

By: Senator(s) Minor, Thames

To: Finance

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2836

1 AN ACT TO AMEND SECTIONS 25-11-109, 25-11-117, 25-11-133,
2 25-13-7, 25-13-9, 25-13-17, 25-13-21, 25-13-33, 21-29-301,
3 21-29-305 AND 21-29-317, MISSISSIPPI CODE OF 1972, TO REVISE
4 CERTAIN PROVISIONS OF LAW REGARDING THE PUBLIC EMPLOYEES'
5 RETIREMENT SYSTEM, THE MISSISSIPPI HIGHWAY SAFETY PATROL
6 RETIREMENT SYSTEM AND MUNICIPAL RETIREMENT SYSTEMS; TO PROVIDE
7 THAT MEMBERS OF SUCH SYSTEMS WHOSE MEMBERSHIP SERVICE IS
8 INTERRUPTED AS A RESULT OF CERTAIN QUALIFIED MILITARY SERVICE MAY
9 RECEIVE CREDIT FOR SUCH SERVICE UNDER CERTAIN CIRCUMSTANCES; TO
10 PROVIDE THAT THE ONLY QUALIFIED BENEFICIARY WHO IS ELIGIBLE TO
11 ROLLOVER A REFUND OF ACCUMULATED CONTRIBUTIONS INTO AN ELIGIBLE
12 RETIREMENT PLAN OR INDIVIDUAL RETIREMENT ACCOUNT IS THE SPOUSE OF
13 A MEMBER; TO REMOVE REFERENCES TO A PROVISION OF THE INTERNAL
14 REVENUE CODE THAT HAVE BEEN REPEALED; TO PROVIDE THAT IN THE EVENT
15 OF TERMINATION OF A MUNICIPAL RETIREMENT SYSTEM, ALL MEMBERS OF
16 SUCH SYSTEM AT THE TIME OF TERMINATION SHALL BE DEEMED TO HAVE A
17 CERTAIN VESTED RIGHT TO BENEFITS; TO CREATE A NEW CODE SECTION TO
18 BE CODIFIED AS SECTION 21-29-316, MISSISSIPPI CODE OF 1972, TO
19 AUTHORIZE MEMBERS OF MUNICIPAL RETIREMENT PLANS AND THE SPOUSES OF
20 SUCH PERSONS WHO ARE ELIGIBLE BENEFICIARIES TO HAVE AN ELIGIBLE
21 ROLLOVER DISTRIBUTION OF ACCUMULATED CONTRIBUTIONS PAID DIRECTLY
22 TO AN ELIGIBLE RETIREMENT PLAN OR INDIVIDUAL RETIREMENT ACCOUNT;
23 TO AUTHORIZE THE BOARD OF TRUSTEES OF THE PUBLIC EMPLOYEES'
24 RETIREMENT SYSTEM TO ACCEPT AN ELIGIBLE ROLLOVER DISTRIBUTION OR A
25 DIRECT TRANSFER OF FUNDS FROM ANOTHER QUALIFIED PLAN IN PAYMENT OF
26 ALL OR A PORTION OF THE COST TO REPAY A REFUND AS PERMITTED IN A
27 MUNICIPAL RETIREMENT PLAN; AND FOR RELATED PURPOSES.

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

29 SECTION 1. Section 25-11-109, Mississippi Code of 1972, is
30 amended as follows:

31 25-11-109. (1) Under such rules and regulations as the
32 board of trustees shall adopt, each person who becomes a member of
33 this retirement system, as provided in Section 25-11-105, on or
34 prior to July 1, 1953, or who becomes a member and contributes to
35 the system for a minimum period of four (4) years, shall receive
36 credit for all state service rendered before February 1, 1953. To
37 receive such credit, such member shall file a detailed statement
38 of all services as an employee rendered by him in the state
39 service before February 1, 1953. For any member who joined the



40 system after July 1, 1953, any creditable service for which the
41 member is not required to make contributions shall not be credited
42 to the member until the member has contributed to the system for a
43 minimum period of at least four (4) years.

44 (2) In the computation of membership service or prior
45 service under the provisions of this article, the total months of
46 accumulative service during any fiscal year shall be calculated in
47 accordance with the schedule as follows: ten (10) or more months
48 of creditable service during any fiscal year shall constitute a
49 year of creditable service; seven (7) months to nine (9) months
50 inclusive, three-quarters ($3/4$) of a year of creditable service;
51 four (4) months to six (6) months inclusive, one-half-year of
52 creditable service; one (1) month to three (3) months inclusive,
53 one-quarter ($1/4$) of a year of creditable service. In no case
54 shall credit be allowed for any period of absence without
55 compensation except for disability while in receipt of a
56 disability retirement allowance, nor shall less than fifteen (15)
57 days of service in any month, or service less than the equivalent
58 of one-half ($1/2$) of the normal working load for the position and
59 less than one-half ($1/2$) of the normal compensation for the
60 position in any month, constitute a month of creditable service,
61 nor shall more than one (1) year of service be creditable for all
62 services rendered in any one (1) fiscal year; provided that for a
63 school employee, substantial completion of the legal school term
64 when and where the service was rendered shall constitute a year of
65 service credit for both prior service and membership service. Any
66 state or local elected official shall be deemed a full-time
67 employee for the purpose of creditable service for prior service
68 or membership service. However, an appointed or elected official
69 compensated on a per diem basis only shall not be allowed
70 creditable service for terms of office.

