AN ACT TO AMEND SECTION 25-11-103, MISSISSIPPI CODE OF 1972, TO DEFINE "FIRE FIGHTER" AND "LAW ENFORCEMENT OFFICER" FOR THE PURPOSES OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; TO AMEND SECTION 25-11-111, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY FIRE FIGHTER OR LAW ENFORCEMENT OFFICER WHO IS A MEMBER OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO HAS COMPLETED AT LEAST TWENTY YEARS OF CREDITABLE SERVICE AS A FIRE FIGHTER OR LAW ENFORCEMENT OFFICER MAY RETIRE, REGARDLESS OF AGE, AND RECEIVE A RETIREMENT ALLOWANCE; TO INCREASE THE PERCENTAGES USED TO CALCULATE THE RETIREMENT ALLOWANCE OF FIRE FIGHTERS AND LAW ENFORCEMENT OFFICERS; TO AMEND SECTION 25-13-11, MISSISSIPPI CODE OF 1972, TO REDUCE TO TWENTY THE NUMBER OF YEARS OF CREDITABLE SERVICE THAT A MEMBER OF THE HIGHWAY SAFETY PATROL RETIREMENT SYSTEM MUST HAVE TO RETIRE REGARDLESS OF AGE; TO INCREASE THE PERCENTAGES USED TO CALCULATE THE RETIREMENT ALLOWANCE OF MEMBERS OF THE HIGHWAY SAFETY PATROL RETIREMENT SYSTEM; TO AMEND SECTION 25-11-114, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 25-11-103, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

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

(f) "Average compensation" shall mean the average of
the four (4) highest years of earned compensation reported for an
employee in a fiscal or calendar year period, or combination
thereof which do not overlap, or the last forty-eight (48)
consecutive months of earned compensation reported for an
employee. The four (4) years need not be successive or joined
years of service. In no case shall the average compensation so
determined be in excess of One Hundred Twenty-five Thousand
Dollars ($125,000.00). In computing the average compensation, any
amount paid in a lump sum for personal leave shall be included in
the calculation to the extent that such amount does not exceed an
amount which is equal to thirty (30) days of earned compensation
and to the extent that it does not cause the employees' earned
compensation to exceed the maximum reportable amount specified in
Section 25-11-103(k); * * * however, this thirty-day limitation
shall not prevent the inclusion in the calculation of leave earned
under federal regulations prior to July 1, 1976, and frozen as of
that date as referred to in Section 25-3-99. Only the amount of
lump sum pay for personal leave due and paid upon the death of a
member attributable for up to one hundred fifty (150) days shall
be used in the deceased member's average compensation calculation
in determining the beneficiary's benefits. In computing the
average compensation, no amounts shall be used which are in excess
of the amount on which contributions were required and paid. If
any member who is or has been granted any increase in annual
salary or compensation of more than eight percent (8%) retires within twenty-four (24) months from the date that such increase becomes effective, then the board shall exclude that part of the increase in salary or compensation that exceeds eight percent (8%) in calculating that member's average compensation for retirement purposes. The board may enforce this provision by rule or regulation. However, increases in compensation in excess of eight percent (8%) per year granted within twenty-four (24) months of the date of retirement may be included in such calculation of average compensation if satisfactory proof is presented to the board showing that the increase in compensation was the result of an actual change in the position held or services rendered, or that such compensation increase was authorized by the State Personnel Board or was increased as a result of statutory enactment, and the employer furnishes an affidavit stating that such increase granted within the last twenty-four (24) months was not contingent on a promise or agreement of the employee to retire. Nothing in Section 25-3-31 shall affect the calculation of the average compensation of any member for the purposes of this article. The average compensation of any member who retires before July 1, 1992, shall not exceed the annual salary of the Governor.

