

By: Representative Stringer

To: Appropriations

## HOUSE BILL NO. 1148

1 AN ACT TO CREATE NEW SECTIONS TO BE CODIFIED AS SECTIONS  
2 25-11-111.1, 25-13-11.1 AND 21-29-325, MISSISSIPPI CODE OF 1972,  
3 TO REQUIRE THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO PAY  
4 RETIREMENT BENEFITS TO MEMBERS WHO RETIRE ON OR AFTER JANUARY 1,  
5 2003, AND THEIR BENEFICIARIES BY MEANS OF DIRECT DEPOSIT UNLESS  
6 THE MEMBER OR BENEFICIARY CAN DEMONSTRATE THAT PAYMENT BY MEANS OF  
7 DIRECT DEPOSIT WILL CAUSE THE MEMBER OR BENEFICIARY UNDUE  
8 HARDSHIP; TO AMEND SECTIONS 25-11-103, 25-11-105, 25-11-109,  
9 25-11-112, 25-11-113, 25-11-115, 25-11-120, 25-11-123, 25-11-127,  
10 25-11-133, 25-11-139, 25-11-309, 25-13-5, 25-13-16, 25-13-17,  
11 25-13-29, 25-13-33, 25-14-5, 25-14-7, 21-29-139, 21-29-245,  
12 21-29-301, 21-29-317, 21-29-323 AND 25-41-3, MISSISSIPPI CODE OF  
13 1972, TO REVISE THE DEFINITION OF THE TERM "AVERAGE COMPENSATION"  
14 UNDER THE LAWS GOVERNING THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
15 TO INCREASE THE MAXIMUM AMOUNT THAT MAY BE CONSIDERED AVERAGE  
16 COMPENSATION; TO REVISE THE DEFINITION OF THE TERM "EARNED  
17 COMPENSATION" UNDER THE LAWS GOVERNING THE PUBLIC EMPLOYEES'  
18 RETIREMENT SYSTEM TO INCREASE THE MAXIMUM AMOUNT THAT MAY BE  
19 EARNED ANNUALLY AND BE CONSIDERED EARNED COMPENSATION FOR PURPOSE  
20 OF RETIREMENT, TO REVISE THE MANNER IN WHICH THE COMPENSATION OF  
21 FEE PAID OFFICIALS IS TREATED FOR PURPOSES OF EARNED COMPENSATION,  
22 AND TO PROVIDE THAT CERTAIN EXPENSE REIMBURSEMENTS ARE NOT  
23 INCLUDED IN EARNED COMPENSATION; TO PROVIDE THAT FROM AND AFTER  
24 JULY 1, 2002, INDIVIDUALS WHO ARE EMPLOYED BY A GOVERNMENTAL  
25 ENTITY TO PERFORM PROFESSIONAL SERVICES ON LESS THAN A FULL-TIME  
26 BASIS SHALL BECOME MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT  
27 SYSTEM IF THEY ARE PAID REGULAR PERIODIC COMPENSATION THAT IS  
28 SUBJECT TO PAYROLL TAXES, THEY ARE PROVIDED ALL OTHER EMPLOYEE  
29 BENEFITS AND THEY MEET MEMBERSHIP CRITERIA ESTABLISHED BY THE  
30 BOARD OF TRUSTEES THAT APPLY TO ALL OTHER MEMBERS; TO PROVIDE THAT  
31 ACTIVE MEMBERS EMPLOYED ON LESS THAN A FULL-TIME BASIS SHALL  
32 CONTINUE TO BE ACTIVE MEMBERS FOR AS LONG AS THEY CONTINUE TO BE  
33 EMPLOYED IN THAT POSITION; TO CONFORM TO FEDERAL LAW THE AMOUNT OF  
34 TIME WITHIN WHICH PAYMENTS MUST BE MADE FOR EMPLOYEE CONTRIBUTIONS  
35 FOR SERVICE INTERRUPTED BY QUALIFIED MILITARY SERVICE BY MEMBERS  
36 OF ALL SYSTEMS ADMINISTERED BY THE BOARD OF TRUSTEES; TO AUTHORIZE  
37 THE BOARD OF TRUSTEES TO CHANGE THE MANNER IN WHICH MEMBERS OF THE  
38 PUBLIC EMPLOYEES' RETIREMENT SYSTEM RECEIVE THE COST OF LIVING  
39 ADJUSTMENT IF THE CURRENT MANNER OF PAYMENT WILL CAUSE A FINANCIAL  
40 HARDSHIP TO THE RETIRED MEMBER OR HIS BENEFICIARY; TO MAKE IT  
41 CLEAR THAT INACTIVE MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT  
42 SYSTEM MAY NOT FILE A CLAIM FOR A DISABILITY RETIREMENT ALLOWANCE  
43 LATER THAN SIX MONTHS AFTER WITHDRAWAL FROM SERVICE; TO PROVIDE  
44 THAT IF A MEMBER RETURNS TO COVERED EMPLOYMENT AFTER WITHDRAWAL  
45 FROM SERVICE OR TERMINATION FROM SERVICE, THE MEMBER MAY NOT APPLY  
46 FOR A REGULAR NONDUTY RELATED DISABILITY RETIREMENT ALLOWANCE  
47 UNTIL THE MEMBER HAS REMAINED A CONTRIBUTING MEMBER OF THE PUBLIC  
48 EMPLOYEES' RETIREMENT SYSTEM FOR A PERIOD OF SIX MONTHS; TO  
49 AUTHORIZE MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO  
50 BECOME ELIGIBLE FOR SERVICE RETIREMENT BENEFITS WHILE PURSUING A  
51 DISABILITY RETIREMENT ALLOWANCE TO ELECT TO RECEIVE A SERVICE  
52 RETIREMENT ALLOWANCE PENDING A DETERMINATION ON ELIGIBILITY FOR A



53 DISABILITY RETIREMENT ALLOWANCE AND TO PROVIDE THAT NO PERSON MAY  
54 APPLY FOR A DISABILITY RETIREMENT ALLOWANCE AFTER THE PERSON  
55 BEGINS TO RECEIVE A SERVICE RETIREMENT ALLOWANCE; TO PROVIDE THAT  
56 RETIREMENT OPTION 4-C SHALL NOT BE AVAILABLE TO RETIREES WHO  
57 RETIRE EFFECTIVE ON OR AFTER JANUARY 1, 2003; TO PROVIDE THAT  
58 MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO ARE  
59 PURSUING A DISABILITY RETIREMENT ALLOWANCE AND SIMULTANEOUSLY OR  
60 SUBSEQUENTLY ELECT TO BEGIN RECEIVING A RETIREMENT ALLOWANCE WHILE  
61 CONTINUING TO PURSUE A DISABILITY RETIREMENT ALLOWANCE SHALL NOT  
62 BE ELIGIBLE TO SELECT OPTION 4-C OR OPTION 6; TO REVISE THE MANNER  
63 IN WHICH THE RETIREMENT ALLOWANCE IS CALCULATED IF A RETIRED  
64 MEMBER MARRIES AND ELECTS TO RECEIVE A REDUCED BENEFIT; TO PROVIDE  
65 THAT FROM AND AFTER JANUARY 1, 2003, IF THERE IS AN ELECTION OF  
66 OPTION 6 AFTER AGE 65, THE ACTUARIAL EQUIVALENT FACTOR BASED ON  
67 THE RETIREE'S AGE AT THE TIME OF RETIREMENT SHALL BE USED TO  
68 CALCULATE THE REDUCED MAXIMUM MONTHLY RETIREMENT ALLOWANCE; TO  
69 PROVIDE THAT IN THE CASE OF DISABILITY APPEALS UNDER THE PUBLIC  
70 EMPLOYEES' RETIREMENT SYSTEM, THE HEARING OFFICER SHALL HAVE THE  
71 AUTHORITY TO DEFER A DECISION IN ORDER TO REQUEST A MEDICAL  
72 EVALUATION OR TEST OR ADDITIONAL EXISTING MEDICAL RECORDS NOT  
73 PREVIOUSLY FURNISHED BY THE CLAIMANT; TO PROVIDE THAT MEMBERS OF  
74 THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM MAY CONTINUE IN MUNICIPAL  
75 OR COUNTY OFFICE OR BE ELECTED TO A MUNICIPAL OR COUNTY OFFICE  
76 WITHOUT WAIVING THE SALARY FOR THAT OFFICE IF THE COMPENSATION  
77 RECEIVED FOR THE OFFICE DOES NOT EXCEED 25% OF THE RETIREE'S  
78 AVERAGE COMPENSATION; TO CLARIFY THE RESPONSIBILITY OF CHANCERY  
79 AND CIRCUIT CLERKS TO MAKE CERTAIN EMPLOYER AND EMPLOYEE  
80 CONTRIBUTIONS TO THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; TO  
81 CONFORM THE MAXIMUM AMOUNT OF COMPENSATION THAT MAY BE CONSIDERED  
82 FOR THE PURPOSE OF ALL PLANS ADMINISTERED BY THE BOARD OF TRUSTEES  
83 TO FEDERAL LAW REQUIREMENTS; TO PROVIDE THAT MEMBERS OF ALL  
84 SYSTEMS ADMINISTERED BY THE BOARD OF TRUSTEES OF THE PUBLIC  
85 EMPLOYEES' RETIREMENT SYSTEM SHALL HAVE A PERIOD OF TWO YEARS FROM  
86 THE EFFECTIVE DATE OF THEIR RETIREMENT WITHIN WHICH TO SUBMIT  
87 DOCUMENTATION OF ANY ADDITIONAL SERVICE CREDIT; TO REMOVE THE  
88 PROVISION THAT LIMITS THE AMOUNT THAT A MEMBER MAY RECEIVE FROM  
89 THE SUPPLEMENTAL LEGISLATIVE RETIREMENT PLAN AND THE PUBLIC  
90 EMPLOYEES' RETIREMENT SYSTEM; TO PROVIDE THAT THE MEDICAL BOARD IS  
91 NOT REQUIRED TO CONDUCT A MEDICAL EXAMINATION OF APPLICANTS FOR  
92 DISABILITY RETIREMENT UNDER THE HIGHWAY SAFETY PATROL RETIREMENT  
93 SYSTEM; TO AUTHORIZE THE STATE AND ITS POLITICAL SUBDIVISIONS TO  
94 MAKE CONTRIBUTIONS TO THE DEFERRED COMPENSATION PLAN ON BEHALF OF  
95 PARTICIPATING MEMBERS; TO MAKE IT CLEAR THAT THE DEFERRED  
96 COMPENSATION PROGRAM SHALL BE OPERATED IN ACCORDANCE WITH THE  
97 GUIDELINES ESTABLISHED BY THE INTERNAL REVENUE SERVICE AS  
98 REFLECTED IN THE PLAN DOCUMENT; TO REVISE THE DEFINITION OF THE  
99 TERM "PUBLIC BODY" UNDER THE OPEN MEETINGS LAW TO EXCLUDE  
100 PROCEEDINGS OF THE MEDICAL BOARD OF THE PUBLIC EMPLOYEES'  
101 RETIREMENT SYSTEM; AND FOR RELATED PURPOSES.

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

103 **SECTION 1.** The following provisions shall be codified as  
104 Section 25-11-111.1, Mississippi Code of 1972:

105 25-11-111.1. The Public Employees' Retirement System shall  
106 make payments of retirement benefits under this chapter to members  
107 who retire effective on or after January 1, 2003, and to the  
108 beneficiaries of those members, by means of direct deposit to an  
109 account with a financial institution that is a participant of the



110 Automated Clearing House designated by the member or beneficiary,  
111 unless the member or beneficiary can demonstrate that payment by  
112 means of direct deposit will cause the member or beneficiary undue  
113 hardship.

114 **SECTION 2.** The following provisions shall be codified as  
115 Section 25-13-11.1, Mississippi Code of 1972:

116 25-13-11.1. The Public Employees' Retirement System shall  
117 make payments of retirement benefits under this chapter to members  
118 who retire effective on or after January 1, 2003, and to the  
119 beneficiaries of those members, by means of direct deposit to an  
120 account with a financial institution that is a participant of the  
121 Automated Clearing House designated by the member or beneficiary,  
122 unless the member or beneficiary can demonstrate that payment by  
123 means of direct deposit will cause the member or beneficiary undue  
124 hardship.

125 **SECTION 3.** The following provisions shall be codified as  
126 Section 21-29-325, Mississippi Code of 1972:

127 21-29-325. The Public Employees' Retirement System shall  
128 make payments of retirement benefits under this chapter to members  
129 who retire effective on or after January 1, 2003, and to the  
130 beneficiaries of those members, by means of direct deposit to an  
131 account with a financial institution that is a participant of the  
132 Automated Clearing House designated by the member or beneficiary,  
133 unless the member or beneficiary can demonstrate that payment by  
134 means of direct deposit will cause the member or beneficiary undue  
135 hardship.

136 **SECTION 4.** Section 25-11-103, Mississippi Code of 1972, is  
137 amended as follows:

138 25-11-103. The following words and phrases as used in  
139 Articles 1 and 3, unless a different meaning is plainly required  
140 by the context, shall have the following meanings:

141 (a) "Accumulated contributions" shall mean the sum of  
142 all the amounts deducted from the compensation of a member and



143 credited to his individual account in the annuity savings account,  
144 together with regular interest thereon as provided in Section  
145 25-11-123.

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

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

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

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

160 (f) "Average compensation" shall mean the average of  
161 the four (4) highest years of earned compensation reported for an  
162 employee in a fiscal or calendar year period, or combination  
163 thereof which do not overlap, or the last forty-eight (48)  
164 consecutive months of earned compensation reported for an  
165 employee. The four (4) years need not be successive or joined  
166 years of service. In no case shall the average compensation so  
167 determined be in excess of One Hundred Fifty Thousand Dollars  
168 (\$150,000.00). In computing the average compensation, any amount  
169 paid in a lump sum for personal leave shall be included in the  
170 calculation to the extent that such amount does not exceed an  
171 amount which is equal to thirty (30) days of earned compensation  
172 and to the extent that it does not cause the employees' earned  
173 compensation to exceed the maximum reportable amount specified in  
174 Section 25-11-103(k); \* \* \* however, this thirty-day limitation  
175 shall not prevent the inclusion in the calculation of leave earned



176 under federal regulations prior to July 1, 1976, and frozen as of  
177 that date as referred to in Section 25-3-99. Only the amount of  
178 lump sum pay for personal leave due and paid upon the death of a  
179 member attributable for up to one hundred fifty (150) days shall  
180 be used in the deceased member's average compensation calculation  
181 in determining the beneficiary's benefits. In computing the  
182 average compensation, no amounts shall be used which are in excess  
183 of the amount on which contributions were required and paid. If  
184 any member who is or has been granted any increase in annual  
185 salary or compensation of more than eight percent (8%) retires  
186 within twenty-four (24) months from the date that such increase  
187 becomes effective, then the board shall exclude that part of the  
188 increase in salary or compensation that exceeds eight percent (8%)  
189 in calculating that member's average compensation for retirement  
190 purposes. The board may enforce this provision by rule or  
191 regulation. However, increases in compensation in excess of eight  
192 percent (8%) per year granted within twenty-four (24) months of  
193 the date of retirement may be included in such calculation of  
194 average compensation if satisfactory proof is presented to the  
195 board showing that the increase in compensation was the result of  
196 an actual change in the position held or services rendered, or  
197 that such compensation increase was authorized by the State  
198 Personnel Board or was increased as a result of statutory  
199 enactment, and the employer furnishes an affidavit stating that  
200 such increase granted within the last twenty-four (24) months was  
201 not contingent on a promise or agreement of the employee to  
202 retire. Nothing in Section 25-3-31 shall affect the calculation  
203 of the average compensation of any member for the purposes of this  
204 article. The average compensation of any member who retires  
205 before July 1, 1992, shall not exceed the annual salary of the  
206 Governor.