71 In the computation of any retirement allowance or any annuity
72 or benefits provided in this article, any fractional period of



73 service of less than one (1) year shall be taken into account and
74 a proportionate amount of such retirement allowance, annuity or
75 benefit shall be granted for any such fractional period of
76 service.

77 In the computation of unused leave for creditable service
78 authorized in Section 25-11-103, the following shall govern:
79 twenty-one (21) days of unused leave shall constitute one (1)
80 month of creditable service and in no case shall credit be allowed
81 for any period of unused leave of less than fifteen (15) days.
82 The number of months of unused leave shall determine the number of
83 quarters or years of creditable service in accordance with the
84 above schedule for membership and prior service. In order for the
85 member to receive creditable service for the number of days of
86 unused leave, the system must receive certification from the
87 governing authority.

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

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

95 (b) For service on and after July 1, 1984, the member
96 shall receive credit for personal and major medical leave
97 beginning July 1, 1984, at the rates authorized in Sections
98 25-3-93 and 25-3-95, computed as a full-time employee.

99 (3) Subject to the above restrictions and to such other
100 rules and regulations as the board may adopt, the board shall
101 verify, as soon as practicable after the filing of such statements
102 of service, the services therein claimed.

103 (4) Upon verification of the statement of prior service, the
104 board shall issue a prior service certificate certifying to each
105 member the length of prior service for which credit shall have



106 been allowed on the basis of his statement of service. So long as
107 membership continues, a prior service certificate shall be final
108 and conclusive for retirement purposes as to such service,
109 provided that any member may within five (5) years from the date
110 of issuance or modification of such certificate request the board
111 of trustees to modify or correct his prior service certificate.
112 Any modification or correction authorized shall only apply
113 prospectively.

114 When membership ceases, such prior service certificates shall
115 become void. Should the employee again become a member, he shall
116 enter the system as an employee not entitled to prior service
117 credit except as provided in Sections 25-11-105(I), 25-11-113 and
118 25-11-117.

119 (5) Creditable service at retirement, on which the
120 retirement allowance of a member shall be based, shall consist of
121 the membership service rendered by him since he last became a
122 member, and also, if he has a prior service certificate which is
123 in full force and effect, the amount of the service certified on
124 his prior service certificate.

125 (6) Anything in this article to the contrary
126 notwithstanding, any member who served on active duty in the Armed
127 Forces of the United States, or who served in maritime service
128 during periods of hostility in World War II, shall be entitled to
129 creditable service at no cost for his service on active duty in
130 the Armed Forces or in such maritime service, provided he entered
131 state service after his discharge from the Armed Forces or entered
132 state service after he completed such maritime service. The
133 maximum period for such creditable service for all military
134 service as defined in this subsection (6) shall not exceed four
135 (4) years unless positive proof can be furnished by such person
136 that he was retained in the Armed Forces during World War II or in
137 maritime service during World War II by causes beyond his control
138 and without opportunity of discharge. The member shall furnish



139 proof satisfactory to the board of trustees of certification of
140 military service or maritime service records showing dates of
141 entrance into active duty service and the date of discharge. From
142 and after July 1, 1993, no creditable service shall be granted for
143 any military service or maritime service to a member who qualifies
144 for a retirement allowance in another public retirement system
145 administered by the Board of Trustees of the Public Employees'
146 Retirement System based in whole or in part on such military or
147 maritime service. In no case shall the member receive creditable
148 service if the member received a dishonorable discharge from the
149 Armed Forces of the United States.

150 (7) (a) Any member of the Public Employees' Retirement
151 System whose membership service is interrupted as a result of
152 qualified military service within the meaning of Section 414(u)(5)
153 of the Internal Revenue Code, and who has received the maximum
154 service credit available under subsection (6) of this section,
155 shall receive creditable service for the period of qualified
156 military service that does not qualify as creditable service under
157 subsection (6) of this section upon reentering membership service
158 in an amount not to exceed five (5) years if:

159 (i) The member pays the contributions he would
160 have made to the retirement system if he had remained in
161 membership service for the period of qualified military service
162 based upon his salary at the time his membership service was
163 interrupted;

164 (ii) The member returns to membership service
165 within ninety (90) days of the end of his qualified military
166 service; and

167 (iii) The employer at the time the member's
168 service was interrupted and to which employment the member returns
169 pays the contributions it would have made into the retirement
170 system for such period based on the member's salary at the time
171 the service was interrupted.



172 (b) The payments required to be made in paragraph
173 (a) (i) of this subsection may be made over a period beginning with
174 the date of return to membership service and not exceeding three
175 (3) times the member's qualified military service; provided,
176 however, that in no event shall such period exceed fifteen (15)
177 years.