(g) "Beneficiary" shall mean any person entitled to receive a retirement allowance, an annuity or other benefit as provided by Articles 1 and 3. In the event of the death prior to retirement of any member whose spouse and/or children are not entitled to a retirement allowance on the basis that the member has less than four (4) years of service credit and/or has not been married for a minimum of one (1) year or the spouse has waived his or her entitlement to a retirement allowance pursuant to Section 25-11-114, the lawful spouse of a member at the time of the death of such member shall be the beneficiary of such member unless the member has designated another beneficiary subsequent to the date...
of marriage in writing, and filed such writing in the office of
the executive director of the board of trustees. No designation
or change of beneficiary shall be made in any other manner.
(h) "Board" shall mean the board of trustees provided
in Section 25-11-15 to administer the retirement system herein
created.
(i) "Creditable service" shall mean "prior service," "retroactive service" and all lawfully credited unused leave not exceeding the accrual rates and limitations provided in Section 25-3-91 et seq., as of the date of withdrawal from service plus "membership service" for which credit is allowable as provided in Section 25-11-109. Except to limit creditable service reported to the system for the purpose of computing an employee's retirement allowance or annuity or benefits provided in this article, nothing in this paragraph shall limit or otherwise restrict the power of the governing authority of a municipality or other political subdivision of the state to adopt such vacation and sick leave policies as it deems necessary.
(j) "Child" means either a natural child of the member, a child that has been made a child of the member by applicable court action before the death of the member, or a child under the permanent care of the member at the time of the latter's death, which permanent care status shall be determined by evidence satisfactory to the board.
(k) "Earned compensation" shall mean the full amount earned by an employee for a given pay period including any maintenance furnished up to a maximum of One Hundred Twenty-five Thousand Dollars ($125,000.00) per year, and proportionately for less than one (1) year of service. The value of such maintenance when not paid in money shall be fixed by the employing state agency, and, in case of doubt, by the board of trustees as defined in Section 25-11-15. In any case, earned compensation shall be limited to the regular periodic compensation paid, exclusive of...
litigation fees, bond fees, and other similar extraordinary nonrecurring payments. In addition, any member in a covered position, as defined by Public Employees' Retirement System laws and regulations, who is also employed by another covered agency or political subdivision shall have the earnings of that additional employment reported to the Public Employees' Retirement System regardless of whether the additional employment is sufficient in itself to be a covered position. In the case of fee officials, the net earnings from their office after deduction of expenses shall apply, except that in no case shall earned compensation be less than the total direct payments made by the state or governmental subdivisions to the official, and employer and employee contributions shall be paid thereon. In the case of members of the state Legislature, all remuneration or amounts paid, except mileage allowance, shall apply. The amount by which an eligible employee's salary is reduced pursuant to a salary reduction agreement authorized under Section 25-17-5 shall be included as earned compensation under this paragraph, provided this inclusion does not conflict with federal law, including federal regulations and federal administrative interpretations thereunder, pertaining to the Federal Insurance Contributions Act or to Internal Revenue Code Section 125 cafeteria plans. Compensation in addition to an employee's base salary that is paid to the employee pursuant to the vacation and sick leave policies of a municipality or other political subdivision of the state that employs him which exceeds the maximums authorized by Section 25-3-91 et seq., shall be excluded from the calculation of earned compensation under this article. The maximum salary applicable for retirement purposes before July 1, 1992, shall be the salary of the Governor. Nothing in Section 25-3-31 shall affect the determination of the earned compensation of any member for the purposes of this article.
"Employee" means any person legally occupying a position in the state service, and shall include the employees of the retirement system created hereunder.

"Employer" shall mean the State of Mississippi or any of its departments, agencies or subdivisions from which any employee receives his compensation.

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

"Fiscal year" shall mean the period beginning on July 1 of any year and ending on June 30 of the next succeeding year.

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

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

"Membership service" shall mean service as an employee rendered while a member of the retirement system.

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

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

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

(v) "Retirement allowance" shall mean an annuity for
life as provided in this article, payable each year in twelve (12)
equal monthly installments beginning as of the date fixed by the
board. The retirement allowance shall be calculated in accordance
with Section 25-11-111. * * * Any spouse who received a spouse
retirement benefit in accordance with Section 25-11-111(d) before
March 31, 1971, and those benefits were terminated because of
eligibility for a social security benefit, may again receive his
spouse retirement benefit from and after making application with
the board of trustees to reinstate the spouse retirement benefit.
(w) "Retroactive service" shall mean service rendered after February 1, 1953, for which credit is allowable under Section 25-11-105(b) and Section 25-11-105(k).