207 (g) "Beneficiary" shall mean any person entitled to  
208 receive a retirement allowance, an annuity or other benefit as



209 provided by Articles 1 and 3. In the event of the death prior to  
210 retirement of any member whose spouse and/or children are not  
211 entitled to a retirement allowance on the basis that the member  
212 has less than four (4) years of service credit and/or has not been  
213 married for a minimum of one (1) year or the spouse has waived his  
214 or her entitlement to a retirement allowance pursuant to Section  
215 25-11-114, the lawful spouse of a member at the time of the death  
216 of such member shall be the beneficiary of such member unless the  
217 member has designated another beneficiary subsequent to the date  
218 of marriage in writing, and filed such writing in the office of  
219 the executive director of the board of trustees. No designation  
220 or change of beneficiary shall be made in any other manner.

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

224 (i) "Creditable service" shall mean "prior service,"  
225 "retroactive service" and all lawfully credited unused leave not  
226 exceeding the accrual rates and limitations provided in Section  
227 25-3-91 et seq., as of the date of withdrawal from service plus  
228 "membership service" for which credit is allowable as provided in  
229 Section 25-11-109. Except to limit creditable service reported to  
230 the system for the purpose of computing an employee's retirement  
231 allowance or annuity or benefits provided in this article, nothing  
232 in this paragraph shall limit or otherwise restrict the power of  
233 the governing authority of a municipality or other political  
234 subdivision of the state to adopt such vacation and sick leave  
235 policies as it deems necessary.

236 (j) "Child" means either a natural child of the member,  
237 a child that has been made a child of the member by applicable  
238 court action before the death of the member, or a child under the  
239 permanent care of the member at the time of the latter's death,  
240 which permanent care status shall be determined by evidence  
241 satisfactory to the board.



242 (k) "Earned compensation" shall mean the full amount  
243 earned by an employee for a given pay period including any  
244 maintenance furnished up to a maximum of One Hundred Fifty  
245 Thousand Dollars (\$150,000.00) per year, and proportionately for  
246 less than one (1) year of service. The value of such maintenance  
247 when not paid in money shall be fixed by the employing state  
248 agency, and, in case of doubt, by the board of trustees as defined  
249 in Section 25-11-15. In any case, earned compensation shall be  
250 limited to the regular periodic compensation paid, exclusive of  
251 litigation fees, bond fees, and other similar extraordinary  
252 nonrecurring payments. In addition, any member in a covered  
253 position, as defined by Public Employees' Retirement System laws  
254 and regulations, who is also employed by another covered agency or  
255 political subdivision shall have the earnings of that additional  
256 employment reported to the Public Employees' Retirement System  
257 regardless of whether the additional employment is sufficient in  
258 itself to be a covered position. In addition, computation of  
259 earned compensation shall be governed by the following:

260 (i) In the case of constables, the net earnings  
261 from their office after deduction of expenses shall apply, except  
262 that in no case shall earned compensation be less than the total  
263 direct payments made by the state or governmental subdivisions to  
264 the official \* \* \*.

265 (ii) In the case of chancery or circuit clerks,  
266 the net earnings from their office after deduction of expenses  
267 shall apply as expressed in Section 25-11-123(f)(4).

268 (iii) Earned compensation shall not include per  
269 diem compensation, expense allowances and reimbursements paid  
270 under Sections 25-3-41 and 25-3-43; however, in the case of  
271 members of the state Legislature, all remuneration or amounts  
272 paid, except mileage allowance, shall apply.

273 (iv) The amount by which an eligible employee's  
274 salary is reduced pursuant to a salary reduction agreement



275 authorized under Section 25-17-5 shall be included as earned  
276 compensation under this paragraph, provided this inclusion does  
277 not conflict with federal law, including federal regulations and  
278 federal administrative interpretations thereunder, pertaining to  
279 the Federal Insurance Contributions Act or to Internal Revenue  
280 Code Section 125 cafeteria plans.

281           (v) Compensation in addition to an employee's base  
282 salary that is paid to the employee pursuant to the vacation and  
283 sick leave policies of a municipality or other political  
284 subdivision of the state that employs him which exceeds the  
285 maximums authorized by Section 25-3-91 et seq. shall be excluded  
286 from the calculation of earned compensation under this article.

287           (vi) The maximum salary applicable for retirement  
288 purposes before July 1, 1992, shall be the salary of the Governor.

289           (vii) Nothing in Section 25-3-31 shall affect the  
290 determination of the earned compensation of any member for the  
291 purposes of this article.

292           (1) "Employee" means any person legally occupying a  
293 position in the state service, and shall include the employees of  
294 the retirement system created hereunder.

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

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





306 (o) "Fiscal year" shall mean the period beginning on  
307 July 1 of any year and ending on June 30 of the next succeeding  
308 year.

309 (p) "Medical board" shall mean the board of physicians  
310 or any governmental or nongovernmental disability determination  
311 service designated by the board of trustees that is qualified to  
312 make disability determinations as provided for in Section  
313 25-11-119.

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

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

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

337 (t) "Prior service" shall mean service rendered before  
338 February 1, 1953, for which credit is allowable under Sections



339 25-11-105 and 25-11-109, and which shall allow prior service for  
340 any person who is now or becomes a member of the Public Employees'  
341 Retirement System and who does contribute to the system for a  
342 minimum period of four (4) years.

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

346 (v) "Retirement allowance" shall mean an annuity for  
347 life as provided in this article, payable each year in twelve (12)  
348 equal monthly installments beginning as of the date fixed by the  
349 board. The retirement allowance shall be calculated in accordance  
350 with Section 25-11-111. However, any spouse who received a spouse  
351 retirement benefit in accordance with Section 25-11-111(d) before  
352 March 31, 1971, and those benefits were terminated because of  
353 eligibility for a social security benefit, may again receive his  
354 spouse retirement benefit from and after making application with  
355 the board of trustees to reinstate the spouse retirement benefit.

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

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

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

364 (z) "State service" shall mean all offices and  
365 positions of trust or employment in the employ of the state, or  
366 any political subdivision or instrumentality thereof, which elect  
367 to participate as provided by Section 25-11-105(f), including the  
368 position of elected or fee officials of the counties and their  
369 deputies and employees performing public services or any  
370 department, independent agency, board or commission thereof, and  
371 shall also include all offices and positions of trust or



372 employment in the employ of joint state and federal agencies  
373 administering state and federal funds and service rendered by  
374 employees of the public schools. Effective July 1, 1973, all  
375 nonprofessional public school employees, such as bus drivers,  
376 janitors, maids, maintenance workers and cafeteria employees,  
377 shall have the option to become members in accordance with Section  
378 25-11-105(b), and shall be eligible to receive credit for services  
379 before July 1, 1973, provided that the contributions and interest  
380 are paid by the employee in accordance with that section; in  
381 addition, the county or municipal separate school district may pay  
382 the employer contribution and pro rata share of interest of the  
383 retroactive service from available funds. From and after July 1,  
384 1998, retroactive service credit shall be purchased at the  
385 actuarial cost in accordance with Section 25-11-105(b).

386 (aa) "Withdrawal from service" or "termination from  
387 service" shall mean complete severance of employment in the state  
388 service of any member by resignation, dismissal or discharge.

389 (bb) The masculine pronoun, wherever used, shall  
390 include the feminine pronoun.

391 **SECTION 5.** Section 25-11-105, Mississippi Code of 1972, is  
392 amended as follows:

393 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

394 The membership of this retirement system shall be composed as  
395 follows:

396 (a) (i) All persons who shall become employees in the  
397 state service after January 31, 1953, and whose wages are subject  
398 to payroll taxes and are lawfully reported on IRS Form W-2, except  
399 those specifically excluded, or as to whom election is provided in  
400 Articles 1 and 3, shall become members of the retirement system as  
401 a condition of their employment.

402 (ii) From and after July 1, 2002, any individual  
403 who is employed by a governmental entity to perform professional  
404 services shall become a member of the system if the individual is



405 paid regular periodic compensation for those services that is  
406 subject to payroll taxes, is provided all other employee benefits  
407 and meets the membership criteria established by the regulations  
408 adopted by the board of trustees that apply to all other members  
409 of the system; however, any active member employed in such a  
410 position on July 1, 2002, may continue as an active member for as  
411 long as they continue to be employed in the position.

412 (b) All persons who shall become employees in the state  
413 service after January 31, 1953, except those specifically excluded  
414 or as to whom election is provided in Articles 1 and 3, unless  
415 they shall file with the board prior to the lapse of sixty (60)  
416 days of employment or sixty (60) days after the effective date of  
417 the cited articles, whichever is later, on a form prescribed by  
418 the board, a notice of election not to be covered by the  
419 membership of the retirement system and a duly executed waiver of  
420 all present and prospective benefits which would otherwise inure  
421 to them on account of their participation in the system, shall  
422 become members of the retirement system; \* \* \* however, \* \* \* no  
423 credit for prior service will be granted to members until they  
424 have contributed to Article 3 of the retirement system for a  
425 minimum period of at least four (4) years. Such members shall  
426 receive credit for services performed prior to January 1, 1953, in  
427 employment now covered by Article 3, but no credit shall be  
428 granted for retroactive services between January 1, 1953, and the  
429 date of their entry into the retirement system unless the employee  
430 pays into the retirement system both the employer's and the  
431 employee's contributions on wages paid him during the period from  
432 January 31, 1953, to the date of his becoming a contributing  
433 member, together with interest at the rate determined by the board  
434 of trustees. Members reentering after withdrawal from service  
435 shall qualify for prior service under the provisions of Section  
436 25-11-117. From and after July 1, 1998, upon eligibility as noted



437 above, the member may receive credit for such retroactive service  
438 provided:

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

442 (2) The member shall pay to the retirement system  
443 on the date he or she is eligible for such credit or at any time  
444 thereafter prior to the date of retirement the actuarial cost for  
445 each year of such creditable service. The provisions of this  
446 subparagraph (2) shall be subject to the limitations of Section  
447 415 of the Internal Revenue Code and regulations promulgated  
448 thereunder.

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

453 (c) All persons who shall become employees in the state  
454 service after January 31, 1953, and who are eligible for  
455 membership in any other retirement system shall become members of  
456 this retirement system as a condition of their employment unless  
457 they elect at the time of their employment to become a member of  
458 such other system.

459 (d) All persons who are employees in the state service  
460 on January 31, 1953, and who are members of any nonfunded  
461 retirement system operated by the State of Mississippi, or any of  
462 its departments or agencies, shall become members of this system  
463 with prior service credit unless, before February 1, 1953, they  
464 shall file a written notice with the board of trustees that they  
465 do not elect to become members.

466 (e) All persons who are employees in the state service  
467 on January 31, 1953, and who under existing laws are members of  
468 any fund operated for the retirement of employees by the State of  
469 Mississippi, or any of its departments or agencies, shall not be



470 entitled to membership in this retirement system unless, before  
471 February 1, 1953, any such person shall indicate by a notice filed  
472 with the board, on a form prescribed by the board, his individual  
473 election and choice to participate in this system, but no such  
474 person shall receive prior service credit unless he becomes a  
475 member on or before February 1, 1953.

476 (f) Each political subdivision of the state and each  
477 instrumentality of the state or a political subdivision, or both,  
478 is hereby authorized to submit, for approval by the board of  
479 trustees, a plan for extending the benefits of this article to  
480 employees of any such political subdivision or instrumentality.  
481 Each such plan or any amendment to the plan for extending benefits  
482 thereof shall be approved by the board of trustees if it finds  
483 that such plan, or such plan as amended, is in conformity with  
484 such requirements as are provided in Articles 1 and 3; however,  
485 upon approval of such plan or any such plan heretofore approved by  
486 the board of trustees, the approved plan shall not be subject to  
487 cancellation or termination by the political subdivision or  
488 instrumentality, except that any community hospital serving a  
489 municipality that joined the Public Employees' Retirement System  
490 as of November 1, 1956, to offer social security coverage for its  
491 employees and subsequently extended retirement annuity coverage to  
492 its employees as of December 1, 1965, may, upon documentation of  
493 extreme financial hardship, have future retirement annuity  
494 coverage cancelled or terminated at the discretion of the board of  
495 trustees. No such plan shall be approved unless:

496 (1) It provides that all services which constitute  
497 employment as defined in Section 25-11-5 and are performed in the  
498 employ of the political subdivision or instrumentality, by any  
499 employees thereof, shall be covered by the plan; with the  
500 exception of municipal employees who are already covered by  
501 existing retirement plans; \* \* \* however, those employees in this  
502 class may elect to come under the provisions of this article;



503                   (2) It specifies the source or sources from which  
504 the funds necessary to make the payments required by paragraph (d)  
505 of Section 25-11-123 and of paragraph (f) (5)B and C of this  
506 section are expected to be derived and contains reasonable  
507 assurance that such sources will be adequate for such purpose;

508                   (3) It provides for such methods of administration  
509 of the plan by the political subdivision or instrumentality as are  
510 found by the board of trustees to be necessary for the proper and  
511 efficient administration thereof;

512                   (4) It provides that the political subdivision or  
513 instrumentality will make such reports, in such form and  
514 containing such information, as the board of trustees may from  
515 time to time require;

516                   (5) It authorizes the board of trustees to  
517 terminate the plan in its entirety in the discretion of the board  
518 if it finds that there has been a failure to comply substantially  
519 with any provision contained in such plan, such termination to  
520 take effect at the expiration of such notice and on such  
521 conditions as may be provided by regulations of the board and as  
522 may be consistent with applicable federal law.

523                   A. The board of trustees shall not finally  
524 refuse to approve a plan submitted under paragraph (f), and shall  
525 not terminate an approved plan without reasonable notice and  
526 opportunity for hearing to each political subdivision or  
527 instrumentality affected thereby. The board's decision in any  
528 such case shall be final, conclusive and binding unless an appeal  
529 be taken by the political subdivision or instrumentality aggrieved  
530 thereby to the Circuit Court of Hinds County, Mississippi, in  
531 accordance with the provisions of law with respect to civil causes  
532 by certiorari.

533                   B. Each political subdivision or  
534 instrumentality as to which a plan has been approved under this  
535 section shall pay into the contribution fund, with respect to



536 wages (as defined in Section 25-11-5), at such time or times as  
537 the board of trustees may by regulation prescribe, contributions  
538 in the amounts and at the rates specified in the applicable  
539 agreement entered into by the board.

540 C. Every political subdivision or  
541 instrumentality required to make payments under paragraph (f)(5)B  
542 hereof is authorized, in consideration of the employees' retention  
543 in or entry upon employment after enactment of Articles 1 and 3,  
544 to impose upon its employees, as to services which are covered by  
545 an approved plan, a contribution with respect to wages (as defined  
546 in Section 25-11-5) not exceeding the amount provided in Section  
547 25-11-123(d) if such services constituted employment within the  
548 meaning of Articles 1 and 3, and to deduct the amount of such  
549 contribution from the wages as and when paid. Contributions so  
550 collected shall be paid into the contribution fund as partial  
551 discharge of the liability of such political subdivisions or  
552 instrumentalities under paragraph (f)(5)B hereof. Failure to  
553 deduct such contribution shall not relieve the employee or  
554 employer of liability thereof.

555 D. Any state agency, school, political  
556 subdivision, instrumentality or any employer that is required to  
557 submit contribution payments or wage reports under any section of  
558 this chapter shall be assessed interest on delinquent payments or  
559 wage reports as determined by the board of trustees in accordance  
560 with rules and regulations adopted by the board and such assessed  
561 interest may be recovered by action in a court of competent  
562 jurisdiction against such reporting agency liable therefor or may,  
563 upon due certification of delinquency and at the request of the  
564 board of trustees, be deducted from any other monies payable to  
565 such reporting agency by any department or agency of the state.

566 E. Each political subdivision of the state  
567 and each instrumentality of the state or a political subdivision  
568 or subdivisions which submits a plan for approval of the board, as





569 provided in this section, shall reimburse the board for coverage  
570 into the expense account, its pro rata share of the total expense  
571 of administering Articles 1 and 3 as provided by regulations of  
572 the board.

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

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

585 (i) In the event any member of this system should  
586 change his employment to any agency of the state having an  
587 actuarially funded retirement system, the board of trustees may  
588 authorize the transfer of the member's creditable service and of  
589 the present value of the member's employer's accumulation account  
590 and of the present value of the member's accumulated membership  
591 contributions to such other system, provided the employee agrees  
592 to the transfer of his accumulated membership contributions and  
593 provided such other system is authorized to receive and agrees to  
594 make such transfer.