178 (c) The member shall furnish proof satisfactory to the
179 board of trustees of certification of military service showing
180 dates of entrance into qualified service and the date of discharge
181 as well as proof that the member has returned to active employment
182 within the time specified.

183 (8) Any member of the Public Employees' Retirement System
184 who has at least four (4) years of membership service credit shall
185 be entitled to receive a maximum of five (5) years creditable
186 service for service rendered in another state as a public employee
187 of such other state, or a political subdivision, public education
188 system or other governmental instrumentality thereof, or service
189 rendered as a teacher in American overseas dependent schools
190 conducted by the Armed Forces of the United States for children of
191 citizens of the United States residing in areas outside the
192 continental United States, provided that:

193 (a) The member shall furnish proof satisfactory to the
194 board of trustees of certification of such services from the
195 state, public education system, political subdivision or
196 retirement system of the state where the services were performed
197 or the governing entity of the American overseas dependent school
198 where the services were performed; and

199 (b) The member is not receiving or will not be entitled
200 to receive from the public retirement system of the other state or
201 from any other retirement plan, including optional retirement
202 plans, sponsored by the employer, a retirement allowance including
203 such services; and



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

211 (9) Any member of the Public Employees' Retirement System
212 who has at least four (4) years of membership service credit and
213 who receives, or has received, professional leave without
214 compensation for professional purposes directly related to the
215 employment in state service shall receive creditable service for
216 the period of professional leave without compensation provided:

217 (a) The professional leave is performed with a public
218 institution or public agency of this state, or another state or
219 federal agency;

220 (b) The employer approves the professional leave
221 showing the reason for granting the leave and makes a
222 determination that the professional leave will benefit the
223 employee and employer;

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

226 (d) The employee shall serve the employer on a
227 full-time basis for a period of time equivalent to the
228 professional leave period granted immediately following the
229 termination of the leave period;

230 (e) The contributing member shall pay to the retirement
231 system the actuarial cost as determined by the actuary for each
232 year of professional leave. The provisions of this subsection are
233 subject to the regulations of the Internal Revenue Code
234 limitations;



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

238 Any actively contributing member participating in the School
239 Administrator Sabbatical Program established in Section 37-9-77
240 shall qualify for continued participation under this subsection
241 (9).

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

246 (a) Any service rendered as an employee of any
247 political subdivision of this state, or any instrumentality
248 thereof, which does not participate in the Public Employees'
249 Retirement System; or

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

254 (c) Any service rendered as an employee of any
255 political subdivision of this state, or any instrumentality
256 thereof, for which coverage of the employee's position was or is
257 excluded; provided that the member pays into the retirement system
258 the actuarial cost as determined by the actuary for each year, or
259 portion thereof, of such service. Payment for such service may be
260 made in increments of one-quarter-year of creditable service.
261 After a member has made full payment to the retirement system for
262 all or any part of such service, the member shall receive
263 creditable service for the period of such service for which full
264 payment has been made to the retirement system.

265 SECTION 2. Section 25-11-117, Mississippi Code of 1972, is
266 amended as follows:



267 25-11-117. (1) A member may be paid a refund of the amount
268 of accumulated contributions to the credit of the member in the
269 annuity savings account provided the member has withdrawn from
270 state service and further provided the member has not returned to
271 state service on the date the refund of the accumulated
272 contributions would be paid. Such refund of the contributions to
273 the credit of the member in the annuity savings account shall be
274 paid within ninety (90) days from receipt in the office of the
275 retirement system of the properly completed form requesting such
276 payment. In the event of death prior to retirement of any member
277 whose spouse and/or children are not entitled to a retirement
278 allowance, the accumulated contributions to the credit of the
279 deceased member in the annuity savings account shall be paid to
280 the designated beneficiary on file in writing in the office of
281 executive director of the board of trustees within ninety (90)
282 days from receipt of a properly completed form requesting such
283 payment. If there is no such designated beneficiary on file for
284 such deceased member in the office of the system, upon the filing
285 of a proper request with the board, the contributions to the
286 credit of the deceased member in the annuity savings account shall
287 be refunded pursuant to Section 25-11-117.1(1). The payment of
288 the refund shall discharge all obligations of the retirement
289 system to the member on account of any creditable service rendered
290 by the member prior to the receipt of the refund. By the
291 acceptance of the refund, the member shall waive and relinquish
292 all accrued rights in the system.

293 (2) Pursuant to the Unemployment Compensation Amendments of
294 1992 (Public Law 102-318 (UCA)), a member or the spouse of a
295 member who is an eligible beneficiary entitled to a refund under
296 this section may elect, on a form prescribed by the board under
297 rules and regulations established by the board, to have an
298 eligible rollover distribution of accumulated contributions
299 payable under this section paid directly to an eligible retirement



300 plan or individual retirement account. If the member or the
301 spouse of a member who is an eligible beneficiary makes such
302 election and specifies the eligible retirement plan or individual
303 retirement account to which such distribution is to be paid, the
304 distribution will be made in the form of a direct
305 trustee-to-trustee transfer to the specified eligible retirement
306 plan. Flexible rollovers under this subsection shall not be
307 considered assignments under Section 25-11-129.