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

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

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

(aa) "Withdrawal from service" shall mean complete severance of employment in the state service of any member by resignation, dismissal or discharge.
(bb) "Fire fighter" means a person who is trained for the prevention and control of loss of life and property from fire and other emergencies, who is assigned to fire fighting activity and is required to respond to alarms and perform emergency actions at the location of a fire, hazardous materials or other emergency incident, and who is employed full time at that position.

(cc) "Law enforcement officer" means a person who is employed full time as a lawfully sworn municipal police officer or narcotics agent, sheriff, deputy sheriff, constable, conservation officer, enforcement officer of the Department of Marine Resources, agent or inspector of the Alcoholic Beverage Control Division of the State Tax Commission, inspection station employee or field inspector of the Mississippi Department of Transportation, state correctional facility guard or enforcement officer of the Department of Corrections, enforcement officer of the Public Service Commission, or any other full-time officer or employee of the state or any agency, department, institution or county thereof who is authorized to carry a firearm while in the performance of his official duties and who has met the minimum educational and training standards established by the Board on Law Enforcement Officer Standards and Training for permanent, full-time law enforcement officers and has received a certificate from that board.

(dd) The masculine pronoun, wherever used, shall include the feminine pronoun.

SECTION 2. Section 25-11-111, Mississippi Code of 1972, is amended as follows:

25-11-111. (a) (1) Except as otherwise provided in this section, any member upon withdrawal from service upon or after attainment of the age of sixty (60) years who has completed at least four (4) years of creditable service, or any member upon withdrawal from service regardless of age who has completed at least twenty-five (25) years of creditable service, shall be
entitled to receive a retirement allowance computed in accordance with the formula set forth in this section, which shall begin on the first of the month following the date the member's application for the allowance is received by the board, but in no event before withdrawal from service.

(2) Any member upon withdrawal from service, regardless of age, who was employed as a fire fighter or law enforcement officer at the time of that withdrawal from service and who has completed at least twenty (20) years of creditable service as a fire fighter or law enforcement officer, shall be entitled to receive a retirement allowance computed in accordance with the formula set forth in this section, which shall begin on the first of the month following the date the member's application for the allowance is received by the board, but in no event before withdrawal from service.

(b) Any member whose withdrawal from service occurs prior to attaining the age of sixty (60) years who shall have completed four (4) or more years of creditable service and shall not have received a refund of his accumulated contributions shall be entitled to receive a retirement allowance, beginning upon his attaining the age of sixty (60) years, of the amount earned and accrued at the date of withdrawal from service.

(c) Any member in service who has qualified for retirement benefits may select any optional method of settlement of retirement benefits by notifying the Executive Director of the Board of Trustees of the Public Employees' Retirement System in writing, on a form prescribed by the board, of the option he has selected and by naming the beneficiary of such option and furnishing necessary proof of age. Such option, once selected, may be changed at any time prior to actual retirement or death, but upon the death or retirement of the member, the optional settlement shall be placed in effect upon proper notification to the executive director.
(d) The annual amount of the retirement allowance shall consist of:

(1) A member's annuity which shall be the actuarial equivalent of the accumulated contributions of the member at the time of retirement computed according to the actuarial table in use by the system; and

(2) An employer's annuity which, together with the member's annuity provided above, shall be equal to one and seven-eighths percent (1-7/8%) of the average compensation for each year of state service up to and including twenty-five (25) years of membership service, and two and one-fourth percent (2-1/4%) of the average compensation for each year of state service exceeding twenty-five (25) years of membership service. However, after the board of trustees has begun implementing the changes in the computation of the retirement allowance as provided in subsection (e), the employer's annuity shall be equal to:

(i) One and seven-eighths percent (1-7/8%) of the average compensation for each year of membership service up to and including the number of years specified in Column A of the table in subsection (e) for the latest phase that has been implemented, and

(ii) Two percent (2%) of the average compensation specified in Column A of the table in subsection (e) for the latest phase that has been implemented up to and including twenty-five (25) years, and

(iii) The percentage of the average compensation specified in Column B of the table in subsection (e) for the latest phase that has been implemented for each year of membership service exceeding twenty-five (25) years.