595 In the event any member of any other actuarially funded  
596 system maintained by an agency of the state changes his employment  
597 to an agency covered by this system, the board of trustees may  
598 authorize the receipt of the transfer of the member's creditable  
599 service and of the present value of the member's employer's  
600 accumulation account and of the present value of the member's  
601 accumulated membership contributions from such other system,



602 provided the employee agrees to the transfer of his accumulated  
603 membership contributions to this system and provided the other  
604 system is authorized and agrees to make such transfer.

605 (j) Wherever herein state employment is referred to, it  
606 shall include joint employment by state and federal agencies of  
607 all kinds.

608 (k) Employees of a political subdivision or  
609 instrumentality who were employed by such political subdivision or  
610 instrumentality prior to an agreement between such entity and the  
611 Public Employees' Retirement System to extend the benefits of this  
612 article to its employees, and which agreement provides for the  
613 establishment of retroactive service credit, and who have been  
614 members of the retirement system and have remained contributors to  
615 the retirement system for four (4) years, may receive credit for  
616 such retroactive service with such political subdivision or  
617 instrumentality, provided the employee and/or employer, as  
618 provided under the terms of the modification of the joinder  
619 agreement in allowing such coverage, pay into the retirement  
620 system the employer's and employee's contributions on wages paid  
621 the member during such previous employment, together with interest  
622 or actuarial cost as determined by the board covering the period  
623 from the date the service was rendered until the payment for the  
624 credit for such service was made. Such wages shall be verified by  
625 the Social Security Administration or employer payroll records.  
626 Effective July 1, 1998, upon eligibility as noted above, a member  
627 may receive credit for such retroactive service with such  
628 political subdivision or instrumentality provided:

629 (1) The member shall furnish proof satisfactory to  
630 the board of trustees of certification of such services from the  
631 political subdivision or instrumentality where the services were  
632 rendered or verification by the Social Security Administration;  
633 and



634                   (2) The member shall pay to the retirement system  
635 on the date he or she is eligible for such credit or at any time  
636 thereafter prior to the date of retirement the actuarial cost for  
637 each year of such creditable service. The provisions of this  
638 subparagraph (2) shall be subject to the limitations of Section  
639 415 of the Internal Revenue Code and regulations promulgated  
640 thereunder.

641           Nothing contained in this paragraph (k) shall be construed to  
642 limit the authority of the board to allow the correction of  
643 reporting errors or omissions based on the payment of employee and  
644 employer contributions plus applicable interest. Payment for such  
645 time shall be made in increments of not less than one-quarter  
646 (1/4) year of creditable service beginning with the most recent  
647 service. Upon the payment of all or part of such required  
648 contributions, plus interest or the actuarial cost as provided  
649 above, the member shall receive credit for the period of  
650 creditable service for which full payment has been made to the  
651 retirement system.

652           (1) Through June 30, 1998, any state service eligible  
653 for retroactive service credit, no part of which has ever been  
654 reported, and requiring the payment of employee and employer  
655 contributions plus interest, or, from and after July 1, 1998, any  
656 state service eligible for retroactive service credit, no part of  
657 which has ever been reported to the retirement system, and  
658 requiring the payment of the actuarial cost for such creditable  
659 service, may, at the member's option, be purchased in quarterly  
660 increments as provided above at such time as its purchase is  
661 otherwise allowed.

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

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





699 to the member until the member has contributed to the system for a  
700 minimum period of at least four (4) years.

701 (2) In the computation of membership service or prior  
702 service under the provisions of this article, the total months of  
703 accumulative service during any fiscal year shall be calculated in  
704 accordance with the schedule as follows: ten (10) or more months  
705 of creditable service during any fiscal year shall constitute a  
706 year of creditable service; seven (7) months to nine (9) months  
707 inclusive, three-quarters (3/4) of a year of creditable service;  
708 four (4) months to six (6) months inclusive, one-half-year of  
709 creditable service; one (1) month to three (3) months inclusive,  
710 one-quarter (1/4) of a year of creditable service. In no case  
711 shall credit be allowed for any period of absence without  
712 compensation except for disability while in receipt of a  
713 disability retirement allowance, nor shall less than fifteen (15)  
714 days of service in any month, or service less than the equivalent  
715 of one-half (1/2) of the normal working load for the position and  
716 less than one-half (1/2) of the normal compensation for the  
717 position in any month, constitute a month of creditable service,  
718 nor shall more than one (1) year of service be creditable for all  
719 services rendered in any one (1) fiscal year; however, for a  
720 school employee, substantial completion of the legal school term  
721 when and where the service was rendered shall constitute a year of  
722 service credit for both prior service and membership service. Any  
723 state or local elected official shall be deemed a full-time  
724 employee for the purpose of creditable service for prior service  
725 or membership service. However, an appointed or elected official  
726 compensated on a per diem basis only shall not be allowed  
727 creditable service for terms of office.

728 In the computation of any retirement allowance or any annuity  
729 or benefits provided in this article, any fractional period of  
730 service of less than one (1) year shall be taken into account and  
731 a proportionate amount of such retirement allowance, annuity or



732 benefit shall be granted for any such fractional period of  
733 service.

734 In the computation of unused leave for creditable service  
735 authorized in Section 25-11-103, the following shall govern:  
736 twenty-one (21) days of unused leave shall constitute one (1)  
737 month of creditable service and in no case shall credit be allowed  
738 for any period of unused leave of less than fifteen (15) days.  
739 The number of months of unused leave shall determine the number of  
740 quarters or years of creditable service in accordance with the  
741 above schedule for membership and prior service. In order for the  
742 member to receive creditable service for the number of days of  
743 unused leave, the system must receive certification from the  
744 governing authority.

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

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

752 (b) For service on and after July 1, 1984, the member  
753 shall receive credit for personal and major medical leave  
754 beginning July 1, 1984, at the rates authorized in Sections  
755 25-3-93 and 25-3-95, computed as a full-time employee.

756 (3) Subject to the above restrictions and to such other  
757 rules and regulations as the board may adopt, the board shall  
758 verify, as soon as practicable after the filing of such statements  
759 of service, the services therein claimed.

760 (4) Upon verification of the statement of prior service, the  
761 board shall issue a prior service certificate certifying to each  
762 member the length of prior service for which credit shall have  
763 been allowed on the basis of his statement of service. So long as  
764 membership continues, a prior service certificate shall be final



765 and conclusive for retirement purposes as to such service,  
766 provided that any member may within five (5) years from the date  
767 of issuance or modification of such certificate request the board  
768 of trustees to modify or correct his prior service certificate.  
769 Any modification or correction authorized shall only apply  
770 prospectively.

771 When membership ceases, such prior service certificates shall  
772 become void. Should the employee again become a member, he shall  
773 enter the system as an employee not entitled to prior service  
774 credit except as provided in Sections 25-11-105(I), 25-11-113 and  
775 25-11-117.

776 (5) Creditable service at retirement, on which the  
777 retirement allowance of a member shall be based, shall consist of  
778 the membership service rendered by him since he last became a  
779 member, and also, if he has a prior service certificate which is  
780 in full force and effect, the amount of the service certified on  
781 his prior service certificate.

782 (6) \* \* \* Any member who served on active duty in the Armed  
783 Forces of the United States, or who served in maritime service  
784 during periods of hostility in World War II, shall be entitled to  
785 creditable service at no cost for his service on active duty in  
786 the Armed Forces or in such maritime service, provided he entered  
787 state service after his discharge from the Armed Forces or entered  
788 state service after he completed such maritime service. The  
789 maximum period for such creditable service for all military  
790 service as defined in this subsection (6) shall not exceed four  
791 (4) years unless positive proof can be furnished by such person  
792 that he was retained in the Armed Forces during World War II or in  
793 maritime service during World War II by causes beyond his control  
794 and without opportunity of discharge. The member shall furnish  
795 proof satisfactory to the board of trustees of certification of  
796 military service or maritime service records showing dates of  
797 entrance into active duty service and the date of discharge. From



798 and after July 1, 1993, no creditable service shall be granted for  
799 any military service or maritime service to a member who qualifies  
800 for a retirement allowance in another public retirement system  
801 administered by the Board of Trustees of the Public Employees'  
802 Retirement System based in whole or in part on such military or  
803 maritime service. In no case shall the member receive creditable  
804 service if the member received a dishonorable discharge from the  
805 Armed Forces of the United States.

806 (7) (a) Any member of the Public Employees' Retirement  
807 System whose membership service is interrupted as a result of  
808 qualified military service within the meaning of Section 414(u)(5)  
809 of the Internal Revenue Code, and who has received the maximum  
810 service credit available under subsection (6) of this section,  
811 shall receive creditable service for the period of qualified  
812 military service that does not qualify as creditable service under  
813 subsection (6) of this section upon reentering membership service  
814 in an amount not to exceed five (5) years if:

815 (i) The member pays the contributions he would  
816 have made to the retirement system if he had remained in  
817 membership service for the period of qualified military service  
818 based upon his salary at the time his membership service was  
819 interrupted;

820 (ii) The member returns to membership service  
821 within ninety (90) days of the end of his qualified military  
822 service; and

823 (iii) The employer at the time the member's  
824 service was interrupted and to which employment the member returns  
825 pays the contributions it would have made into the retirement  
826 system for such period based on the member's salary at the time  
827 the service was interrupted.

828 (b) The payments required to be made in paragraph  
829 (a)(i) of this subsection may be made over a period beginning with  
830 the date of return to membership service and not exceeding three





831 (3) times the member's qualified military service; \* \* \*  
832 however, \* \* \* in no event shall such period exceed five (5)  
833 years.

834 (c) The member shall furnish proof satisfactory to the  
835 board of trustees of certification of military service showing  
836 dates of entrance into qualified service and the date of discharge  
837 as well as proof that the member has returned to active employment  
838 within the time specified.

839 (8) Any member of the Public Employees' Retirement System  
840 who has at least four (4) years of membership service credit shall  
841 be entitled to receive a maximum of five (5) years creditable  
842 service for service rendered in another state as a public employee  
843 of such other state, or a political subdivision, public education  
844 system or other governmental instrumentality thereof, or service  
845 rendered as a teacher in American overseas dependent schools  
846 conducted by the Armed Forces of the United States for children of  
847 citizens of the United States residing in areas outside the  
848 continental United States, provided that:

849 (a) The member shall furnish proof satisfactory to the  
850 board of trustees of certification of such services from the  
851 state, public education system, political subdivision or  
852 retirement system of the state where the services were performed  
853 or the governing entity of the American overseas dependent school  
854 where the services were performed; and

855 (b) The member is not receiving or will not be entitled  
856 to receive from the public retirement system of the other state or  
857 from any other retirement plan, including optional retirement  
858 plans, sponsored by the employer, a retirement allowance including  
859 such services; and

860 (c) The member shall pay to the retirement system on  
861 the date he or she is eligible for credit for such out-of-state  
862 service or at any time thereafter prior to date of retirement the  
863 actuarial cost as determined by the actuary for each year of



864 out-of-state creditable service. The provisions of this  
865 subsection are subject to the limitations of Section 415 of the  
866 Internal Revenue Code and regulations promulgated thereunder.

867 (9) Any member of the Public Employees' Retirement System  
868 who has at least four (4) years of membership service credit and  
869 who receives, or has received, professional leave without  
870 compensation for professional purposes directly related to the  
871 employment in state service shall receive creditable service for  
872 the period of professional leave without compensation provided:

873 (a) The professional leave is performed with a public  
874 institution or public agency of this state, or another state or  
875 federal agency;

876 (b) The employer approves the professional leave  
877 showing the reason for granting the leave and makes a  
878 determination that the professional leave will benefit the  
879 employee and employer;

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

882 (d) The employee shall serve the employer on a  
883 full-time basis for a period of time equivalent to the  
884 professional leave period granted immediately following the  
885 termination of the leave period;

886 (e) The contributing member shall pay to the retirement  
887 system the actuarial cost as determined by the actuary for each  
888 year of professional leave. The provisions of this subsection are  
889 subject to the regulations of the Internal Revenue Code  
890 limitations;

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

894 Any actively contributing member participating in the School  
895 Administrator Sabbatical Program established in Section 37-9-77



896 shall qualify for continued participation under this subsection  
897 (9).

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

902 (a) Any service rendered as an employee of any  
903 political subdivision of this state, or any instrumentality  
904 thereof, which does not participate in the Public Employees'  
905 Retirement System; or

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

910 (c) Any service rendered as an employee of any  
911 political subdivision of this state, or any instrumentality  
912 thereof, for which coverage of the employee's position was or is  
913 excluded; provided that the member pays into the retirement system  
914 the actuarial cost as determined by the actuary for each year, or  
915 portion thereof, of such service. Payment for such service may be  
916 made in increments of one-quarter-year of creditable service.  
917 After a member has made full payment to the retirement system for  
918 all or any part of such service, the member shall receive  
919 creditable service for the period of such service for which full  
920 payment has been made to the retirement system.

921 **SECTION 7.** Section 25-11-112, Mississippi Code of 1972, is  
922 amended as follows:

923 25-11-112. (1) Any member who is receiving a retirement  
924 allowance for service or disability retirement, or any beneficiary  
925 thereof, who has received a monthly benefit for at least one (1)  
926 full fiscal year, shall be eligible to receive an additional  
927 benefit, on December 1 or July 1 of the year as provided in



928 subsection (3) of this section, equal to the greater of the  
929 amounts calculated under paragraph (a) or (b) below:

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

933 (b) The sum of:

934 (i) An amount equal to three percent (3%) of the  
935 annual retirement allowance multiplied by the number of full  
936 fiscal years in retirement before the end of the fiscal year in  
937 which the member reaches age fifty-five (55), plus

938 (ii) An additional amount equal to three percent  
939 (3%) compounded by the number of full fiscal years in retirement  
940 beginning with the fiscal year in which the member reaches age  
941 fifty-five (55), multiplied by the amount of the annual retirement  
942 allowance.

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

947 (3) (a) The additional benefit provided for under this  
948 section shall be paid in one (1) payment in December of each year  
949 to those persons who are receiving a retirement allowance on  
950 December 1 of that year, unless an election is made under this  
951 subsection. However, if a retiree who is receiving a retirement  
952 allowance that will terminate upon the retiree's death is  
953 receiving the additional benefit in one (1) payment and dies on or  
954 after July 1 but before December 1, the beneficiary designated on  
955 the retirement application, if any, shall receive in a single  
956 payment a fractional part of the additional benefit based on the  
957 number of months in which a retirement allowance was received  
958 during the fiscal year. Likewise, if a retiree is receiving a  
959 retirement allowance that will terminate upon his or her death in  
960 two (2) to six (6) monthly installments, any remaining payments of



961 the additional benefit will be paid in a lump sum to the  
962 beneficiary designated on the application, or if none, pursuant to  
963 Section 25-11-117.1(1). Any similar remaining payments of  
964 additional benefits payable under this section to a deceased  
965 beneficiary who was receiving a monthly benefit shall be payable  
966 in accordance with the provisions of Section 25-11-117.1(2). If  
967 the additional monthly benefit is being received in one (1)  
968 payment, the additional benefit shall also be prorated based on  
969 the number of months in which a retirement allowance was received  
970 during the fiscal year when (i) the monthly benefit payable to a  
971 beneficiary terminates due to the expiration of an option,  
972 remarriage or cessation of dependent status or due to the  
973 retiree's return to covered employment, and (ii) the monthly  
974 benefit terminates on or after July 1 and before December 1. The  
975 board may, in its discretion, allow a retired member or a  
976 beneficiary thereof who is receiving the additional annual payment  
977 in the manner provided for in this paragraph to change the manner  
978 in which the additional annual payment is received to that  
979 provided for in paragraph (b) of this subsection if the retired  
980 member or beneficiary submits satisfactory documentation that the  
981 continued receipt of the additional annual payment as provided for  
982 in this paragraph will cause a financial hardship to the retired  
983 member or beneficiary.