308 (3) If any person who has received a refund reenters the
309 state service and again becomes a member of the system, the member
310 may repay all or part of the amounts previously received as a
311 refund, together with regular interest covering the period from
312 the date of refund to the date of repayment; provided, however,
313 that the amounts that are repaid by the member and the creditable
314 service related thereto shall not be used in any benefit
315 calculation or determination until the member has remained a
316 contributor to the system for a period of at least four (4) years
317 subsequent to such member's reentry into state service. Repayment
318 for such time shall be made in increments of not less than
319 one-quarter (1/4) year of creditable service beginning with the
320 most recent service for which refund has been made. Upon the
321 repayment of all or part of such refund and interest, the member
322 shall again receive credit for the period of creditable service
323 for which full repayment has been made to the system.

324 SECTION 3. Section 25-11-133, Mississippi Code of 1972, is
325 amended as follows:

326 25-11-133. (1) The maintenance of actuarial reserves for
327 the various allowances and benefits under Articles 1 and 3, and
328 the payment of all annuities, retirement allowances, refunds and
329 other benefits granted hereunder are hereby made obligations of
330 the employer's accumulation accounts. All income, interest and
331 dividends derived from deposits and investments authorized by said



332 articles shall be used for the payment of the obligations of the
333 system.

334 (2) In the event of the termination of the Public Employees'
335 Retirement System established pursuant to the provisions of
336 Section 25-11-101 et seq., all members of the system as of the
337 date of termination of the system shall be deemed to have a vested
338 right to benefits to the extent and in the same manner that rights
339 would be vested under the statute existing as of the date of
340 termination of the system, except that any member who, because of
341 a termination of the system has not fulfilled the requirements for
342 length of service, shall nonetheless be entitled to compensation
343 as of the date that such member would otherwise be eligible, with
344 such compensation to be computed on the basis of time actually a
345 member of the service and compensation actually earned during the
346 time a member, in the manner now provided by statute.

347 In the event of a deficit in the availability of funds for
348 payment due under the provisions of the Public Employees'
349 Retirement System, an appropriation shall hereinafter be made
350 sufficient for the payment thereof as an obligation of the state.

351 (3) Notwithstanding any provisions of this section or this
352 title to the contrary, the maximum annual retirement allowance
353 attributable to the employer contributions payable by the system
354 to a member shall be subject to the limitations set forth in
355 Section 415 of the Internal Revenue Code and any regulations
356 issued thereunder as applicable to governmental plans as such term
357 is defined under Section 414(d) of the Internal Revenue
358 Code. * * *

359 (4) Notwithstanding any other provision of this plan, all
360 distributions from this plan shall conform to the regulations
361 issued under Section 401(a)(9) of the Internal Revenue Code,
362 applicable to governmental plans, as defined in Section 414(d) of
363 the Internal Revenue Code, including the incidental death benefit
364 provisions of Section 401(a)(9)(G) of the Internal Revenue Code.



365 Further, such regulations shall override any plan provision that
366 is inconsistent with Section 401(a)(9) of the Internal Revenue
367 Code.

368 (5) The actuarial assumptions used to convert a retirement
369 allowance from the normal form of payment to an optional form of
370 payment shall be an appendix to Article 3 and subject to approval
371 by the board of trustees based upon certification by the actuary.

372 (6) Notwithstanding any other provision of this plan, the
373 maximum compensation that can be considered for all plan purposes
374 is One Hundred Fifty Thousand Dollars (\$150,000.00) per year,
375 adjusted annually to reflect changes in the cost of living to
376 conform to the regulations issued under Section 401(a)(17) of the
377 Internal Revenue Code.

378 SECTION 4. Section 25-13-7, Mississippi Code of 1972, is
379 amended as follows:

380 25-13-7. The Board of Trustees of the Public Employees'
381 Retirement System, as created by Sections 25-11-1 through
382 25-11-139, shall act as custodian of this Disability and Relief
383 Fund for members of the Mississippi Highway Safety Patrol; shall
384 receive to the credit of such fund all * * * appropriations and
385 other funds available as an employer's contribution thereto from
386 any source whatsoever; and the Highway Safety Patrol shall each
387 month deduct from the salary of each member, as defined in Section
388 25-13-3, five percent (5%) thereof, and shall pay the amount so
389 deducted to the Board of Trustees of the Public Employees'
390 Retirement System to be credited to the Disability and Relief Fund
391 for the members of the Mississippi Highway Safety Patrol.
392 Provided, however, that the said board of trustees may,
393 biennially, following March 18, 1977, vary the percentage of
394 employee contribution on the basis of the liabilities of the
395 retirement system for the various allowances and benefits as shown
396 by actuarial valuation. From the funds credited to this account,
397 the Board of Trustees of the Public Employees' Retirement System



398 shall pay retirements, disability benefits, survivors benefits,
399 expenses and shall refund contributions as provided in this
400 chapter. The said "Disability and Relief Fund for the Mississippi
401 Highway Safety Patrol" shall be maintained as a separate fund,
402 separate from all other funds held by the Board of Trustees of the
403 Public Employees' Retirement System of Mississippi and shall be
404 used only for the payment of benefits provided for by this
405 chapter, or amendments thereto.