Notwithstanding the above, in the case of a fire fighter or law enforcement officer, the employer's annuity shall be equal to three and three-fourths percent (3-3/4%) of the average compensation.
compensation for each year of state service as a fire fighter or law enforcement officer up to and including twenty (20) years of membership service, and three percent (3%) of the average compensation for each year of state service as a fire fighter or law enforcement officer exceeding twenty (20) years of membership service.

(3) A prior service annuity equal to one and seven-eighths percent (1-7/8%) of the average compensation for each year of state service up to and including twenty-five (25) years of prior service, and two and one-fourth percent (2-1/4%) of the average compensation for each year of state service exceeding twenty-five (25) years of prior service for which the member is allowed credit. However, after the board of trustees has begun implementing the changes in the computation of the retirement allowance as provided in subsection (e), the prior service annuity shall be equal to:

(i) One and seven-eighths percent (1-7/8%) of the average compensation for each year of prior service up to and including the number of years specified in Column A of the table in subsection (e) for the latest phase that has been implemented, and

(ii) Two percent (2%) of the average compensation specified in Column A of the table in subsection (e) for the latest phase that has been implemented up to and including twenty-five (25) years, and

(iii) The percentage of the average compensation specified in Column B of the table in subsection (e) for the latest phase that has been implemented for each year of prior service exceeding twenty-five (25) years.

Notwithstanding the above, in the case of a fire fighter or law enforcement officer, the prior service annuity shall be equal to three and three-fourths percent (3-3/4%) of the average compensation.
compensation for each year of prior service as a fire fighter or
law enforcement officer up to and including twenty (20) years of
prior service, and three percent (3%) of the average compensation
for each year of prior service as a fire fighter or law
enforcement officer exceeding twenty (20) years of prior service.

(4) Any retired member or beneficiary thereof who was
eligible to receive a retirement allowance before July 1, 1991,
and who is still receiving a retirement allowance on July 1, 1992,
shall receive an increase in the annual retirement allowance of
the retired member equal to one-eighth of one percent (1/8 of 1%) of the average compensation for each year of state service in
excess of twenty-five (25) years of membership service up to and
including thirty (30) years. The maximum increase shall be
five-eighths of one percent (5/8 of 1%). In no case shall a
member who has been retired prior to July 1, 1987, receive less
than Ten Dollars ($10.00) per month for each year of creditable
service and proportionately for each quarter year thereof.
Persons retired on or after July 1, 1987, shall receive at least
Ten Dollars ($10.00) per month for each year of service and
proportionately for each quarter year thereof reduced for the
option selected. However, such Ten Dollars ($10.00) minimum per
month for each year of creditable service shall not apply to a
retirement allowance computed under Section 25-11-114 based on a
percentage of the member's average compensation.

(5) The board shall recalculate the retirement
allowance of any member or the beneficiary of such a member, if
the member or beneficiary is eligible to receive a retirement
allowance before July 1, 1999, by using the criteria in paragraphs
(2) and (3) of this subsection (d) that provides for two and
one-fourth percent (2-1/4%) of the average compensation for each
year of service exceeding twenty-five (25) years.

(6) The retirement allowance otherwise payable
may be converted into a retirement allowance of equivalent
actuarial value in such an amount that, with the member's benefit
under Title II of the federal Social Security Act, the member will
receive, so far as possible, approximately the same amount
annually before and after the earliest age at which the member
becomes eligible to receive a social security benefit.

(e) Beginning on July 1, 2000, the board of trustees shall
implement changes in the computation of the amount of the annual
retirement allowance, which changes shall be implemented in phases
as set forth in the table in this subsection. The board of
trustees shall implement the phases systematically upon July 1
after the board's actuary certifies that implementation of a phase
will not cause the unfunded accrued actuarial liability
amortization period for the retirement system to exceed twenty-two
(22) years. The board of trustees shall have the exclusive
authority to set the assumptions that are used in the actuarial
evaluation in accordance with Section 25-11-119(9). The board of
trustees shall recalculate the retirement allowance of any retired
member or beneficiary of such a member as each phase is
implemented.