984       (b) Retired members or beneficiaries thereof who on  
985 July 1, 1999, or July 1 of any fiscal year thereafter, are  
986 receiving a retirement allowance, may elect by an irrevocable  
987 agreement in writing filed in the Office of the Public Employees'  
988 Retirement System no less than thirty (30) days before July 1 of  
989 the appropriate year, to begin receiving the additional benefit  
990 provided for under this section in twelve (12) equal monthly  
991 installments beginning July 1, 1999, or July 1 of any fiscal year  
992 thereafter. This irrevocable agreement shall be binding on the  
993 member and subsequent beneficiaries. Payment of those monthly



994 installments shall not extend beyond the month in which a  
995 retirement allowance is due and payable. The board may, in its  
996 discretion, allow a retired member or a beneficiary thereof who is  
997 receiving the additional annual payment in the manner provided for  
998 in this paragraph to change the manner in which the additional  
999 annual payment is received to that provided for in paragraph (a)  
1000 of this subsection if the retired member or beneficiary submits  
1001 satisfactory documentation that the continued receipt of the  
1002 additional annual payment as provided for in this paragraph will  
1003 cause a financial hardship to the retired member or beneficiary.

1004 (4) The additional payment or payments provided for under  
1005 this section are for the fiscal year in which they are paid.

1006 (5) The amount provided for under subsection (1)(b)(ii) of  
1007 this section is calculated using the following formula:

1008  $[(1.03)^n - 1] \times [\text{annual retirement allowance}]$ ,

1009 where  $n$  is the number of full fiscal years in retirement beginning  
1010 with the fiscal year in which the member reaches age fifty-five  
1011 (55).

1012 (6) Any retired member or beneficiary thereof who has  
1013 previously elected to receive the additional annual payment in  
1014 monthly installments may elect, upon application on a form  
1015 prescribed by the board of trustees, to have that payment made in  
1016 one (1) additional payment each year. This written election must  
1017 be filed in the Office of the Public Employees' Retirement System  
1018 before June 1, 2000, and shall be effective for the fiscal year  
1019 beginning July 1, 2000.

1020 (7) In the event of death of a retired member or a  
1021 beneficiary thereof who is receiving the additional annual payment  
1022 in two (2) to six (6) monthly installments pursuant to an election  
1023 made before July 1, 1999, and who would otherwise be eligible to  
1024 receive the additional benefit provided for under this section in  
1025 one (1) payment in December of the current fiscal year, any



1026 remaining amounts shall be paid in a lump sum to the designated  
1027 beneficiary.

1028 (8) When a member retires after July 1 and has previously  
1029 received a retirement allowance for one or more full fiscal years,  
1030 the retired member shall be eligible immediately for the  
1031 additional benefit. The additional benefit shall be based on the  
1032 current retirement allowance and the number of full fiscal years  
1033 in retirement and shall be prorated and paid in monthly  
1034 installments based on the number of months a retirement allowance  
1035 is paid during the fiscal year.

1036 **SECTION 8.** Section 25-11-113, Mississippi Code of 1972, is  
1037 amended as follows:

1038 25-11-113. (1) (a) Upon the application of a member or his  
1039 employer, any active member in state service who has at least four  
1040 (4) years of membership service credit may be retired by the board  
1041 of trustees on the first of the month following the date of filing  
1042 such application on a disability retirement allowance, but in no  
1043 event shall the disability retirement allowance commence before  
1044 termination of state service, provided that the medical board,  
1045 after an evaluation of medical evidence that may or may not  
1046 include an actual physical examination by the medical board, shall  
1047 certify that the member is mentally or physically incapacitated  
1048 for the further performance of duty, that such incapacity is  
1049 likely to be permanent, and that the member should be retired;  
1050 however, the board of trustees may accept a disability medical  
1051 determination from the Social Security Administration in lieu of a  
1052 certification from the medical board. For the purposes of  
1053 disability determination, the medical board shall apply the  
1054 following definition of disability: the inability to perform the  
1055 usual duties of employment or the incapacity to perform such  
1056 lesser duties, if any, as the employer, in its discretion, may  
1057 assign without material reduction in compensation, or the  
1058 incapacity to perform the duties of any employment covered by the



1059 Public Employees' Retirement System (Section 25-11-101 et seq.)  
1060 that is actually offered and is within the same general  
1061 territorial work area, without material reduction in compensation.  
1062 The employer shall be required to furnish the job description and  
1063 duties of the member. The employer shall further certify whether  
1064 the employer has offered the member other duties and has complied  
1065 with the applicable provisions of the Americans With Disabilities  
1066 Act in affording reasonable accommodations which would allow the  
1067 employee to continue employment.

1068 (b) An inactive member with four (4) or more years of  
1069 membership service may not file a claim for a disability  
1070 retirement allowance later than six (6) months after the member's  
1071 withdrawal from service. If a claim for a disability retirement  
1072 allowance is filed by the member within six (6) months after  
1073 withdrawal from service, the member must present satisfactory  
1074 proof \* \* \* to the board \* \* \* that the disability was the direct  
1075 cause of withdrawal from state service.

1076 (c) If a member returns to covered employment after  
1077 withdrawal from service, the member may not apply for a regular  
1078 nonduty related disability retirement allowance until the member  
1079 has remained a contributing member for a period of not less than  
1080 six (6) months.

1081 (d) Any member who is or becomes eligible for service  
1082 retirement benefits under Section 25-11-111 while pursuing a  
1083 disability retirement allowance under this section or Section  
1084 25-11-114 may elect to receive a service retirement allowance  
1085 pending a final determination on eligibility for a disability  
1086 retirement allowance or withdrawal of the application for the  
1087 disability retirement allowance. In such a case, an application  
1088 for a disability retirement allowance must be on file with the  
1089 system before the commencement of a service retirement allowance.  
1090 If the application is approved, the option selected and  
1091 beneficiary designated on the retirement application shall be used





1092 to determine the disability retirement allowance. If the  
1093 application is not approved or if the application is withdrawn,  
1094 the service retirement allowance shall continue to be paid in  
1095 accordance with the option selected. No person may apply for a  
1096 disability retirement allowance after the person begins to receive  
1097 a service retirement allowance.

1098         (e) If the medical board certifies that the member is  
1099 not mentally or physically incapacitated for the future  
1100 performance of duty, the member may request, within sixty (60)  
1101 days, a hearing before the hearing officer as provided in Section  
1102 25-11-120. All hearings shall be held in accordance with rules  
1103 and regulations adopted by the board \* \* \* to govern such  
1104 hearings. Such hearing may be closed upon the request of the  
1105 member.

1106         (f) The medical board may request additional medical  
1107 evidence and/or other physicians to conduct an evaluation of the  
1108 member's condition. If the medical board requests additional  
1109 medical evidence and the member refuses the request, the  
1110 application shall be considered void.

1111         (2) Allowance on disability retirement.

1112                 (a) Upon retirement for disability, an eligible member  
1113 shall receive a retirement allowance if he has attained the age of  
1114 sixty (60) years.

1115                 (b) Except as provided in paragraph (c) of this  
1116 subsection (2), an eligible member who is retired for disability  
1117 and who has not attained sixty (60) years of age shall receive a  
1118 disability benefit as computed in Section 25-11-111(d)(1) through  
1119 (d)(4) which shall consist of:

1120                         (i) A member's annuity which shall be the  
1121 actuarial equivalent of his accumulated contributions at the time  
1122 of retirement; and

1123                         (ii) An employer's annuity equal to the amount  
1124 that would have been payable as a retirement allowance for both



1125 membership service and prior service had the member continued in  
1126 service to the age of sixty (60) years, which shall apply to the  
1127 allowance for disability retirement paid to retirees receiving  
1128 such allowance upon and after April 12, 1977. This employer's  
1129 annuity shall be computed on the basis of the average "earned  
1130 compensation" as defined in Section 25-11-103.

1131 (c) For persons who become members after June 30, 1992,  
1132 and for active members on June 30, 1992, who elect benefits under  
1133 this paragraph (c) instead of those provided under paragraph (b)  
1134 of this subsection (2), the disability allowance shall consist of  
1135 two (2) parts: a temporary allowance and a deferred allowance.

1136 The temporary allowance shall equal the greater of (i) forty  
1137 percent (40%) of average compensation at the time of disability,  
1138 plus ten percent (10%) of average compensation for each of the  
1139 first two (2) dependent children, as defined in Sections 25-11-103  
1140 and 25-11-114, or (ii) the accrued benefit based on actual  
1141 service. It shall be payable for a period of time based on the  
1142 member's age at disability, as follows:

1143	Age at Disability	Duration
1144	60 and earlier	to age 65
1145	61	to age 66
1146	62	to age 66
1147	63	to age 67
1148	64	to age 67
1149	65	to age 68
1150	66	to age 68
1151	67	to age 69
1152	68	to age 70
1153	69 and over	one year

1154 The deferred allowance shall commence when the temporary  
1155 allowance ceases and shall be payable for life. The deferred  
1156 allowance shall equal the greater of (i) the allowance that would  
1157 have been payable had the member continued in service to the



1158 termination age of the temporary allowance, but no more than forty  
1159 percent (40%) of average compensation, or (ii) the accrued benefit  
1160 based on actual service at the time of disability. The deferred  
1161 allowance as determined at the time of disability shall be  
1162 adjusted in accordance with Section 25-11-112 for the period  
1163 during which the temporary annuity is payable. In no case shall a  
1164 member receive less than Ten Dollars (\$10.00) per month for each  
1165 year of service and proportionately for each quarter year thereof  
1166 reduced for the option selected.

1167 (d) The member may elect to receive the actuarial  
1168 equivalent of the disability retirement allowance in a reduced  
1169 allowance payable throughout life under any of the provisions of  
1170 the options provided under Section 25-11-115.

1171 (e) Should a disability retiree who has not selected an  
1172 option under Section 25-11-115 die before being repaid in  
1173 disability benefits the sum of his total contributions, then his  
1174 named beneficiary shall receive the difference in cash, which  
1175 shall apply to all deceased disability retirees from and after  
1176 January 1, 1953.

1177 (3) Reexamination of retirees retired on account of  
1178 disability. Except as otherwise provided in this section, once  
1179 each year during the first five (5) years following retirement of  
1180 a member on a disability retirement allowance, and once in every  
1181 period of three (3) years thereafter, the board of trustees may,  
1182 and upon his application shall, require any disability retiree who  
1183 has not yet attained the age of sixty (60) years or the  
1184 termination age of the temporary allowance under paragraph (2) (c)  
1185 of this section to undergo a medical examination, such examination  
1186 to be made at the place of residence of the retiree or other place  
1187 mutually agreed upon by a physician or physicians designated by  
1188 the board. The board, however, in its discretion, may authorize  
1189 the medical board to establish reexamination schedules appropriate  
1190 to the medical condition of individual disability retirees.



1191 Should any disability retiree who has not yet attained the age of  
1192 sixty (60) years or the termination age of the temporary allowance  
1193 under paragraph (2)(c) of this section refuse to submit to any  
1194 medical examination provided herein, his allowance may be  
1195 discontinued until his withdrawal of such refusal; and should his  
1196 refusal continue for one (1) year, all his rights to a disability  
1197 benefit shall be revoked by the board of trustees.

1198 (4) If the medical board reports and certifies to the board  
1199 of trustees, after a comparable job analysis or other similar  
1200 study, that such disability retiree is engaged in, or is able to  
1201 engage in, a gainful occupation paying more than the difference  
1202 between his disability allowance, exclusive of cost of living  
1203 adjustments, and the average compensation, and if the board of  
1204 trustees concurs in such report, the disability benefit shall be  
1205 reduced to an amount which, together with the amount earnable by  
1206 him, shall equal the amount of his average compensation. If his  
1207 earning capacity be later changed, the amount of the \* \* \* benefit  
1208 may be further modified, provided that the revised benefit shall  
1209 not exceed the amount originally granted. A retiree receiving a  
1210 disability benefit who is restored to active service at a salary  
1211 less than the average compensation shall not become a member of  
1212 the retirement system.

1213 (5) Should a disability retiree under the age of sixty (60)  
1214 years or the termination age of the temporary allowance under  
1215 paragraph (2)(c) of this section be restored to active service at  
1216 a compensation not less than his average compensation, his  
1217 disability benefit shall cease, he shall again become a member of  
1218 the retirement system, and contributions shall be withheld and  
1219 reported. Any such prior service certificate, on the basis of  
1220 which his service was computed at the time of retirement, shall be  
1221 restored to full force and effect. In addition, upon his  
1222 subsequent retirement he shall be credited with all creditable  
1223 service as a member, but the total retirement allowance paid to



1224 the retired member in his previous retirement shall be deducted  
1225 from his retirement reserve and taken into consideration in  
1226 recalculating the retirement allowance under a new option  
1227 selected.

1228 (6) If following reexamination in accordance with the  
1229 provisions contained in this section, the medical board determines  
1230 that a retiree retired on account of disability is physically and  
1231 mentally able to return to the employment from which he is  
1232 retired, the board of trustees, upon certification of such  
1233 findings from the medical board, shall, after a reasonable period  
1234 of time, terminate the disability allowance, whether or not the  
1235 retiree is reemployed or seeks such reemployment. In addition, if  
1236 the board of trustees determines that the retiree is no longer  
1237 sustaining a loss of income as established by documented evidence  
1238 of the retiree's earned income, the eligibility for a disability  
1239 allowance shall terminate and the allowance terminated within a  
1240 reasonable period of time. In the event the retirement allowance  
1241 is terminated under the provisions of this section, the retiree  
1242 may subsequently qualify for a retirement allowance under Section  
1243 25-11-111 based on actual years of service credit plus credit for  
1244 the period during which a disability allowance was paid.

1245 (7) Any current member as of June 30, 1992, who retires on a  
1246 disability retirement allowance after June 30, 1992, and who has  
1247 not elected to receive benefits under paragraph (2)(c) of this  
1248 section, shall relinquish all rights under the Age Discrimination  
1249 in Employment Act of 1967, as amended, with regard to the benefits  
1250 payable under this section.

1251 **SECTION 9.** Section 25-11-115, Mississippi Code of 1972, is  
1252 amended as follows:

1253 25-11-115. (1) Upon application for superannuation or  
1254 disability retirement, any member may elect to receive his benefit  
1255 in a retirement allowance payable throughout life with no further  
1256 payments to anyone at his death, except that in the event his



1257 total retirement payments under this article do not equal his  
1258 total contributions under this article, his named beneficiary  
1259 shall receive the difference in cash at his death. Or he may  
1260 elect upon retirement, or upon becoming eligible for retirement,  
1261 to receive the actuarial equivalent subject to the provisions of  
1262 subsection (3) of this section of his retirement allowance in a  
1263 reduced retirement allowance payable throughout life with the  
1264 provision that:

1265       **Option 1.** If he dies before he has received in annuity  
1266 payment the value of the member's annuity savings account as it  
1267 was at the time of his retirement, the balance shall be paid to  
1268 his legal representative or to such person as he shall nominate by  
1269 written designation duly acknowledged and filed with the board; or

1270       **Option 2.** Upon his death, his reduced retirement allowance  
1271 shall be continued throughout the life of, and paid to, such  
1272 person as he has nominated by written designation duly  
1273 acknowledged and filed with the board of trustees at the time of  
1274 his retirement;

1275       **Option 3.** Upon his death, one-half (1/2) of his reduced  
1276 retirement allowance shall be continued throughout the life of,  
1277 and paid to, such person as he shall have nominated by written  
1278 designation duly acknowledged and filed with the board of trustees  
1279 at the time of his retirement, and the other one-half (1/2) of his  
1280 reduced retirement allowance to some other designated beneficiary;

1281       **Option 4-A.** Upon his death, one-half (1/2) of his reduced  
1282 retirement allowance, or such other specified amount, shall be  
1283 continued throughout the life of, and paid to, such person as he  
1284 shall have nominated by written designation duly acknowledged and  
1285 filed with the board of trustees at the time of his retirement; or

1286       **Option 4-B.** A reduced retirement allowance shall be  
1287 continued throughout the life of the retirant, but with the  
1288 further guarantee of payments to the named beneficiary,  
1289 beneficiaries or to the estate for a specified number of years



1290 certain. If the retired member or the last designated beneficiary  
1291 receiving annuity payments dies prior to receiving all guaranteed  
1292 payments due, the actuarial equivalent of the remaining payments  
1293 shall be paid pursuant to Section 25-11-117.1(1);

1294 **Option 4-C.** Such retirement allowance otherwise payable may  
1295 be converted into a retirement allowance of equivalent actuarial  
1296 value in such an amount that, with the member's benefit under  
1297 Title II of the federal Social Security Act, the member will  
1298 receive, so far as possible, approximately the same amount  
1299 annually before and after the earliest age at which the member  
1300 becomes eligible to receive a social security benefit. This  
1301 option shall not be available to retirees whose retirement is  
1302 effective on or after January 1, 2003.