406 SECTION 5. Section 25-13-9, Mississippi Code of 1972, is
407 amended as follows:

408 25-13-9. (1) Upon application of a member or his employer,
409 but in no event before termination of state service, any member
410 who has not attained the age of fifty-five (55) years may be
411 retired by the administrative board created by this chapter, not
412 less than thirty (30) and not more than ninety (90) days next
413 following the date of filing such application, on a disability
414 retirement allowance, provided that the medical board for the
415 Public Employees' Retirement System of Mississippi, after a
416 medical examination, shall certify that he is mentally or
417 physically incapacitated for the performance of duty, that such
418 incapacity is likely to be permanent, and that such sickness or
419 injury was caused or sustained as a direct result of duty in the
420 Highway Safety Patrol after the effective date of this chapter.

421 Any former uniformed highway safety patrolman who has had not
422 less than two (2) years of prior service with the Highway Safety
423 Patrol and who was disabled by wounds or accident in line of duty,
424 and who has returned to duty with the Highway Safety Patrol, and
425 who becomes a member of the Highway Safety Patrol Retirement
426 System with prior years service credits as provided in this
427 chapter, may, if his disability from his previous wounds or
428 accident received in line of duty returns and he again becomes
429 totally and permanently disabled, receive full benefits as a
430 disability retirant for service-connected disability.



431 Upon the application of a member or his employer, any member
432 who is not yet eligible for service retirement benefits and who
433 has had at least ten (10) years of creditable service may be
434 retired by the administrative board, not less than thirty (30) and
435 not more than ninety (90) days next following the date of filing
436 such application, on disability retirement allowance, provided
437 that the Medical Board of the Public Employees' Retirement System
438 of Mississippi, after a medical examination, shall certify that he
439 is mentally or physically incapacitated for the further
440 performance of duty, that such incapacity is likely to be
441 permanent, and that he should be retired. Such disability need
442 not be service-connected.

443 (2) Upon retirement for disability, a member shall receive a
444 disability benefit equal to fifty percent (50%) of his average
445 salary for the two (2) years immediately preceding his retirement,
446 but not less than any retirement benefits for which he may be
447 eligible at the date he is granted disability.

448 (3) Once each year during the first five (5) years following
449 retirement of a member on a disability retirement allowance, and
450 once in every period of three (3) years thereafter, the
451 administrative board may, and upon his application shall, require
452 any disability beneficiary who has not yet attained the age of
453 fifty-five (55) years to undergo a medical examination, such
454 examination to be made at the place of residence of said
455 beneficiary or other place mutually agreed upon, by the medical
456 board of the Public Employees' Retirement System. Should any
457 disability beneficiary who has not yet attained the age of
458 fifty-five (55) years refuse to submit to any medical examination
459 provided for herein, his allowance may be discontinued until his
460 withdrawal of such refusal, and should his refusal continue for
461 one (1) year all his rights in that part of the disability benefit
462 provided by employer contributions shall be revoked by the
463 administrative board.



464 (4) If the medical board reports and certifies to the
465 administrative board that such disability beneficiary is engaged
466 in, or is able to engage in, a gainful occupation paying more than
467 the difference between his disability benefit and the average
468 compensation, and if the administrative board concurs in such
469 report, the disability benefit shall be reduced to an amount
470 which, together with the amount earnable by him, shall equal the
471 amount of his average compensation. If his earning capacity be
472 later changed, the amount of the said benefit may be further
473 modified; provided, that the revised benefit shall not exceed the
474 amount originally granted nor an amount which, when added to the
475 amount earnable by the beneficiary, equals the amount of his
476 average compensation.

477 (5) Should a disability beneficiary under the age of
478 fifty-five (55) years be restored to active service at a
479 compensation not less than his average compensation, his
480 disability benefit shall cease; he shall again become a member of
481 the retirement system, and he shall contribute thereafter at the
482 same rate he paid prior to disability. Any such prior service
483 certificate on the basis of which his service was computed at the
484 time of retirement shall be restored to full force and effect. In
485 addition, upon his subsequent retirement he shall be credited with
486 all creditable service as a member, including the period for which
487 he was paid disability benefits.

488 SECTION 6. Section 25-13-17, Mississippi Code of 1972, is
489 amended as follows:

490 25-13-17. (1) All persons who are covered under the terms
491 of this chapter on the date on which this retirement system is
492 established and who become members of the retirement system shall
493 cease to be members under the provisions of Sections 25-11-101
494 through 25-11-139 upon the effective date of this chapter, and
495 shall become members of this retirement system with full credit
496 for all prior service with the Highway Safety Patrol.