<table>
<thead>
<tr>
<th>PHASE</th>
<th>2% FOR YEARS</th>
<th>PERCENTAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phase 1</td>
<td>20 years</td>
<td>2.250%</td>
</tr>
<tr>
<td>Phase 2</td>
<td>15 years</td>
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<tr>
<td>Phase 3</td>
<td>10 years</td>
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<tr>
<td>Phase 5</td>
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<td>2.250%</td>
</tr>
<tr>
<td>Phase 6</td>
<td>0 years</td>
<td>2.375%</td>
</tr>
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</table>
Phase 7  0 years  2.500%

Column A shows the years to which two percent (2%) is applicable in computing the retirement allowance, which are all the years of service exceeding the number specified in Column A for the phase that has been implemented up to and including twenty-five (25) years.

Column B shows the percentage that is applicable to the number of years of service exceeding twenty-five (25) years in computing the retirement allowance.

(f) No member, except members excluded by the Age Discrimination in Employment Act Amendments of 1986 (Public Law 99-592), under either Article 1 or Article 3 in state service shall be required to retire because of age.

(g) No payment on account of any benefit granted under the provisions of this section shall become effective or begin to accrue until January 1, 1953.

(h) (1) A retiree or beneficiary may, on a form prescribed by and filed with the retirement system, irrevocably waive all or a portion of any benefits from the retirement system to which the retiree or beneficiary is entitled. Such waiver shall be binding on the heirs and assigns of any retiree or beneficiary and the same must agree to forever hold harmless the Public Employees' Retirement System of Mississippi from any claim to such waived retirement benefits.

(2) Any waiver pursuant to this subsection shall apply only to the person executing the waiver. A beneficiary shall be entitled to benefits according to the option selected by the member at the time of retirement. However, a beneficiary may, at the option of the beneficiary, execute a waiver of benefits pursuant to this subsection.

(3) The retirement system shall retain in the annuity reserve account amounts that are not used to pay benefits because of a waiver executed under this subsection.
(4) The board of trustees may provide rules and regulations for the administration of waivers under this subsection.

SECTION 3. Section 25-13-11, Mississippi Code of 1972, is amended as follows:

25-13-11. Any member upon withdrawal from service, upon or after attainment of the age of fifty-five (55) years, who has completed at least five (5) years of creditable service, or any member upon withdrawal from service, regardless of age, who has completed at least twenty (20) years of creditable service, shall be entitled to receive a retirement allowance, which shall be payable the first of the month following receipt of the member's application in the Office of the Executive Director of the Public Employees' Retirement System, but in no event before withdrawal from service.

Any member whose withdrawal from service occurs prior to attaining the age of fifty-five (55) years, who has completed more than five (5) years of creditable service and has not received a refund of the member's accumulated contributions, shall be entitled to receive a retirement allowance beginning upon his attaining the age of fifty-five (55) years of the amount earned and accrued at the date of withdrawal from service.

The annual amount of the retirement allowance shall consist of:

(a) A member's annuity, which shall be the actuarial equivalent of the accumulated contributions of the member at the time of retirement, computed according to the actuarial table in use by the system.

(b) An employer's annuity which, together with the member's annuity provided above, shall be equal to three and three-fourths percent (3-3/4%) of the average compensation, based on the four (4) highest consecutive years, for each year of membership service up to and including twenty (20) years, and
three percent (3%) of the average compensation for each year of
membership service exceeding twenty (20) years.

(c) A prior service annuity equal to three and
three-fourths percent (3-3/4%) of the average compensation, based
on the four (4) highest consecutive years, for each year of prior
service for which the member is allowed credit up to and including
twenty (20) years, and three percent (3%) of the average
compensation for each year of prior service for which the member
is allowed credit exceeding twenty (20) years.

(d) Upon retiring from service, a member shall be
eligible to obtain retirement benefits, as computed above, for
life, except that the aggregate amount of the employer's annuity
and prior service annuity above described shall not exceed more
than one hundred percent (100%) of the average compensation
regardless of the years of service.