1303 **Option 6.** Any member who has at least twenty-eight (28)  
1304 years of creditable service at the time of retirement or who is at  
1305 least sixty-three (63) years of age and eligible to retire, may  
1306 select the maximum retirement benefit or an optional benefit as  
1307 provided in this subsection together with a partial lump sum  
1308 distribution. The amount of the lump sum distribution under this  
1309 option shall be equal to the maximum monthly benefit multiplied by  
1310 twelve (12), twenty-four (24) or thirty-six (36) as selected by  
1311 the member. The maximum retirement benefit shall be actuarially  
1312 reduced to reflect the amount of the lump sum distribution  
1313 selected and further reduced for any other optional benefit  
1314 selected. The annuity and lump sum distribution shall be computed  
1315 to result in no actuarial loss to the system. The lump sum  
1316 distribution shall be made as a single payment payable at the time  
1317 the first monthly annuity payment is paid to the retiree. The  
1318 amount of the lump sum distribution shall be deducted from the  
1319 member's annuity savings account in computing what contributions  
1320 remain at the death of the retiree and/or a beneficiary. The lump  
1321 sum distribution option may be elected only once by a member upon  
1322 initial retirement, and may not be elected by a retiree, by



1323 members applying for a disability retirement annuity, by survivors  
1324 or by a member selecting Option 4-C.

1325 (2) No change in the option selected shall be permitted  
1326 after the member's death or after the member has received his  
1327 first retirement check except as provided in subsections (3) and  
1328 (4) of this section and in Section 25-11-127. Members who are  
1329 pursuing a disability retirement allowance and simultaneously or  
1330 subsequently elect to begin to receive a service retirement  
1331 allowance while continuing to pursue a disability retirement  
1332 allowance, shall not be eligible to select Option 4-C or Option 6  
1333 and those options may not be selected at a later time if the  
1334 application for a disability retirement allowance is voided or  
1335 denied. However, any retired member who is receiving a retirement  
1336 allowance under Option 2 or Option 4-A upon July 1, 1992, and  
1337 whose designated beneficiary predeceased him or whose marriage to  
1338 a spouse who is his designated beneficiary is terminated by  
1339 divorce or other dissolution, upon written notification to the  
1340 retirement system of the death of the designated beneficiary or of  
1341 the termination of his marriage to his designated beneficiary, the  
1342 retirement allowance payable to the member after receipt of such  
1343 notification by the retirement system shall be equal to the  
1344 retirement allowance which would have been payable had the member  
1345 not elected the option. In addition, any retired member who is  
1346 receiving the maximum retirement allowance for life, a retirement  
1347 allowance under Option 1 or who is receiving a retirement  
1348 allowance under Option 2 or Option 4-A on July 1, 1992, may elect  
1349 to provide survivor benefits under Option 2 or Option 4-A to a  
1350 spouse who was not previously the member's beneficiary and whom  
1351 the member married before July 1, 1992.

1352 (3) Any retired member who is receiving a reduced retirement  
1353 allowance under Option 2 or Option 4-A whose designated  
1354 beneficiary predeceases him, or whose marriage to a spouse who is  
1355 his designated beneficiary is terminated by divorce or other





1356 dissolution, may elect to cancel his reduced retirement allowance  
1357 and receive the maximum retirement allowance for life in an amount  
1358 equal to the amount that would have been payable if the member had  
1359 not elected Option 2 or Option 4-A. Such election must be made in  
1360 writing to the office of the executive director of the system on a  
1361 form prescribed by the board. Any such election shall be  
1362 effective the first of the month following the date the election  
1363 is received by the system.

1364 (4) Any retired member who is receiving the maximum  
1365 retirement allowance for life, or a retirement allowance under  
1366 Option 1, and who marries after his retirement may elect to cancel  
1367 his maximum retirement allowance and receive a reduced retirement  
1368 allowance under Option 2 or Option 4-A to provide continuing  
1369 lifetime benefits to his spouse. Such election must be made in  
1370 writing to the office of the executive director of the system on a  
1371 form prescribed by the board not earlier than the date of the  
1372 marriage. Any such election shall be effective the first of the  
1373 month following the date the election is received by the  
1374 system. \* \* \*

1375 (5) In the event the election of an optional benefit is made  
1376 after the member has attained the age of sixty-five (65) years,  
1377 the actuarial equivalent factor shall be used to compute the  
1378 reduced retirement allowance as if the election had been made on  
1379 his sixty-fifth birthday; however, from and after January 1, 2003,  
1380 if there is an election of Option 6 after the member has attained  
1381 the age of sixty-five (65) years, the actuarial equivalent factor  
1382 based on the retiree's age at the time of retirement shall be used  
1383 to compute the reduced maximum monthly retirement allowance.  
1384 However, if a retiree marries or remarries after retirement and  
1385 elects either Option 2 or Option 4-A as provided in subsection (2)  
1386 or (4) of this section, the actuarial equivalent factor used to  
1387 compute the reduced retirement allowance shall be the factor for



1388 the age of the retiree and his or her beneficiary at the time such  
1389 election for recalculation of benefits is made.

1390 (6) Notwithstanding any provision of Section 25-11-1 et  
1391 seq., no payments may be made for a retirement allowance on a  
1392 monthly basis for a period of time in excess of that allowed by  
1393 federal law.

1394 (7) If a retirant and his eligible beneficiary, if any, both  
1395 die before they have received in annuity payments a total amount  
1396 equal to the accumulated contributions standing to the retirant's  
1397 credit in the annuity savings account at the time of his  
1398 retirement, the difference between the accumulated contributions  
1399 and the total amount of annuities received by them shall be paid  
1400 to such persons as the retirant has nominated by written  
1401 designation duly executed and filed in the office of the executive  
1402 director. If no designated person survives the retirant and his  
1403 beneficiary, the difference, if any, shall be paid pursuant to  
1404 Section 25-11-117.1(1).

1405 (8) Any retired member who retired on Option 2(5) or 4-A(5)  
1406 prior to July 1, 1992, who is still receiving a retirement  
1407 allowance on July 1, 1994, shall receive an increase in the annual  
1408 retirement allowance effective July 1, 1994, equal to the amount  
1409 they would have received under Option 2 or Option 4-A without a  
1410 reduction for Option 5 based on the ages at retirement of the  
1411 retiree and beneficiary and option factors in effect on July 1,  
1412 1992. Such increase shall be prospective only.

1413 **SECTION 10.** Section 25-11-120, Mississippi Code of 1972, is  
1414 amended as follows:

1415 25-11-120. (1) Any individual aggrieved by an  
1416 administrative determination, including a determination of the  
1417 medical board, relating to the eligibility for or payment of  
1418 benefits, or the calculation of creditable service or other  
1419 similar matters relating to the Public Employees' Retirement  
1420 System or any other retirement system or program administered by



1421 the board, may request a hearing before a hearing officer  
1422 designated by the board. Such hearings shall be conducted in  
1423 accordance with rules and regulations adopted by the board and  
1424 formal rules of evidence shall not apply. The hearing officer is  
1425 authorized to administer oaths, hear testimony of witnesses and  
1426 receive documentary and other evidence. In case of disability  
1427 appeals, the hearing officer shall have the authority to defer a  
1428 decision in order to request a medical evaluation or test or  
1429 additional existing medical records not previously furnished by  
1430 the claimant. After the hearing and the receipt of any additional  
1431 medical evidence requested by the hearing officer, the hearing  
1432 officer shall certify the record to the board, which shall include  
1433 the hearing officer's proposed statement of facts, conclusions of  
1434 law and recommendation. The record may include a taped recording  
1435 of the proceedings of the hearing in lieu of a transcribed copy of  
1436 the proceedings. The board shall receive the record and make its  
1437 determination based solely on matters contained therein.

1438 (2) Any individual aggrieved by the determination of the  
1439 board may appeal to the Circuit Court of the First Judicial  
1440 District of Hinds County, Mississippi, in accordance with the  
1441 Uniform Circuit Court Rules governing appeals to the circuit court  
1442 in civil cases. Such appeal shall be made solely on the record  
1443 before the board and this procedure shall be the exclusive method  
1444 of appealing determinations of the board.

1445 (3) The board is authorized to appoint a committee of the  
1446 board to serve as hearing officer or to employ or contract with  
1447 qualified personnel to perform the duties of hearing officer and  
1448 court reporter as may be necessary for conducting, recording and  
1449 transcribing such hearings. The board may assess and collect fees  
1450 to offset costs related to such hearings. Those fees shall be  
1451 deposited to the credit of the Public Employees' Retirement  
1452 System.



1453           **SECTION 11.** Section 25-11-123, Mississippi Code of 1972, is  
1454 amended as follows:

1455           25-11-123. All of the assets of the system shall be credited  
1456 according to the purpose for which they are held to one (1) of  
1457 four (4) reserves; namely, the annuity savings account, the  
1458 annuity reserve, the employer's accumulation account, and the  
1459 expense account.

1460           (a) **Annuity savings account.** In the annuity savings account  
1461 shall be accumulated the contributions made by members to provide  
1462 for their annuities, including interest thereon which shall be  
1463 posted monthly. Credits to and charges against the annuity  
1464 savings account shall be made as follows:

1465           (1) Beginning July 1, 1991, the employer shall cause to  
1466 be deducted from the salary of each member on each and every  
1467 payroll of such employer for each and every payroll period seven  
1468 and one-fourth percent (7-1/4%) of earned compensation as defined  
1469 in Section 25-11-103. Future contributions shall be fixed  
1470 biennially by the board on the basis of the liabilities of the  
1471 retirement system for the various allowances and benefits as shown  
1472 by actuarial valuation; \* \* \* however, \* \* \* any member earning at  
1473 a rate less than Sixteen Dollars and Sixty-seven Cents (\$16.67)  
1474 per month, or Two Hundred Dollars (\$200.00) per year, shall  
1475 contribute not less than One Dollar (\$1.00) per month, or Twelve  
1476 Dollars (\$12.00) per year.

1477           (2) The deductions provided herein shall be made  
1478 notwithstanding that the minimum compensation provided by law for  
1479 any member shall be reduced thereby. Every member shall be deemed  
1480 to consent and agree to the deductions made and provided for  
1481 herein and shall receipt for his full salary or compensation, and  
1482 payment of salary or compensation less the deduction shall be a  
1483 full and complete discharge and a quittance of all claims and  
1484 demands whatsoever for the services rendered by such person during  
1485 the period covered by such payment, except as to the benefits



1486 provided under Articles 1 and 3. The board shall provide by rules  
1487 for the methods of collection of contributions from members and  
1488 the employer. The board shall have full authority to require the  
1489 production of evidence necessary to verify the correctness of  
1490 amounts contributed.

1491 (b) **Annuity reserve.** The annuity reserve shall be the  
1492 account representing the actuarial value of all annuities in  
1493 force, and to it shall be charged all annuities and all benefits  
1494 in lieu of annuities, payable as provided in this article. If a  
1495 beneficiary retired on account of disability is restored to active  
1496 service with a compensation not less than his average final  
1497 compensation at the time of his last retirement, the remainder of  
1498 his contributions shall be transferred from the annuity reserve to  
1499 the annuity savings account and credited to his individual account  
1500 therein, and the balance of his annuity reserve shall be  
1501 transferred to the employer's accumulation account.

1502 (c) **Employer's accumulation account.** The employer's  
1503 accumulation account shall represent the accumulation of all  
1504 reserves for the payment of all retirement allowances and other  
1505 benefits payable from contributions made by the employer, and  
1506 against this account shall be charged all retirement allowances  
1507 and other benefits on account of members. Credits to and charges  
1508 against the employer's accumulation account shall be made as  
1509 follows:

1510 (1) On account of each member there shall be paid  
1511 monthly into the employer's accumulation account by the employers  
1512 for the preceding fiscal year an amount equal to a certain  
1513 percentage of the total earned compensation, as defined in Section  
1514 25-11-103, of each member. The percentage rate of such  
1515 contributions shall be fixed biennially by the board on the basis  
1516 of the liabilities of the retirement system for the various  
1517 allowances and benefits as shown by actuarial valuation. Beginning  
1518 January 1, 1990, the rate shall be fixed at nine and three-fourths



1519 percent (9-3/4%). Political subdivisions joining Article 3 of the  
1520 Public Employees' Retirement System after July 1, 1968, may adjust  
1521 the employer's contributions by agreement with the Board of  
1522 Trustees of the Public Employees' Retirement System to provide  
1523 service credits for any period prior to execution of the agreement  
1524 based upon an actuarial determination of employer's contribution  
1525 rates.

1526           (2) On the basis of regular interest and of such  
1527 mortality and other tables as shall be adopted by the board of  
1528 trustees, the actuary engaged by the board to make each valuation  
1529 required by this article during the period over which the accrued  
1530 liability contribution is payable, immediately after making such  
1531 valuation, shall determine the uniform and constant percentage of  
1532 the earnable compensation of each member which, if contributed by  
1533 the employer on the basis of compensation of such member  
1534 throughout his entire period of membership service, would be  
1535 sufficient to provide for the payment of any retirement allowance  
1536 payable on his account for such service. The percentage rate so  
1537 determined shall be known as the "normal contribution rate."  
1538 After the accrued liability contribution has ceased to be payable,  
1539 the normal contribution rate shall be the percentage rate of the  
1540 salary of all members obtained by deducting from the total  
1541 liabilities on account of membership service the amount in the  
1542 employer's accumulation account, and dividing the remainder by one  
1543 percent (1%) of the present value of the prospective future  
1544 salaries of all members as computed on the basis of the mortality  
1545 and service tables adopted by the board of trustees and regular  
1546 interest. The normal rate of contributions shall be determined by  
1547 the actuary after each valuation.

1548           (3) The total amount payable in each year to the  
1549 employer's accumulation account shall not be less than the sum of  
1550 the percentage rate known as the "normal contribution" rate and  
1551 the "accrued liability contribution" rate of the total



1552 compensation earnable by all members during the preceding year,  
1553 provided that the payment by the employer shall be sufficient,  
1554 when combined with the amounts in the account, to provide the  
1555 allowances and other benefits chargeable to this account during  
1556 the year then current.

1557 (4) The accrued liability contribution shall be  
1558 discontinued as soon as the accumulated balance in the employer's  
1559 accumulation account shall equal the present value, computed on  
1560 the basis of the normal contribution rate then in force, or the  
1561 prospective normal contributions to be received on account of all  
1562 persons who are at that time members.

1563 (5) All allowances and benefits in lieu thereof, with  
1564 the exception of those payable on account of members who receive  
1565 no prior service credit, payable from contributions of the  
1566 employer, shall be paid from the employer's accumulation account.

1567 (6) Upon the retirement of a member, an amount equal to  
1568 his retirement allowance shall be transferred from the employer's  
1569 accumulation account to the annuity reserve.

1570 (d) **Expense account.** The expense account shall be the  
1571 account to which the expenses of the administration of the system  
1572 shall be charged, exclusive of amounts payable as retirement  
1573 allowances and as other benefits provided herein. The Legislature  
1574 shall make annual appropriations in amounts sufficient to  
1575 administer the system, which shall be credited to this account.  
1576 There shall be transferred to the State Treasury from this  
1577 account, not less than once per month, an amount sufficient for  
1578 payment of the estimated expenses of the system for the succeeding  
1579 thirty (30) days. Any interest earned on the expense account  
1580 shall accrue to the benefit of the system. \* \* \* However, \* \* \*  
1581 notwithstanding the provisions of Sections 25-11-15(10) and  
1582 25-11-105(f)(5)E, all expenses of the administration of the system  
1583 shall be paid from the interest earnings, provided the interest  
1584 earnings are in excess of the actuarial interest assumption as



1585 determined by the board, and provided the present cost of the  
1586 administrative expense fee of two percent (2%) of the  
1587 contributions reported by the political subdivisions and  
1588 instrumentalities shall be reduced to one percent (1%) from and  
1589 after July 1, 1983, through June 30, 1984, and shall be eliminated  
1590 thereafter.