497 (2) In computing the period of service of a member of the
498 Highway Safety Patrol, anything in this chapter to the contrary
499 notwithstanding, any member who served on active duty in the Armed
500 Forces of the United States, or who served in maritime service
501 during periods of hostility in World War II, shall be entitled to
502 creditable service at no cost for his service on active duty in
503 the Armed Forces or in such maritime service, provided he entered
504 state service after his discharge from the Armed Forces or entered
505 state service after he completed such maritime service. The
506 maximum period for such creditable service for all military
507 service as defined in this subsection (2) shall not exceed four
508 (4) years unless positive proof can be furnished by such person
509 that he was retained in the Armed Forces during World War II or in
510 maritime service during World War II, by causes beyond his control
511 and without opportunity of discharge. The member shall furnish
512 proof satisfactory to the Board of Trustees of the Public
513 Employees' Retirement System of certification of military service
514 or maritime service records showing dates of entrance into active
515 duty service and the date of discharge. No creditable service
516 shall be granted for any military service or maritime service to a
517 member who qualifies for a retirement allowance in another public
518 retirement system administered by the Board of Trustees of the
519 Public Employees' Retirement System based in whole or in part on
520 such military or maritime service. In no case shall the member
521 receive creditable service if the member received a dishonorable
522 discharge from the Armed Forces of the United States.

523 The credit for military service granted in this subsection
524 shall apply to all persons who have retired from the Highway
525 Patrol and who qualify for credit as outlined above, whether they
526 retired before or after July 1, 2000; but this provision shall not
527 operate to require any back payments of retirement.

528 (3) (a) Any member of the Mississippi Highway Safety Patrol
529 Retirement System whose membership service is interrupted as a



530 result of qualified military service within the meaning of Section
531 414(u) (5) of the Internal Revenue Code, and who has received the
532 maximum service credit available under subsection (2) of this
533 section, shall receive creditable service for the period of
534 qualified military service that does not qualify as creditable
535 service under subsection (2) of this section upon reentering
536 membership service in an amount not to exceed five (5) years if:

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

542 (ii) The member returns to membership service
543 within ninety (90) days of the end of his qualified military
544 service; and

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

550 (b) The payments required to be made in paragraph
551 (a) (i) of this subsection may be made over a period beginning with
552 the date of return to membership service and not exceeding three
553 (3) times the member's qualified military service; provided,
554 however, that in no event shall such period exceed fifteen (15)
555 years.

556 (c) The member shall furnish proof satisfactory to the
557 board of trustees of certification of military service showing
558 dates of entrance into qualified service and the date of discharge
559 as well as proof that the member has returned to active employment
560 within the time specified.

561 SECTION 7. Section 25-13-21, Mississippi Code of 1972, is
562 amended as follows:



563 25-13-21. In the event a highway patrolman ceases to work
564 for the Highway Safety Patrol for any reason other than
565 occupational disease contracted or for any accident sustained by
566 the patrolman by reason of his service or discharge of his duty in
567 the Highway Patrol, and if the highway patrolman is not eligible
568 for retirement either for service or disability, he shall be
569 refunded the amount of his total contribution under the provisions
570 of this chapter, including any credit transferred to his account
571 in this system from any other system, at his request; and should
572 he die before retirement, such fund is to be refunded to any
573 beneficiary he may name. If there is no surviving designated
574 beneficiary, the contributions to the credit of the deceased
575 member shall be refunded pursuant to Section 25-13-21.1(1).

576 Pursuant to the Unemployment Compensation Amendments of 1992
577 (Public Law 102-318 (UCA)), a member or the spouse of a member who
578 is an eligible beneficiary entitled to a refund under this section
579 may elect, on a form prescribed by the board under rules and
580 regulations established by the board, to have an eligible rollover
581 distribution of accumulated contributions payable under this
582 section paid directly to an eligible retirement plan or individual
583 retirement account. If the member or the spouse of a member who
584 is an eligible beneficiary makes such election and specifies the
585 eligible retirement plan or individual retirement account to which
586 such distribution is to be paid, the distribution will be made in
587 the form of a direct trustee-to-trustee transfer to the specified
588 eligible retirement plan. Flexible rollovers under this
589 subsection shall not be considered assignments under Section
590 25-13-31.

591 If any highway patrolman who shall receive a refund reenters
592 the service of the Highway Safety Patrol and again becomes a
593 member of the system, he may repay all amounts previously received
594 by him as a refund, together with regular interest covering the
595 period from the date of refund to the date of repayment; however,



596 the amounts that are repaid by the member and the creditable
597 service related thereto shall not be used in any benefit
598 calculation or determination until the member has remained a
599 contributor to the system for a period of at least five (5) years
600 after such member's reentry into state service. Repayment for
601 such time shall be made in increments of not less than one-quarter
602 (1/4) year of creditable service beginning with the most recent
603 service for which refund has been made. Upon the repayment of all
604 or part of such refund and interest, the highway patrolman shall
605 again receive credit for the period of creditable service for
606 which full repayment has been made to the system.