(e) Any member in the service who has attained the age
of sixty (60) years shall be retired forthwith. However, any
member who has attained age sixty (60) may ask the Commissioner of
Public Safety to allow him to continue in service with the
Mississippi Highway Safety Patrol beyond age sixty (60). If the
commissioner determines that the member's continuance in service
would be advantageous to the Highway Safety Patrol because of his
expert knowledge, experience or qualifications, the member shall
be allowed to continue in service beyond age sixty (60) for a
period of one (1) year. After the initial one-year continuance,
the commissioner may authorize the member to continue in service
for additional periods of one (1) year until the member attains
age sixty-five (65), at which time retirement shall be mandatory.

(f) Notwithstanding any provision of this chapter
pertaining to the Mississippi Highway Safety Patrol Retirement
System, no payments may be made for a retirement allowance on a
monthly basis for a period of time in excess of that allowed by any applicable federal law.

(g) In no case shall any retired member who has completed at least fifteen (15) years of creditable service receive less than Five Hundred Dollars ($500.00) per month; in no case shall any retired member who has completed ten (10) or more years of creditable service, but less than fifteen (15) years of creditable service, receive less than Three Hundred Dollars ($300.00) per month; and in no case shall any retired member who has completed less than ten (10) years of creditable service receive less than Two Hundred Fifty Dollars ($250.00) per month.

In no case shall a beneficiary who is receiving a retirement allowance receive less than Two Hundred Fifty Dollars ($250.00) per month or Three Thousand Dollars ($3,000.00) per year.

(h) Any retired member who is receiving a retirement allowance on July 1, 1999, shall receive an ad hoc increase in the annual retirement allowance equal to Three Dollars and Fifty Cents ($3.50) per month for each full fiscal year through June 30, 1999, that the member has actually drawn retirement payments from the date of retirement, or the date of last retirement if there is more than one (1) retirement date, plus an amount equal to One Dollar ($1.00) per month for each full year of creditable service and proportionately for each quarter year of creditable service, as documented by the system and on which benefits are being paid. If there are multiple beneficiaries receiving a retirement allowance from a deceased member's account, the ad hoc increase shall be divided proportionately.

SECTION 4. Section 25-11-114, Mississippi Code of 1972, is amended as follows:

25-11-114. (1) The applicable benefits provided in subsections (2) and (3) of this section shall be paid to eligible beneficiaries of any member who has completed four (4) or more years of creditable service and who dies before retirement and who
has not filed a Pre-Retirement Optional Retirement Form as provided in Section 25-11-111.

(2) (a) The member's surviving spouse who has been married to the member for not less than one (1) year immediately preceding his death shall receive an annuity computed in accordance with paragraph (d) of this subsection (2) as if the member:

(i) Had retired on the date of his death with entitlement to an annuity provided for in Section 25-11-111, notwithstanding that he might not have attained age sixty (60) or acquired twenty-five (25) years of creditable service or, in the case of a fire fighter or law enforcement officer, twenty (20) years of creditable service; and

(ii) Had nominated his spouse as beneficiary._

(b) If, at the time of the member's death, there are no dependent children, and the surviving spouse, who otherwise would receive the annuity under this subsection (2), has filed with the system a signed written waiver of his or her rights to the annuity and that waiver was in effect at the time of the member's death, a lump sum distribution of the deceased member's accumulated contributions shall be refunded in accordance with Section 25-11-117.

(c) The spouse annuity shall begin on the first day of the month following the date of the member's death, but in case of late filing, retroactive payments will be made for a period of not more than one (1) year.

(d) The spouse annuity shall be the greater of twenty percent (20%) of the deceased member's average compensation as defined in Section 25-11-103 at the time of death or Fifty Dollars ($50.00) monthly. If the spouse dies or if the spouse remarries before age sixty (60), the spouse annuity shall terminate.

(e) However, the spouse may elect by an irrevocable agreement on a form prescribed by the board of trustees to receive a monthly allowance as computed under either paragraph (d) or this
paragraph. Such irrevocable agreement shall constitute a waiver by the spouse to any current and future monthly allowance under the paragraph not elected and such waiver shall be a complete and full discharge of all obligations of the retirement system under such paragraph.