1591 (e) **Collection of contributions.** The employer shall cause  
1592 to be deducted on each and every payroll of a member for each and  
1593 every payroll period, beginning subsequent to January 31, 1953,  
1594 the contributions payable by such member as provided in Articles 1  
1595 and 3.

1596 The employer shall make deductions from salaries of employees  
1597 as provided in Articles 1 and 3 and shall transmit monthly, or at  
1598 such time as the board of trustees shall designate, the amount  
1599 specified to be deducted to the Executive Director of the Public  
1600 Employees' Retirement System. The executive director, after  
1601 making a record of all such receipts, shall deposit such amounts  
1602 as provided by law.

1603 (f) (1) Upon the basis of each actuarial valuation provided  
1604 herein, the board of trustees shall biennially determine the  
1605 normal contribution rate and the accrued liability contribution  
1606 rate as provided in this section. The sum of these two (2) rates  
1607 shall be known as the "employer's contribution rate." Beginning  
1608 on earned compensation effective January 1, 1990, the rate  
1609 computed as provided in this section shall be nine and  
1610 three-fourths percent (9-3/4%). The percentage rate of such  
1611 contributions shall be fixed biennially by the board on the basis  
1612 of the liabilities of the retirement system for the various  
1613 allowances and benefits as shown by actuarial valuation.  
1614 Notwithstanding any other provision of law, the county board of  
1615 education, the governing authorities of separate, consolidated, or  
1616 municipal school districts, and all other such boards set up by  
1617 law which handle and disburse school funds, shall pay from local





1618 tax sources one and one-half percent (1-1/2%) of the total  
1619 employer's contribution rate of nine and three-fourths percent  
1620 (9-3/4%).

1621           (2) The amount payable by the employer on account of  
1622 normal and accrued liability contributions shall be determined by  
1623 applying the employer's contribution rate to the amount of  
1624 compensation earned by employees who are members of the system.  
1625 Monthly, or at such time as the board of trustees shall designate,  
1626 each department or agency shall compute the amount of the  
1627 employer's contribution payable, with respect to the salaries of  
1628 its employees who are members of the system, and shall cause that  
1629 amount to be paid to the board of trustees from the personal  
1630 service allotment of the amount appropriated for the operation of  
1631 the department or agency, or from funds otherwise available to the  
1632 agency, for the payment of salaries to its employees.

1633           (3) Constables shall pay employer and employee  
1634 contributions on their net fee income as well as the employee  
1635 contributions on all direct treasury or county payroll income.  
1636 The county shall be responsible for the employer contribution on  
1637 all direct treasury or county payroll income of constables.

1638           (4) Chancery and circuit clerks shall be responsible  
1639 for both the employer and employee share of contributions on the  
1640 proportionate share of net income attributable to fees, as well as  
1641 the employee share of net income attributable to direct treasury  
1642 or county payroll income, and the employing county shall be  
1643 responsible for the employer contributions on the net income  
1644 attributable to direct treasury or county payroll income.

1645           (5) Once each year, under procedures established by the  
1646 system, each employer shall submit to the Public Employees'  
1647 Retirement System a copy of their report to Social Security of all  
1648 employees' earnings.

1649           (6) The board shall provide by rules for the methods of  
1650 collection of contributions of employers and members. The amounts



1651 determined due by an agency to the various funds as specified in  
1652 Articles 1 and 3 are made obligations of the agency to the board  
1653 and shall be paid as provided herein. Failure to deduct such  
1654 contributions shall not relieve the employee and employer from  
1655 liability thereof. Delinquent employee contributions and any  
1656 accrued interest shall be the obligation of the employee and  
1657 delinquent employer contributions and any accrued interest shall  
1658 be the obligation of the employer. The employer may, in its  
1659 discretion, elect to pay any or all of the interest on delinquent  
1660 employee contributions. From and after July 1, 1996, under rules  
1661 and regulations established by the board, all employers are  
1662 authorized and shall transfer all funds due to the Public  
1663 Employees' Retirement System electronically and shall transmit any  
1664 wage or other reports by computerized reporting systems.

1665 **SECTION 12.** Section 25-11-127, Mississippi Code of 1972, is  
1666 amended as follows:

1667 25-11-127. (1) (a) No person who is being paid a  
1668 retirement allowance or a pension after retirement under this  
1669 article shall be employed or paid for any service by the State of  
1670 Mississippi, except as provided in this section. \* \* \*

1671 (b) No retiree of this retirement system who is  
1672 reemployed or is reelected to office after retirement shall  
1673 continue to draw retirement benefits while so reemployed, except  
1674 as provided in this section.

1675 (c) No person employed or elected under the exceptions  
1676 provided for in this section shall become a member under Article 3  
1677 of the retirement system.

1678 (2) Any person who has been retired under the provisions of  
1679 Article \* \* \* 3 and who is later reemployed in service covered by  
1680 this article shall cease to receive benefits under this article  
1681 and shall again become a contributing member of the retirement  
1682 system. When the person retires again, if the reemployment  
1683 exceeds six (6) months, the person shall have his or her benefit



1684 recomputed, including service after again becoming a member,  
1685 provided that the total retirement allowance paid to the retired  
1686 member in his or her previous retirement shall be deducted from  
1687 the member's retirement reserve and taken into consideration in  
1688 recalculating the retirement allowance under a new option  
1689 selected.

1690 \* \* \*

1691 (3) The board \* \* \* shall have the right to prescribe rules  
1692 and regulations for carrying out the provisions of this section.

1693 (4) The provisions of this section shall not be construed to  
1694 prohibit any retiree, regardless of age, from being employed and  
1695 drawing a retirement allowance either:

1696 (a) For a period of time not to exceed one-half (1/2)  
1697 of the normal working days for the position in any fiscal year  
1698 during which the retiree will receive no more than one-half (1/2)  
1699 of the salary in effect for the position at the time of  
1700 employment, or

1701 (b) For a period of time in any fiscal year sufficient  
1702 in length to permit a retiree to earn not in excess of twenty-five  
1703 percent (25%) of retiree's average compensation.

1704 To determine the normal working days for a position under  
1705 paragraph (a) of this subsection, the employer shall determine the  
1706 required number of working days for the position on a full-time  
1707 basis and the equivalent number of hours representing the  
1708 full-time position. The retiree then may work up to one-half  
1709 (1/2) of the required number of working days or up to one-half  
1710 (1/2) of the equivalent number of hours and receive up to one-half  
1711 (1/2) of the salary for the position. In the case of employment  
1712 with multiple employers, the limitation shall equal one-half (1/2)  
1713 of the number of days or hours for a single full-time position.

1714 Notice shall be given in writing to the executive  
1715 director \* \* \*, setting forth the facts upon which the employment  
1716 is being made, and the notice shall be given within five (5) days



1717 from the date of employment and also from the date of termination  
1718 of the employment.

1719 \* \* \*

1720 (5) Any member may continue in municipal or county elected  
1721 office \* \* \* or be \* \* \* elected to a municipal or county office,  
1722 provided that the person:

1723 (a) Files annually, in writing, in the office of the  
1724 employer and the office of the executive director of the system  
1725 before the person takes office or as soon as possible after  
1726 retirement, a waiver of all salary or compensation and elects to  
1727 receive in lieu of that salary or compensation a retirement  
1728 allowance as provided in this section, in which event no salary or  
1729 compensation shall thereafter be due or payable for those  
1730 services; however, any such officer or employee may receive, in  
1731 addition to the retirement allowance, \* \* \* office expense  
1732 allowance, mileage or travel expense authorized by any statute of  
1733 the State of Mississippi; or

1734 (b) Receives compensation for that elective office in  
1735 an amount not to exceed twenty-five percent (25%) of the retiree's  
1736 average compensation.

1737 **SECTION 13.** Section 25-11-133, Mississippi Code of 1972, is  
1738 amended as follows:

1739 25-11-133. (1) The maintenance of actuarial reserves for  
1740 the various allowances and benefits under Articles 1 and 3, and  
1741 the payment of all annuities, retirement allowances, refunds and  
1742 other benefits granted hereunder are hereby made obligations of  
1743 the employer's accumulation accounts. All income, interest and  
1744 dividends derived from deposits and investments authorized by  
1745 those articles shall be used for the payment of the obligations of  
1746 the system.

1747 (2) In the event of the termination of the Public Employees'  
1748 Retirement System established pursuant to the provisions of  
1749 Section 25-11-101 et seq., all members of the system as of the



1750 date of termination of the system shall be deemed to have a vested  
1751 right to benefits to the extent and in the same manner that rights  
1752 would be vested under the statute existing as of the date of  
1753 termination of the system, except that any member who, because of  
1754 a termination of the system has not fulfilled the requirements for  
1755 length of service, shall nonetheless be entitled to compensation  
1756 as of the date that such member would otherwise be eligible, with  
1757 such compensation to be computed on the basis of time actually a  
1758 member of the service and compensation actually earned during the  
1759 time a member, in the manner now provided by statute.

1760 In the event of a deficit in the availability of funds for  
1761 payment due under the provisions of the Public Employees'  
1762 Retirement System, an appropriation shall hereinafter be made  
1763 sufficient for the payment thereof as an obligation of the state.

1764 (3) Notwithstanding any provisions of this section or this  
1765 title to the contrary, the maximum annual retirement allowance  
1766 attributable to the employer contributions payable by the system  
1767 to a member shall be subject to the limitations set forth in  
1768 Section 415 of the Internal Revenue Code and any regulations  
1769 issued thereunder as applicable to governmental plans as such term  
1770 is defined under Section 414(d) of the Internal Revenue Code.

1771 (4) Notwithstanding any other provision of this plan, all  
1772 distributions from this plan shall conform to the regulations  
1773 issued under Section 401(a)(9) of the Internal Revenue Code,  
1774 applicable to governmental plans, as defined in Section 414(d) of  
1775 the Internal Revenue Code, including the incidental death benefit  
1776 provisions of Section 401(a)(9)(G) of the Internal Revenue Code.  
1777 Further, such regulations shall override any plan provision that  
1778 is inconsistent with Section 401(a)(9) of the Internal Revenue  
1779 Code.

1780 (5) The actuarial assumptions used to convert a retirement  
1781 allowance from the normal form of payment to an optional form of



1782 payment shall be an appendix to Article 3 and subject to approval  
1783 by the board of trustees based upon certification by the actuary.

1784 (6) Notwithstanding any other provision of this plan, the  
1785 maximum compensation that can be considered for all plan purposes  
1786 shall not be greater than that allowed under Section 401(a)(17) of  
1787 the Internal Revenue Code.

1788 **SECTION 14.** Section 25-11-139, Mississippi Code of 1972, is  
1789 amended as follows:

1790 25-11-139. (1) Any retirement allowance or other annuity or  
1791 benefit provided by Articles 1 and 3 shall be paid in equal  
1792 monthly installments for life and shall not be increased,  
1793 decreased, revoked or repealed, except for error upon detection,  
1794 regardless of the length of time between the reporting error or  
1795 the time payment started and the time the board became aware of  
1796 the error, or except where specifically otherwise provided by  
1797 those articles. This responsibility is, and has been, the duty of  
1798 the board since the creation of the retirement system.

1799 (2) Each member shall have a period of two (2) years from  
1800 the effective date of his retirement within which to submit  
1801 documentation of any additional service credit, including prior  
1802 service, military service or unused leave. Any increase in  
1803 benefits resulting from the submission of that documentation shall  
1804 be paid from the first of the month following receipt of the  
1805 documentation and shall not be retroactive to the effective date  
1806 of retirement.

1807 (3) Pursuant to Section 25-11-111, Mississippi Code of 1972,  
1808 it is and has been the sole responsibility of the member or  
1809 beneficiary thereof to apply for benefits and no benefits shall be  
1810 paid for any period prior to the first of the month following the  
1811 receipt of such application for such benefits, but in no event  
1812 prior to termination of employment, except as authorized in  
1813 Section 25-11-114.



1814           **SECTION 15.** Section 25-11-309, Mississippi Code of 1972, is  
1815 amended as follows:

1816           25-11-309. The retirement allowance from the Supplemental  
1817 Legislative Retirement Plan shall consist of fifty percent (50%)  
1818 of an amount equal to the retirement allowance determined by  
1819 creditable service as an elected Senator or Representative of the  
1820 State Legislature or as President of the Senate payable by the  
1821 Public Employees' Retirement System in accordance with Section  
1822 25-11-101 et seq. \* \* \*

1823           The percentage of the retirement allowance as provided in  
1824 this section shall be transferred from the annuity savings account  
1825 of the member and the employer accumulation account in the  
1826 Supplemental Legislative Retirement Plan to the retirement account  
1827 of the member in the Public Employees' Retirement System as  
1828 provided.

1829           **SECTION 16.** Section 25-13-5, Mississippi Code of 1972, is  
1830 amended as follows:

1831           25-13-5. (1) Creditable service on which a member's service  
1832 or disability retirement benefit is based shall consist of "prior  
1833 service" and membership service. Prior service shall mean service  
1834 performed for the Highway Safety Patrol as defined in Section  
1835 25-13-3 before the chapter becomes effective and service performed  
1836 as a sworn agent for the Mississippi Bureau of Narcotics prior to  
1837 the effective date of this act. No prior service credits shall be  
1838 granted any person who re-enters the employment of the Highway  
1839 Safety Patrol after the effective date of this chapter, except  
1840 that any former sworn officer of the Highway Safety Patrol who  
1841 returns to the Highway Safety Patrol in any capacity, and who has  
1842 had not less than two (2) years of prior service as a sworn  
1843 officer of the Highway Safety Patrol, and who was disabled by  
1844 wounds or accident in line of duty, may become a member of the  
1845 Highway Safety Patrol Retirement System with full credit for any  
1846 previous service as set forth in Section 25-13-3 with the Highway



1847 Safety Patrol. Membership service shall mean all services for  
1848 which credit may be allowed under this chapter subsequent to July  
1849 1, 1958, and all lawfully credited unused leave as of the date of  
1850 withdrawal from service, as certified by the appointing authority.

1851 (2) Each member shall have a period of two (2) years from  
1852 the effective date of his retirement within which to submit  
1853 documentation of any additional service credit, including prior  
1854 service, military service or unused leave. Any increase in  
1855 benefits resulting from the submission of that documentation shall  
1856 be paid from the first of the month following receipt of the  
1857 documentation and shall not be retroactive to the effective date  
1858 of retirement.

1859 **SECTION 17.** Section 25-13-16, Mississippi Code of 1972, is  
1860 amended as follows:

1861 25-13-16. (1) Upon application for superannuation or  
1862 disability retirement, any member who retires after July 1, 1990,  
1863 may elect to receive his benefit pursuant to the provisions of  
1864 Sections 25-13-11 and 25-13-13. Or he may elect upon retirement,  
1865 or upon becoming eligible for retirement, to receive the actuarial  
1866 equivalent, subject to the provisions of subsection (3) of this  
1867 section, of his retirement allowance in a reduced retirement  
1868 allowance payable throughout life with the provision that:

1869 **Option 1.** If he dies before he has received in annuity  
1870 payment the value of the member's annuity savings account as it  
1871 was at the time of his retirement, the balance shall be paid to  
1872 his legal representative or to such person as he shall nominate by  
1873 written designation duly acknowledged and filed with the board; or

1874 **Option 2.** Upon his death, his reduced retirement allowance  
1875 shall be continued throughout the life of, and paid to, such  
1876 person as he has nominated by written designation duly  
1877 acknowledged and filed with the board of trustees at the time of  
1878 his retirement;





1879           **Option 3.** Upon his death, one-half (1/2) of his reduced  
1880 retirement allowance shall be continued throughout the life of,  
1881 and paid to, such person as he shall have nominated by written  
1882 designation duly acknowledged and filed with the board of trustees  
1883 at the time of his retirement, and the other one-half (1/2) of his  
1884 reduced retirement allowance to some other designated beneficiary;

1885           **Option 4-A.** Upon his death, one-half (1/2) of his reduced  
1886 retirement allowance, or such other specified amount, shall be  
1887 continued throughout the life of, and paid to, such person as he  
1888 shall have nominated by written designation duly acknowledged and  
1889 filed with the board of trustees at the time of his retirement; or

1890           **Option 4-B.** A reduced retirement allowance shall be  
1891 continued throughout the life of the retirant, but with the  
1892 further guarantee of payments to the named beneficiary,  
1893 beneficiaries or to the estate for a specified number of years  
1894 certain. If the retired member or the last designated beneficiary  
1895 receiving annuity payments dies prior to receiving all guaranteed  
1896 payments due, the actuarial equivalent of the remaining payments  
1897 shall be paid pursuant to Section 25-13-21.1(1).

