with the
834 further guarantee of payments to the named beneficiary,
835 beneficiaries or to the estate for a specified number of years
836 certain. If the retired member or the last designated beneficiary
837 receiving annuity payments dies prior to receiving all guaranteed

838 payments due, the actuarial equivalent of the remaining payments
839 would be paid to the estate of the retired member as intestate
840 property;

841 **Option 4-C.** Such retirement allowance otherwise payable may
842 be converted into a retirement allowance of equivalent actuarial
843 value in such an amount that, with the member's benefit under
844 Title II of the federal Social Security Act, the member will
845 receive, so far as possible, approximately the same amount
846 annually before and after the earliest age at which the member
847 becomes eligible to receive a social security benefit.

848 (2) No change in the option selected shall be permitted
849 after the member's death or after the member has received his
850 first retirement check except as provided in subsections (3) and
851 (4) of this section and in Section 25-11-127. However, any
852 retired member who is receiving a retirement allowance under
853 Option 2 or Option 4-A upon July 1, 1992, and whose designated
854 beneficiary predeceased him or whose marriage to a spouse who is
855 his designated beneficiary is terminated by divorce or other
856 dissolution, upon written notification to the retirement system of
857 the death of the designated beneficiary or of the termination of
858 his marriage to his designated beneficiary, the retirement
859 allowance payable to the member after receipt of such notification
860 by the retirement system shall be equal to the retirement
861 allowance which would have been payable had the member not elected
862 the option. In addition, any retired member who is receiving the
863 maximum retirement allowance for life, a retirement allowance
864 under Option 1 or who is receiving a retirement allowance under
865 Option 2 or Option 4-A on July 1, 1992, may elect to provide
866 survivor benefits under Option 2 or Option 4-A to a spouse who was
867 not previously the member's beneficiary and whom the member
868 married before July 1, 1992.

869 (3) Any retired member who is receiving a reduced retirement
870 allowance under Option 2 or Option 4-A whose designated

871 beneficiary predeceases him, or whose marriage to a spouse who is
872 his designated beneficiary is terminated by divorce or other
873 dissolution, may elect to cancel his reduced retirement allowance
874 and receive the maximum retirement allowance for life in an amount
875 equal to the amount that would have been payable if the member had
876 not elected Option 2 or Option 4-A. Such election must be made in
877 writing to the office of the executive director of the system on a
878 form prescribed by the board. Any such election shall be
879 effective the first of the month following the date the election
880 is received by the system.

881 (4) Any retired member who is receiving the maximum
882 retirement allowance for life, or a retirement allowance under
883 Option 1, and who marries after his retirement may elect to cancel
884 his maximum retirement allowance and receive a reduced retirement
885 allowance under Option 2 or Option 4-A to provide continuing
886 lifetime benefits to his spouse. Such election must be made in
887 writing to the office of the executive director of the system on a
888 form prescribed by the board not earlier than the date of the
889 marriage. Any such election shall be effective the first of the
890 month following the date the election is received by the system.
891 The amount of the reduced retirement allowance shall be the
892 actuarial equivalent, taking into account that the member received
893 the maximum retirement allowance for a period of time before
894 electing to receive a reduced retirement allowance.

895 (5) In the event the election of an optional benefit is made
896 after the member has attained the age of sixty-five (65) years,
897 the actuarial equivalent factor shall be used to compute the
898 reduced retirement allowance as if the election had been made on
899 his sixty-fifth birthday. However, if a retiree marries or
900 remarries after retirement and elects either Option 2 or Option
901 4-A as provided in subsection (2) or (4) of this section, the
902 actuarial equivalent factor used to compute the reduced retirement
903 allowance shall be the factor for the age of the retiree and his

904 or her beneficiary at the time such election for recalculation of
905 benefits is made.

906 (6) Notwithstanding any provision of Section 25-11-1 et
907 seq., no payments may be made for a retirement allowance on a
908 monthly basis for a period of time in excess of that allowed by
909 federal law.

910 (7) If a retirant and his eligible beneficiary, if any, both
911 die before they have received in annuity payments a total amount
912 equal to the accumulated contributions standing to the retirant's
913 credit in the annuity savings account at the time of his
914 retirement, the difference between the accumulated contributions
915 and the total amount of annuities received by them shall be paid
916 to such persons as the retirant has nominated by written
917 designation duly executed and filed in the office of the executive
918 director. If no designated person survives the retirant and his
919 beneficiary, the difference, if any, shall be paid to the estate
920 of the survivor of the retirant and his beneficiary.

921 (8) Any retired member who retired on Option 2(5) or 4-A(5)
922 prior to July 1, 1992, who is still receiving a retirement
923 allowance on July 1, 1994, shall receive an increase in the annual
924 retirement allowance effective July 1, 1994, equal to the amount
925 they would have received under Option 2 or Option 4-A without a
926 reduction for Option 5 based on the ages at retirement of the
927 retiree and beneficiary and option factors in effect on July 1,
928 1992. Such increase shall be prospective only.

929 SECTION 8. This act shall take effect and be in force from
930 and after July 1, 2000.