Any member who has completed four (4) or more years of creditable service and who dies before retirement and leaves a spouse who has been married to the member for not less than one (1) year immediately preceding his death and has not exercised any other option shall be deemed to have exercised Option 2 under Section 25-11-115 for the benefit of his spouse, which spouse shall be paid Option 2 settlement benefits under this article beginning on the first of the month following the date of death, but in case of late filing, retroactive payments will be made for a period of not more than one (1) year. The method of calculating such retirement benefits shall be on the same basis as provided in Section 25-11-111(d). However, if the member dies before being qualified for full unreduced benefits, then the benefits shall be reduced by three percent (3%) per year for the lesser of either the years of service or age required for full unreduced benefits in Section 25-11-111(d).

(3) (a) Subject to the maximum limitation provided in this paragraph, the member's dependent children each shall receive an annuity of the greater of ten percent (10%) of the member's average compensation as defined in Section 25-11-103 at the time of the death of the member or Fifty Dollars ($50.00) monthly; however, if there are more than three (3) dependent children, each dependent child shall receive an equal share of a total annuity equal to thirty percent (30%) of the member's average compensation, provided that such total annuity shall not be less than One Hundred Fifty Dollars ($150.00) per month for all children.
(b) A child shall be considered to be a dependent child until marriage, or the attainment of age nineteen (19), whichever comes first; however, this age limitation shall be extended beyond age nineteen (19), but in no event beyond the attainment of age twenty-three (23), as long as the child is a student regularly pursuing a full-time course of resident study or training in an accredited high school, trade school, technical or vocational institute, junior or community college, college, university or comparable recognized educational institution duly licensed by a state. A student child whose birthday falls during the school year (September 1 through June 30) is considered not to reach age twenty-three (23) until the July 1 following the actual twenty-third birthday. A full-time course of resident study or training means a day or evening noncorrespondence course that includes school attendance at the rate of at least thirty-six (36) weeks per academic year or other applicable period with a subject load sufficient, if successfully completed, to attain the educational or training objective within the period generally accepted as minimum for completion, by a full-time day student, of the academic or training program concerned. Any child who is physically or mentally incompetent, as adjudged by either a Mississippi court of competent jurisdiction or by the board, shall receive benefits for as long as the incompetency exists.

(c) If there are more than three (3) dependent children, upon a child's ceasing to be a dependent child, his annuity shall terminate and there shall be a redetermination of the amounts payable to any remaining dependent children.

(d) Annuities payable under this subsection (3) shall begin the first day of the month following the date of the member's death or in case of late filing, retroactive payments will be made for a period of not more than one (1) year. Such benefits may be paid to a surviving parent or the lawful custodian.
of a dependent child for the use and benefit of such child without
the necessity of appointment as guardian.

(4) (a) Death benefits in the line of duty. Regardless of
the number of years of the member's creditable service, the spouse
and/or the dependent children of an active member who is killed in
the line of performance of duty or dies as a direct result of an
accident occurring in the line of performance of duty shall
qualify, on approval of the board, for a retirement allowance on
the first of the month following the date of death, but in the
case of late filing, retroactive payments will be made for a
period of not more than one (1) year. The spouse shall receive a
retirement allowance equal to one-half (1/2) of the average
compensation as defined in Section 25-11-103. In addition to the
retirement allowance for the spouse, or if there is no surviving
spouse, the member's dependent child shall receive a retirement
allowance in the amount of one-fourth (1/4) of the member's
average compensation as defined in Section 25-11-103; however, if
there are two (2) or more dependent children, each dependent child
shall receive an equal share of a total annuity equal to one-half
(1/2) of the member's average compensation. If there are more
than two (2) dependent children, upon a child's ceasing to be a
dependent child, his annuity shall terminate and there shall be a
redetermination of the amounts payable to any remaining dependent
children. Such benefits shall cease to be paid for the support
and maintenance of each child upon such child attaining the age of
nineteen (19) years; however, the spouse shall continue to be
eligible for the aforesaid retirement allowance. Such benefits
may be paid to a surviving parent or lawful custodian of such
children for the use and benefit of the children without the
necessity of appointment as guardian. Such retirement allowance
shall cease to the spouse upon remarriage but continue to be
payable for each dependent child until the age of nineteen (19)
years.
(b) A child shall be considered to be a dependent child until marriage, or the attainment of age nineteen (19), whichever comes first; however, this age limitation shall be extended beyond age nineteen (19), but in no event beyond the attainment of age twenty-three (23), as long as the child is a student regularly pursuing a full-time course of resident study or training in an accredited high school, trade school, technical or vocational institute, junior or community college, college, university or comparable recognized educational institution duly licensed by a state. A student child whose birthday falls during the school year (September 1 through June 30) is considered not to reach age twenty-three (23) until the July 1 following the actual twenty-third birthday. A full-time course of resident study or training means a day or evening noncorrespondence course that includes school attendance at the rate of at least thirty-six (36) weeks per academic year or other applicable period with a subject load sufficient, if successfully completed, to attain the educational or training objective within the period generally accepted as minimum for completion, by a full-time day student, of the academic or training program concerned. Any child who is physically or mentally incompetent, as adjudged by either a Mississippi court of competent jurisdiction or by the board, shall receive benefits for as long as the incompetency exists.