1898           **Option 4-C.** Such retirement allowance otherwise payable may  
1899 be converted into a retirement allowance of equivalent actuarial  
1900 value in such an amount that, with the member's benefit under  
1901 Title II of the federal Social Security Act, the member will  
1902 receive, so far as possible, approximately the same amount  
1903 annually before and after the earliest age at which the member  
1904 becomes eligible to receive a social security benefit. This  
1905 option shall not be available to retirees whose retirement is  
1906 effective on or after January 1, 2003.

1907           **Option 6.** Any member who is eligible to retire with an  
1908 unreduced benefit may select the maximum retirement benefit or an  
1909 optional benefit as provided in this subsection together with a  
1910 partial lump sum distribution. The amount of the lump sum  
1911 distribution under this option shall be equal to the maximum



1912 monthly benefit multiplied by twelve (12), twenty-four (24) or  
1913 thirty-six (36) as selected by the member. The maximum retirement  
1914 benefit shall be actuarially reduced to reflect the amount of the  
1915 lump sum distribution selected and further reduced for any other  
1916 optional benefit selected. The annuity and lump sum distribution  
1917 shall be computed to result in no actuarial loss to the system.  
1918 The lump sum distribution shall be made as a single payment  
1919 payable at the time the first monthly annuity payment is paid to  
1920 the retiree. The amount of the lump sum distribution shall be  
1921 deducted from the member's annuity savings account in computing  
1922 what contributions remain at the death of the retiree and/or a  
1923 beneficiary. The lump sum distribution option may be elected only  
1924 once by a member upon initial retirement, and may not be elected  
1925 by a retiree, by members applying for a disability retirement  
1926 annuity, by survivors or by a member selecting Option 4-C.

1927 (2) No change in the option selected shall be permitted  
1928 after the member's death or after the member has received his  
1929 first retirement check, except as provided in subsections (3) and  
1930 (4) of this section. However, any retired member who is receiving  
1931 a retirement allowance under Option 2 or Option 4-A upon July 1,  
1932 1999, and whose designated beneficiary predeceased him or whose  
1933 marriage to a spouse who is his designated beneficiary is  
1934 terminated by divorce or other dissolution, upon written  
1935 notification to the retirement system of the death of the  
1936 designated beneficiary or of the termination of his marriage to  
1937 his designated beneficiary, the retirement allowance payable to  
1938 the member after receipt of such notification by the retirement  
1939 system shall be equal to the retirement allowance that would have  
1940 been payable if the member had not elected the option. In  
1941 addition, any retired member who is receiving the maximum  
1942 retirement allowance for life, a retirement allowance under Option  
1943 1 or who is receiving a retirement allowance under Option 2 or  
1944 Option 4-A on July 1, 1999, may elect to provide survivor benefits



1945 under Option 2 or Option 4-A to a spouse who was not previously  
1946 the member's beneficiary and who the member married before July 1,  
1947 1999. Should a member retired on disability be returned to active  
1948 service, the option previously selected shall be null and void.  
1949 Upon subsequent retirement a new option may be selected.

1950 (3) Any retired member who is receiving a reduced retirement  
1951 allowance under Option 2 or Option 4-A whose designated  
1952 beneficiary predeceases him, or whose marriage to a spouse who is  
1953 his designated beneficiary is terminated by divorce or other  
1954 dissolution, may elect to cancel his reduced retirement allowance  
1955 and receive the maximum retirement allowance for life in an amount  
1956 equal to the amount that would have been payable if the member had  
1957 not elected Option 2 or Option 4-A. Such election must be made in  
1958 writing to the office of the executive director of the system on a  
1959 form prescribed by the board. Any such election shall be  
1960 effective the first of the month following the date the election  
1961 is received by the system.

1962 (4) Any retired member who is receiving the maximum  
1963 retirement allowance for life, or a retirement allowance under  
1964 Option 1, and who marries after his retirement may elect to cancel  
1965 his maximum retirement allowance and receive a reduced retirement  
1966 allowance under Option 2 or Option 4-A to provide continuing  
1967 lifetime benefits to his spouse. Such election must be made in  
1968 writing to the office of the executive director of the system on a  
1969 form prescribed by the board not earlier than the date of the  
1970 marriage. Any such election shall be effective the first of the  
1971 month following the date the election is received by the  
1972 system. \* \* \* However, if a retiree marries or remarries after  
1973 retirement and elects either Option 2 or Option 4-A as provided in  
1974 subsection (2) or (4) of this section, the actuarial equivalent  
1975 factor used to compute the reduced retirement allowance shall be  
1976 the factor for the age of the retiree and his or her beneficiary  
1977 at the time such election for recalculation of benefits is made.



1978           (5) Any member in service who has qualified for retirement  
1979 benefits may select any optional method of settlement of  
1980 retirement benefits by notifying the Executive Director of the  
1981 Board of Trustees of the Public Employees' Retirement System in  
1982 writing, on a form prescribed by the board, of the option he has  
1983 selected and by naming the beneficiary of such option and  
1984 furnishing necessary proof of age. Such option, once selected,  
1985 may be changed at any time prior to actual retirement or death,  
1986 but upon the death or retirement of the member, the optional  
1987 settlement shall be placed in effect upon proper notification to  
1988 the executive director.

1989           (6) Notwithstanding any provision of Section 25-13-1 et  
1990 seq., no payments may be made for a retirement allowance on a  
1991 monthly basis for a period of time in excess of that allowed by  
1992 federal law.

1993           (7) If a retirant and his eligible beneficiary, if any, both  
1994 die before they have received in annuity payments a total amount  
1995 equal to the accumulated contributions standing to the retirant's  
1996 credit in the annuity savings account at the time of his  
1997 retirement, the difference between the accumulated contributions  
1998 and the total amount of annuities received by them shall be paid  
1999 to such persons as the retirant has nominated by written  
2000 designation duly executed and filed in the office of the executive  
2001 director. If no designated person survives the retirant and his  
2002 beneficiary, the difference, if any, shall be paid pursuant to  
2003 Section 25-13-21.1(1).

2004           (8) Any retired member who retired on Option 2(5) or 4-A(5)  
2005 before July 1, 1999, who is still receiving a retirement allowance  
2006 as of July 1, 1999, shall receive an increase in the annual  
2007 retirement allowance effective July 1, 1999, equal to the amount  
2008 they would have received under Option 2 or Option 4-A without a  
2009 reduction for Option 5 based on the ages at retirement of the



2010 retiree and beneficiary and option factors in effect on July 1,  
2011 1999. Such increase shall be prospective only.

2012 (9) For purposes of this section:

2013 (a) "Beneficiary" means any person designated to  
2014 receive a retirement allowance, an annuity or other benefit as  
2015 provided by this chapter. Such designation shall be in writing  
2016 filed in the Office of the Executive Director of the Board of  
2017 Trustees of the Public Employees' Retirement System, and no  
2018 designation or change of beneficiary shall be made in any other  
2019 manner; however, notwithstanding any provision of this chapter to  
2020 the contrary, the lawful spouse of a member at the time of the  
2021 death of a member shall be the beneficiary of such member unless  
2022 the member has designated another beneficiary subsequent to the  
2023 date of marriage.

2024 (b) "Actuarial equivalent" shall mean a benefit of  
2025 equal value to the accumulated contributions, annuity or benefit,  
2026 as the case may be, when computed upon the basis of such mortality  
2027 tables as shall be adopted by the board of trustees, and regular  
2028 interest.

2029 (c) "Actuarial tables" shall mean such tables of  
2030 mortality and rates of interest as shall be adopted by the board  
2031 in accordance with the recommendation of the actuary.

2032 **SECTION 18.** Section 25-13-17, Mississippi Code of 1972, is  
2033 amended as follows:

2034 25-13-17. (1) All persons who are covered under the terms  
2035 of this chapter on the date on which this retirement system is  
2036 established and who become members of the retirement system shall  
2037 cease to be members under the provisions of Sections 25-11-101  
2038 through 25-11-139 upon the effective date of this chapter, and  
2039 shall become members of this retirement system with full credit  
2040 for all prior service with the Highway Safety Patrol.

2041 (2) In computing the period of service of a member of the  
2042 Highway Safety Patrol, \* \* \* any member who served on active duty



2043 in the Armed Forces of the United States, or who served in  
2044 maritime service during periods of hostility in World War II,  
2045 shall be entitled to creditable service at no cost for his service  
2046 on active duty in the Armed Forces or in such maritime service,  
2047 provided he entered state service after his discharge from the  
2048 Armed Forces or entered state service after he completed such  
2049 maritime service. The maximum period for such creditable service  
2050 for all military service as defined in this subsection (2) shall  
2051 not exceed four (4) years unless positive proof can be furnished  
2052 by such person that he was retained in the Armed Forces during  
2053 World War II or in maritime service during World War II, by causes  
2054 beyond his control and without opportunity of discharge. The  
2055 member shall furnish proof satisfactory to the Board of Trustees  
2056 of the Public Employees' Retirement System of certification of  
2057 military service or maritime service records showing dates of  
2058 entrance into active duty service and the date of discharge. No  
2059 creditable service shall be granted for any military service or  
2060 maritime service to a member who qualifies for a retirement  
2061 allowance in another public retirement system administered by the  
2062 Board of Trustees of the Public Employees' Retirement System based  
2063 in whole or in part on such military or maritime service. In no  
2064 case shall the member receive creditable service if the member  
2065 received a dishonorable discharge from the Armed Forces of the  
2066 United States.

2067 The credit for military service granted in this subsection  
2068 shall apply to all persons who have retired from the Highway  
2069 Patrol and who qualify for credit as outlined above, whether they  
2070 retired before or after July 1, 2000; but this provision shall not  
2071 operate to require any back payments of retirement.

2072 (3) (a) Any member of the Mississippi Highway Safety Patrol  
2073 Retirement System whose membership service is interrupted as a  
2074 result of qualified military service within the meaning of Section  
2075 414(u)(5) of the Internal Revenue Code, and who has received the



2076 maximum service credit available under subsection (2) of this  
2077 section, shall receive creditable service for the period of  
2078 qualified military service that does not qualify as creditable  
2079 service under subsection (2) of this section upon reentering  
2080 membership service in an amount not to exceed five (5) years if:

2081 (i) The member pays the contributions he would  
2082 have made to the retirement system if he had remained in  
2083 membership service for the period of qualified military service  
2084 based upon his salary at the time his membership service was  
2085 interrupted;

2086 (ii) The member returns to membership service  
2087 within ninety (90) days of the end of his qualified military  
2088 service; and

2089 (iii) The employer at the time the member's  
2090 service was interrupted and to which employment the member returns  
2091 pays the contributions it would have made into the retirement  
2092 system for such period based on the member's salary at the time  
2093 the service was interrupted.

2094 (b) The payments required to be made in paragraph  
2095 (a) (i) of this subsection may be made over a period beginning with  
2096 the date of return to membership service and not exceeding three  
2097 (3) times the member's qualified military service; \* \* \*  
2098 however, \* \* \* in no event shall such period exceed five (5)  
2099 years.

2100 (c) The member shall furnish proof satisfactory to the  
2101 board of trustees of certification of military service showing  
2102 dates of entrance into qualified service and the date of discharge  
2103 as well as proof that the member has returned to active employment  
2104 within the time specified.

2105 **SECTION 19.** Section 25-13-29, Mississippi Code of 1972, is  
2106 amended as follows:

2107 25-13-29. At least once in each biennium the administrative  
2108 board shall cause an actuarial valuation to be made by an actuary



2109 who shall certify to the assets and liabilities of the system and  
2110 the amount of employer's contributions required for membership  
2111 service and prior service. The cost of the survey shall be paid  
2112 from any funds available to the Highway Safety Patrol.

2113 On account of each member there shall be paid quarterly into  
2114 the "Disability and Relief Fund for Members of the Mississippi  
2115 Highway Safety Patrol" by the Highway Safety Patrol from any funds  
2116 available an amount equal to a certain percentage of the  
2117 compensation of each member to be known as the "normal  
2118 contributions," and an additional amount equal to a percentage of  
2119 his compensation to be known as the "accrued liability  
2120 contribution." The rate percent of such contributions shall be  
2121 fixed by the administrative board on the basis of the liabilities  
2122 of the retirement system for the various allowances and benefits  
2123 as shown by the actuarial valuation. \* \* \*

2124 **SECTION 20.** Section 25-13-33, Mississippi Code of 1972, is  
2125 amended as follows:

2126 25-13-33. (1) The maintenance of actuarial reserves for the  
2127 various allowances and benefits under this chapter, and the  
2128 payment of all annuities, retirement allowances, refunds and other  
2129 benefits granted hereunder are hereby made obligation of the  
2130 disability and relief fund. All income, interest and dividends  
2131 derived from deposits and investments authorized by this chapter  
2132 shall be used for the payment of the obligations of the system.

2133 (2) In the event of the termination of the Mississippi  
2134 Highway Safety Patrol Retirement System, established pursuant to  
2135 the provisions of Section 25-13-1 et seq., Mississippi Code of  
2136 1972, all members of the system as of the date of termination of  
2137 the system shall be deemed to have a vested right to benefits to  
2138 the extent and in the same manner that rights would be vested  
2139 under the statute existing as of the date of termination of the  
2140 system; except that any member who, because of a termination of  
2141 the system has not fulfilled the requirements for length of





2142 service, shall be entitled to compensation as of the date that  
2143 such member would otherwise be eligible, with such compensation to  
2144 be computed on the basis of time actually a member of the service  
2145 and compensation actually earned during the time as a member, in  
2146 the manner now provided by statute.

2147 In the event of a deficit in the availability of funds for  
2148 payment due under the provisions of the Mississippi Highway Safety  
2149 Patrol Retirement System, an appropriation shall hereinafter be  
2150 made sufficient for the payment thereof as an obligation of the  
2151 State of Mississippi.

2152 (3) Notwithstanding any provisions of this section or  
2153 chapter to the contrary, the maximum annual retirement allowance  
2154 attributable to the employer contributions payable by the system  
2155 to a member shall be subject to the limitations set forth in  
2156 Section 415 of the Internal Revenue Code and any regulations  
2157 issued thereunder as applicable to governmental plans as such term  
2158 is defined under Section 414(d) of the Internal Revenue Code.

2159 (4) Notwithstanding any other provision of this plan, all  
2160 distributions from this plan shall conform to the regulations  
2161 issued under Section 401(a)(9) of the Internal Revenue Code,  
2162 applicable to governmental plans, as defined in Section 414(d) of  
2163 the Internal Revenue Code, including the incidental death benefit  
2164 provisions of Section 401(a)(9)(G) of the Internal Revenue Code.  
2165 Further, such regulations shall override any plan provision that  
2166 is inconsistent with Section 401(a)(9) of the Internal Revenue  
2167 Code.

2168 (5) The actuarial assumptions used to convert a retirement  
2169 allowance from the normal form of payment to an optional form of  
2170 payment shall be an appendix to this chapter and subject to  
2171 approval by the board of trustees based upon certification by the  
2172 actuary.

2173 (6) Notwithstanding any other provision of this plan, the  
2174 maximum compensation that can be considered for all plan purposes



2175 shall not be greater than that allowed under Section 401(a)(17) of  
2176 the Internal Revenue Code.