607 SECTION 8. Section 25-13-33, Mississippi Code of 1972, is
608 amended as follows:

609 25-13-33. (1) The maintenance of actuarial reserves for the
610 various allowances and benefits under this chapter, and the
611 payment of all annuities, retirement allowances, refunds and other
612 benefits granted hereunder are hereby made obligation of the
613 disability and relief fund. All income, interest and dividends
614 derived from deposits and investments authorized by this chapter
615 shall be used for the payment of the obligations of the system.

616 (2) In the event of the termination of the Mississippi
617 Highway Safety Patrol Retirement System, established pursuant to
618 the provisions of Section 25-13-1 et seq., Mississippi Code of
619 1972, all members of the system as of the date of termination of
620 the system shall be deemed to have a vested right to benefits to
621 the extent and in the same manner that rights would be vested
622 under the statute existing as of the date of termination of the
623 system; except that any member who, because of a termination of
624 the system has not fulfilled the requirements for length of
625 service, shall be entitled to compensation as of the date that
626 such member would otherwise be eligible, with such compensation to
627 be computed on the basis of time actually a member of the service



628 and compensation actually earned during the time as a member, in
629 the manner now provided by statute.

630 In the event of a deficit in the availability of funds for
631 payment due under the provisions of the Mississippi Highway Safety
632 Patrol Retirement System, an appropriation shall hereinafter be
633 made sufficient for the payment thereof as an obligation of the
634 State of Mississippi.

635 (3) Notwithstanding any provisions of this section or
636 chapter to the contrary, the maximum annual retirement allowance
637 attributable to the employer contributions payable by the system
638 to a member shall be subject to the limitations set forth in
639 Section 415 of the Internal Revenue Code and any regulations
640 issued thereunder as applicable to governmental plans as such term
641 is defined under Section 414(d) of the Internal Revenue
642 Code. * * *

643 (4) Notwithstanding any other provision of this plan, all
644 distributions from this plan shall conform to the regulations
645 issued under Section 401(a)(9) of the Internal Revenue Code,
646 applicable to governmental plans, as defined in Section 414(d) of
647 the Internal Revenue Code, including the incidental death benefit
648 provisions of Section 401(a)(9)(G) of the Internal Revenue Code.
649 Further, such regulations shall override any plan provision that
650 is inconsistent with Section 401(a)(9) of the Internal Revenue
651 Code.

652 (5) The actuarial assumptions used to convert a retirement
653 allowance from the normal form of payment to an optional form of
654 payment shall be an appendix to this chapter and subject to
655 approval by the board of trustees based upon certification by the
656 actuary.

657 (6) Notwithstanding any other provision of this plan, the
658 maximum compensation that can be considered for all plan purposes
659 is One Hundred Fifty Thousand Dollars (\$150,000.00) per year,
660 adjusted annually to reflect changes in the cost of living to



661 conform to the regulations issued under Section 401(a)(17) of the
662 Internal Revenue Code.

663 SECTION 9. Section 21-29-301, Mississippi Code of 1972, is
664 amended as follows:

665 21-29-301. * * *

666 (1) Any member of the Municipal Retirement System whose
667 membership service is interrupted as a result of qualified
668 military service within the meaning of Section 414(u)(5) of the
669 Internal Revenue Code, and who has received the maximum service
670 credit available under Article 1, 3 or 5 of this chapter, shall
671 receive creditable service for the period of qualified military
672 service that does not qualify as creditable service under Article
673 1, 3 or 5 of this chapter upon reentering membership service in an
674 amount not to exceed five (5) years if:

675 (a) The member pays the contributions he would have
676 made to the retirement system if he had remained in membership
677 service for the period of qualified military service based upon
678 his salary at the time his membership service was interrupted;

679 (b) The member returns to membership service within
680 ninety (90) days of the end of his qualified military service; and

681 (c) The employee at the time the member's service was
682 interrupted and to which employment the member returns pays the
683 contribution it would have made into the retirement system for
684 such period based on the member's salary at the time the service
685 was interrupted.

686 (2) The payments required to be made in subsection (1)(a) of
687 this section may be made over a period beginning with the date of
688 return to membership service and not exceeding three (3) times the
689 member's qualified military service; provided, however, that in no
690 event shall such period exceed fifteen (15) years.

691 (3) The member shall furnish proof satisfactory to the board
692 of trustees of certification of military service showing dates of
693 entrance into qualified service and the date of discharge as well



694 as proof that the member has returned to active employment within
695 the time specified.