(5) If all the annuities provided for in this section payable on account of the death of a member terminate before there has been paid an aggregate amount equal to the member's accumulated contributions standing to the member's credit in the annuity savings account at the time of the member's death, the difference between the accumulated contributions and the aggregate amount of annuity payments shall be paid to such person as the member has nominated by written designation duly executed and filed with the board. If there is no designated beneficiary
surviving at termination of benefits, the difference shall be payable pursuant to Section 25-11-117.1(1).
(6) Regardless of the number of years of creditable service upon the application of a member or employer, any active member who becomes disabled as a direct result of an accident or traumatic event resulting in a physical injury occurring in the line of performance of duty, provided the medical board or other designated governmental agency after a medical examination certifies that the member is mentally or physically incapacitated for the further performance of duty and such incapacity is likely to be permanent, may be retired by the board of trustees on the first of the month following the date of filing such application but in no event shall the retirement allowance commence before the termination of state service. The retirement allowance shall equal the allowance on disability retirement as provided in Section 25-11-113 but shall not be less than fifty percent (50%) of average compensation.

Permanent and total disability resulting from a cardiovascular, pulmonary or musculo-skeletal condition which was not a direct result of a traumatic event occurring in the performance of duty shall be deemed an ordinary disability. A mental disability based exclusively on employment duties occurring on an ongoing basis shall be deemed an ordinary disability.

(7) In the event the deceased or disabled member has less than four (4) years of creditable service, the average compensation as defined in Section 25-11-103 shall be the average of all annual earned compensation in state service for the purposes of benefits provided in this section.

(8) In case of death or total and permanent disability under subsection (4) or subsection (6) of this section and before the board shall consider any application for a retirement allowance, the employer must certify to the board that the member’s death or disability was a direct result of an accident or a traumatic event.
occurring during and as a result of the performance of the regular and assigned duties of the employee and that the death or disability was not the result of the willful negligence of the employee.

(9) The application for such retirement allowance must be filed within one (1) year after death of an active member who is killed in the line of performance of duty or dies as a direct result of an accident occurring in the line of performance of duty or traumatic event; but the board of trustees may consider an application for disability filed after the one-year period if it can be factually demonstrated to the satisfaction of the board of trustees that the disability is due to the accident and that the filing was not accomplished within the one-year period due to a delayed manifestation of the disability or to circumstances beyond the control of the member. However, in case of late filing, retroactive payments will be made for a period of not more than one (1) year only.

(10) Notwithstanding any other section of this article and in lieu of any payments to a designated beneficiary for a refund of contributions under Section 25-11-117, the spouse and/or children shall be eligible for the benefits payable pursuant to this section, and the spouse may elect, for both the spouse and/or children, to receive benefits in accordance with either subsections (2) and (3) or subsection (4) of this section; otherwise, the contributions to the credit of the deceased member shall be refunded in accordance with Section 25-11-117.

(11) If the member has previously received benefits from the system to which he was not entitled and has not repaid in full all amounts payable by him to the system, the annuity amounts otherwise provided by this section shall be withheld and used to effect repayment until the total of the withholdings repays in full all amounts payable by him to the system.
SECTION 5. This act shall take effect and be in force from and after July 1, 2002.