696 SECTION 10. Section 21-29-305, Mississippi Code of 1972, is
697 amended as follows:

698 21-29-305. Each employer shall pick up the member
699 contributions required by Sections 21-29-17, 21-29-117 and
700 21-29-219, Mississippi Code of 1972, for all compensation earned
701 after January 1, 1989, and the contributions so picked up shall be
702 treated as employer contributions in determining tax treatment
703 under the United States Internal Revenue Code and the Mississippi
704 Income Tax Code; however, each employer shall continue to withhold
705 federal and state income taxes based upon such contributions until
706 the Internal Revenue Service or the federal courts rule that,
707 pursuant to Section 414(h) of the United States Internal Revenue
708 Code, these contributions shall not be included as gross income of
709 the member until such time as they are distributed or made
710 available. The employer may pick up these contributions by a
711 reduction in the cash salary of the member, or by an offset
712 against a future salary increase, or by a combination of a
713 reduction in salary and offset against a future salary increase.
714 If member contributions are picked up they shall be treated for
715 all purposes of the General Municipal Employees' Retirement System
716 and Firemen's and Policemen's Disability Relief Funds under
717 Articles 1, 3 and 5 of this chapter in the same manner and to the
718 same extent as member contributions made prior to the date picked
719 up.

720 SECTION 11. The following provision shall be codified as
721 Section 21-29-316, Mississippi Code of 1972:

722 21-29-316. (1) Pursuant to the Unemployment Compensation
723 Amendments of 1992 (Public Law 102-318 (UCA)), a member or the
724 spouse of a member who is an eligible beneficiary entitled to a
725 refund under Article 1, 3 or 5 of this chapter may elect on a form
726 prescribed by the board under rules and regulations established by



727 the board, to have an eligible rollover distribution of
728 accumulated contributions payable under this section paid directly
729 to an eligible retirement plan or individual retirement account.
730 If the member or the spouse of a member who is an eligible
731 beneficiary makes such election and specifies the eligible
732 retirement plan or individual retirement account to which such
733 distribution is to be paid, the distribution will be made in the
734 form of a direct trustee-to-trustee transfer to the specified
735 eligible retirement plan. Flexible rollovers under this
736 subsection shall not be considered assignments under Section
737 21-29-307.

738 (2) From and after July 1, 2001, subject to the rules
739 adopted by the board of trustees, any plan under this chapter
740 shall accept an eligible rollover distribution or a direct
741 transfer of funds from another qualified plan in payment of all or
742 a portion of the cost to repay a refund as permitted by the plan.
743 The plans may only accept rollover payments in an amount equal to
744 or less than the balance due for reinstatement of service credit.
745 The rules adopted by the board of trustees shall condition the
746 acceptance of a rollover or transfer from another qualified plan
747 on the receipt from the other plan of information necessary to
748 enable the system to determine the eligibility of any transferred
749 funds for tax-free rollover treatment or other treatment under
750 federal income tax law.

751 SECTION 12. Section 21-29-317, Mississippi Code of 1972, is
752 amended as follows:

753 21-29-317. (1) Notwithstanding any provisions of Articles
754 1, 3 and 5 of this chapter to the contrary, the maximum annual
755 retirement allowance attributable to the employer contributions
756 payable by the system to a member under Article 1, 3 or 5 of this
757 chapter shall be subject to the limitations set forth in Section
758 415 of the Internal Revenue Code and any regulations issued
759 thereunder as applicable to governmental plans as such term is



760 defined under Section 414(d) of the Internal Revenue Code. * * *

761 (2) Notwithstanding any other provision of this plan, all
762 distributions from this plan shall conform to the regulations
763 issued under Section 401(a)(9) of the Internal Revenue Code,
764 applicable to governmental plans, as defined in Section 414(d) of
765 the Internal Revenue Code, including the incidental death benefit
766 provisions of Section 401(a)(9)(G) of the Internal Revenue Code.
767 Further, such regulations shall override any plan provision that
768 is inconsistent with Section 401(a)(9) of the Internal Revenue
769 Code.

770 (3) The actuarial assumptions used to convert a retirement
771 allowance from the normal form of payment to an optional form of
772 payment shall be an appendix to Article 7 of this chapter and
773 subject to approval by the board of directors based upon
774 certification by the actuary.

775 (4) Notwithstanding any other provision of this plan, the
776 maximum compensation that can be considered for all plan purposes
777 is One Hundred Fifty Thousand Dollars (\$150,000.00) per year,
778 adjusted annually to reflect changes in the cost of living to
779 conform to the regulations issued under Section 401(a)(17) of the
780 Internal Revenue Code.

781 (5) In the event of the termination of one or more of the
782 retirement plans established pursuant to Article 1, 3 or 5 of this
783 chapter, all members of the plan or system as of the date of
784 termination of the system shall be deemed to have a vested right
785 to benefits to the extent and in the same manner that rights would
786 be vested under the laws existing as of the date of termination of
787 the system; provided, however, that any member, who because of a
788 termination of the system has not fulfilled the requirements for
789 length of service, shall be entitled to compensation as of the
790 date that such member would otherwise be eligible, with such
791 compensation to be computed on the basis of time actually a member



792 of the service and compensation actually earned during the time a
793 member, in the manner now provided by law.

794 SECTION 13. This act shall take effect and be in force from
795 and after July 1, 2001.