2177 **SECTION 21.** Section 25-14-5, Mississippi Code of 1972, is  
2178 amended as follows:

2179 25-14-5. The State of Mississippi, or any state agency,  
2180 county, municipality or other political subdivision may, by  
2181 contract, agree with any employee to defer, in whole or in part,  
2182 any portion of that employee's income and/or may make  
2183 contributions to the plan on behalf of participating members.  
2184 Those funds may subsequently be used to purchase a fixed or  
2185 variable life insurance or annuity contract for the purpose of  
2186 protecting its obligation to the deferred compensation program for  
2187 the employee from any life underwriter duly licensed by this state  
2188 who represents an insurance company licensed to contract fixed and  
2189 variable annuities and fixed or variable life insurance business  
2190 in this state or to purchase any investments authorized for  
2191 purchase by the Public Employees' Retirement System of Mississippi  
2192 under Section 25-11-121; or to invest such monies in a fund or  
2193 funds maintained by a corporate trustee; which fund or funds are  
2194 used as an investment media for retirement, pension or profit  
2195 sharing plans that are tax qualified for such purpose. \* \* \* In  
2196 the administration of this plan, the Public Employees' Retirement  
2197 System of Mississippi may adopt such regulations as are reasonable  
2198 and necessary to assure the orderly functioning of the plan, but  
2199 such regulations shall not unreasonably restrict all licensed life  
2200 underwriters and insurance companies described herein from  
2201 concurrently participating in providing contracts authorized  
2202 hereunder. Anything in any other law to the contrary  
2203 notwithstanding, the deferred portion of the employee's  
2204 compensation, the plan and the monies in the plan created by that  
2205 article, are exempt from any state, county or municipal ad valorem  
2206 taxes, income taxes, premium taxes, privilege taxes, property  
2207 taxes, sales and use taxes and any other taxes not so named, until



2208 the deferred compensation is paid to the employee or beneficiary  
2209 and exempt from levy, garnishment, attachment or any other process  
2210 whatsoever.

2211 **SECTION 22.** Section 25-14-7, Mississippi Code of 1972, is  
2212 amended as follows:

2213 25-14-7. The administration of the deferred compensation  
2214 program shall be under the direction of the Public Employees'  
2215 Retirement System of Mississippi or the appropriate officer  
2216 designated by a county, municipality, or other political  
2217 subdivision. The deferred compensation program shall be operated  
2218 in accordance with the guidelines established by the Internal  
2219 Revenue Service as reflected in the plan document as may be  
2220 modified from time to time by the board of trustees. Payroll  
2221 reductions shall be made, in each instance, by the appropriate  
2222 payroll officer. The administrator of a deferred compensation  
2223 program may contract with a private corporation or institution for  
2224 providing consolidated billing and other administrative services  
2225 if deemed necessary by the administrator.

2226 The board of trustees may levy such charges and fees on  
2227 participants' contributions as may reasonably be necessary to  
2228 provide for the administrative expenses of operating the deferred  
2229 compensation program, including, but not limited to, the services  
2230 of auditors, consultants, money managers and third-party  
2231 administrators.

2232 **SECTION 23.** Section 21-29-139, Mississippi Code of 1972, is  
2233 amended as follows:

2234 21-29-139. If any member of the fire and/or police  
2235 department who has been in paid fire and/or police department  
2236 service for as long as twenty (20) years before making application  
2237 hereinafter mentioned, the last ten (10) years of which shall have  
2238 been continuous in the city in which the application is made,  
2239 shall make written application for retirement and relief, the  
2240 board of disability and relief shall, without medical examination



2241 of disability, retire him from active service in the fire and/or  
2242 police department. Upon such retirement from active service, the  
2243 board of disability and relief shall order the payment to such  
2244 retired member monthly from that fund a sum equal to fifty percent  
2245 (50%) of the average monthly base salary and longevity pay  
2246 received as salary by such member in the six-month period next  
2247 before the filing of such application in the fire and/or police  
2248 department. Such payments shall thereafter be made to the retired  
2249 member for life, such payment to be known as "retired relief."

2250 Any member of the fire and/or police department who has been  
2251 in paid fire and/or police department service for longer than  
2252 twenty (20) years in a municipality shall be entitled and shall  
2253 receive additional retired relief payment for life in a sum equal  
2254 to one and seven-tenths percent (1-7/10%) of the same average  
2255 monthly base salary and longevity pay received by such member in  
2256 the six-month period next preceding the filing of the application,  
2257 for each full year of service in excess of twenty (20) years'  
2258 service. However, no retired relief payment to any member shall  
2259 exceed sixty-six and two-thirds percent (66-2/3%) of the average  
2260 monthly base salary and longevity pay received by a member for the  
2261 six-month period next preceding the filing of the application.

2262 The \* \* \* board shall, when a member of the fire and/or  
2263 police department reaches the age of sixty-five (65), retire him  
2264 from active service in the fire and/or police department and order  
2265 the payment of such funds as the member is entitled to hereunder.

2266 Periods of time in which a member may have been inactive on  
2267 account of physical or mental disability shall not be excluded in  
2268 computing the twenty-year period and the ten-year period  
2269 hereinbefore mentioned. Periods of time within which a member may  
2270 have been absent from his employment while in active service of  
2271 the Army or Navy of the United States, United States Marine Corps  
2272 or the United States Coast Guard between September 16, 1940, and  
2273 July 25, 1947, or while as a civil employee engaged by the Army



2274 and Navy while serving outside the continental United States shall  
2275 not be excluded in computing the twenty-year period and the  
2276 ten-year period hereinbefore mentioned, provided that the  
2277 discharge or release of such member from the armed forces was  
2278 under conditions other than dishonorable. Any member who has been  
2279 retired or is voluntarily retired hereunder, or who has received  
2280 relief or disability benefits hereunder, shall be required to  
2281 perform such duties as then may be required of him.

2282 \* \* \* However, in any city having a population of nineteen  
2283 thousand (19,000) but less than twenty thousand (20,000),  
2284 according to the 1970 census, the periods of time not exceeding  
2285 four (4) years within which a member of the fire or police  
2286 departments may have been absent from his employment while in  
2287 active service in the Armed Forces of the United States, shall not  
2288 be excluded in computing the twenty-year period and the ten-year  
2289 period mentioned in this section.

2290 Each member shall have a period of two (2) years from the  
2291 effective date of his retirement within which to submit  
2292 documentation of any additional service credit, including prior  
2293 service, military service or unused leave. Any increase in  
2294 benefits resulting from the submission of that documentation shall  
2295 be paid from the first of the month following receipt of the  
2296 documentation and shall not be retroactive to the effective date  
2297 of retirement.

2298 **SECTION 24.** Section 21-29-245, Mississippi Code of 1972, is  
2299 amended as follows:

2300 21-29-245. If any member of the fire and/or police  
2301 department who has been in paid fire and/or police department  
2302 service for as long as twenty (20) years before making application  
2303 hereinafter mentioned, the last ten (10) years of which shall have  
2304 been continuous in the city in which the application is made,  
2305 shall make written application for retirement and relief, the  
2306 Board of Disability and Relief shall without medical examinations



2307 of disability, retire him from active service in the fire and/or  
2308 police department. Upon such retirement from active service the  
2309 Board of Disability and Relief \* \* \* shall order the payment to  
2310 such retired member monthly from that fund a sum equal to fifty  
2311 percent (50%) of the average monthly base salary and longevity pay  
2312 received as salary by such member in the six-month period next  
2313 before the filing of such application in the fire and/or police  
2314 department. Such payments shall thereafter be made to the retired  
2315 member for life, such payments to be known as "retired relief."

2316 Any member of the fire and/or police department who has been  
2317 in paid fire and/or police department service for longer than  
2318 twenty (20) years shall be entitled to and shall receive  
2319 additional retired relief payment for life in a sum equal to one  
2320 and seven-tenths percent ( $1\frac{7}{10}\%$ ) of the same monthly base salary  
2321 and longevity pay received by such member in the six-month period  
2322 next preceding the filing of the application for each full year of  
2323 service in excess of twenty (20) years' service. However, such  
2324 additional retired relief payment shall be paid only for each year  
2325 served after July 1, 1966. No retired relief payment to any  
2326 member shall exceed sixty-six and two-thirds percent ( $66\frac{2}{3}\%$ ) of  
2327 the average monthly base salary and longevity pay received by a  
2328 member for the six-month period next preceding the filing of the  
2329 application, except such other additional benefits as may be  
2330 hereinafter provided.

2331 The Board of Disability and Relief shall, when a member of  
2332 the fire and/or police department completes thirty-five (35) years  
2333 of paid employment, or attains the age of sixty (60), whichever  
2334 occurs first, retire him from active service in the fire and/or  
2335 police department and order the payment of such funds as the  
2336 member is entitled to under this article.

2337 Periods of time in which a member may have been inactive on  
2338 account of physical or mental disability shall not be excluded in  
2339 computing the twenty-year period and the ten-year period



2340 hereinabove mentioned. Neither shall there be excluded therefrom  
2341 periods of time within which a member may have been absent from  
2342 his employment while serving in the Armed Forces of the United  
2343 States, or any civil employee engaged by the Armed Forces of the  
2344 United States while serving outside the continental United States,  
2345 in time of war during World War I, World War II, the Korean  
2346 Conflict, Cuban Crisis, Berlin Crisis, Vietnam Conflict, or when  
2347 involuntarily called on active duty, provided that the maximum  
2348 period for such creditable service shall be four (4) years unless  
2349 positive proof can be furnished by such person that he was  
2350 retained in the Armed Forces by cause beyond his control, and  
2351 without opportunity of discharge, and provided that the discharge  
2352 or release of such member from the Armed Forces was under  
2353 conditions other than dishonorable. Any member who has been  
2354 retired or is voluntarily retired hereunder, or who has received  
2355 relief or disability benefits hereunder, shall be required to  
2356 report such duties as then may be required of them.

2357 Each member shall have a period of two (2) years from the  
2358 effective date of his retirement within which to submit  
2359 documentation of any additional service credit, including prior  
2360 service, military service or unused leave. Any increase in  
2361 benefits resulting from the submission of that documentation shall  
2362 be paid from the first of the month following receipt of the  
2363 documentation and shall not be retroactive to the effective date  
2364 of retirement.

2365 **SECTION 25.** Section 21-29-301, Mississippi Code of 1972, is  
2366 amended as follows:

2367 21-29-301. (1) Any member of the Municipal Retirement  
2368 System whose membership service is interrupted as a result of  
2369 qualified military service within the meaning of Section 414(u)(5)  
2370 of the Internal Revenue Code, and who has received the maximum  
2371 service credit available under Article 1, 3 or 5 of this chapter,  
2372 shall receive creditable service for the period of qualified



2373 military service that does not qualify as creditable service under  
2374 Article 1, 3 or 5 of this chapter upon reentering membership  
2375 service in an amount not to exceed five (5) years if:

2376 (a) The member pays the contributions he would have  
2377 made to the retirement system if he had remained in membership  
2378 service for the period of qualified military service based upon  
2379 his salary at the time his membership service was interrupted;

2380 (b) The member returns to membership service within  
2381 ninety (90) days of the end of his qualified military service; and

2382 (c) The employer at the time the member's service was  
2383 interrupted and to which employment the member returns pays the  
2384 contribution it would have made into the retirement system for  
2385 such period based on the member's salary at the time the service  
2386 was interrupted.

2387 (2) The payments required to be made in subsection (1)(a) of  
2388 this section may be made over a period beginning with the date of  
2389 return to membership service and not exceeding three (3) times the  
2390 member's qualified military service; \* \* \* however, \* \* \* in no  
2391 event shall such period exceed five (5) years.

2392 (3) The member shall furnish proof satisfactory to the board  
2393 of trustees of certification of military service showing dates of  
2394 entrance into qualified service and the date of discharge as well  
2395 as proof that the member has returned to active employment within  
2396 the time specified.

2397 **SECTION 26.** Section 21-29-317, Mississippi Code of 1972, is  
2398 amended as follows:

2399 21-29-317. (1) Notwithstanding any provisions of Articles  
2400 1, 3 and 5 of this chapter to the contrary, the maximum annual  
2401 retirement allowance attributable to the employer contributions  
2402 payable by the system to a member under Article 1, 3 or 5 of this  
2403 chapter shall be subject to the limitations set forth in Section  
2404 415 of the Internal Revenue Code and any regulations issued





2405 thereunder as applicable to governmental plans as such term is  
2406 defined under Section 414(d) of the Internal Revenue Code.

2407 (2) Notwithstanding any other provision of this plan, all  
2408 distributions from this plan shall conform to the regulations  
2409 issued under Section 401(a)(9) of the Internal Revenue Code,  
2410 applicable to governmental plans, as defined in Section 414(d) of  
2411 the Internal Revenue Code, including the incidental death benefit  
2412 provisions of Section 401(a)(9)(G) of the Internal Revenue Code.  
2413 Further, such regulations shall override any plan provision that  
2414 is inconsistent with Section 401(a)(9) of the Internal Revenue  
2415 Code.

2416 (3) The actuarial assumptions used to convert a retirement  
2417 allowance from the normal form of payment to an optional form of  
2418 payment shall be an appendix to Article 7 of this chapter and  
2419 subject to approval by the board of directors based upon  
2420 certification by the actuary.

2421 (4) Notwithstanding any other provision of this plan, the  
2422 maximum compensation that can be considered for all plan purposes  
2423 shall not be greater than that allowed under Section 401(a)(17) of  
2424 the Internal Revenue Code.

2425 (5) In the event of the termination of one or more of the  
2426 retirement plans established pursuant to Article 1, 3 or 5 of this  
2427 chapter, all members of the plan or system as of the date of  
2428 termination of the system shall be deemed to have a vested right  
2429 to benefits to the extent and in the same manner that rights would  
2430 be vested under the laws existing as of the date of termination of  
2431 the system; \* \* \* however, \* \* \* any member, who because of a  
2432 termination of the system has not fulfilled the requirements for  
2433 length of service, shall be entitled to compensation as of the  
2434 date that such member would otherwise be eligible, with such  
2435 compensation to be computed on the basis of time actually a member  
2436 of the service and compensation actually earned during the time a  
2437 member, in the manner now provided by law.



2438           **SECTION 27.** Section 21-29-323, Mississippi Code of 1972, is  
2439 amended as follows:

2440           21-29-323. Monthly benefits payable to a spouse in the event  
2441 of the death of a member before retirement or a retiree after  
2442 retirement shall be divided and paid to or for the benefit of any  
2443 dependent children of the deceased member or retiree in an amount  
2444 equal to ten percent (10%) of the annual benefit payable to one  
2445 (1) dependent child, twenty percent (20%) for two (2) \* \* \*  
2446 dependent children, and thirty percent (30%) to three (3) or more  
2447 dependent children. If there are more than three (3) dependent  
2448 children, upon a child ceasing to be a dependent, his annuity  
2449 shall terminate and there shall be a redetermination of the  
2450 amounts payable to any remaining dependent children. Such  
2451 benefits shall be paid to a surviving parent or lawful custodian  
2452 of such children for the use and benefit of the children without  
2453 the necessity of appointment of guardian. The remaining amount  
2454 shall be paid to the spouse as otherwise provided.

2455           **SECTION 28.** Section 25-41-3, Mississippi Code of 1972, is  
2456 amended as follows:

2457           25-41-3. For purposes of this chapter, the following words  
2458 shall have the meaning ascribed herein, to wit:

2459           (a) "Public body" means: (i) any executive or  
2460 administrative board, commission, authority, council, department,  
2461 agency, bureau or any other policymaking entity, or committee  
2462 thereof, of the State of Mississippi, or any political subdivision  
2463 or municipal corporation of the state, whether such entity be  
2464 created by statute or executive order, which is supported wholly  
2465 or in part by public funds or expends public funds, and (ii) any  
2466 standing, interim or special committee of the Mississippi  
2467 Legislature. There shall be exempted from the provisions of this  
2468 chapter the judiciary, including all jury deliberations, public  
2469 and private hospital staffs, public and private hospital boards  
2470 and committees thereof, law enforcement officials, the military,



2471 the State Probation and Parole Board, the Workers' Compensation  
2472 Commission, legislative subcommittees and legislative conference  
2473 committees, the arbitration council established in Section  
2474 69-3-19, license revocation, suspension and disciplinary  
2475 proceedings held by the Mississippi State Board of Dental  
2476 Examiners and all proceedings of the medical board and disability  
2477 appeals committee of the Public Employees' Retirement System.

2478 (b) "Meeting" means an assemblage of members of a  
2479 public body at which official acts may be taken upon a matter over  
2480 which the public body has supervision, control, jurisdiction or  
2481 advisory power.

2482 **SECTION 29.** The amendments in Section 1 of this act  
2483 contained in Section 25-11-103(k)(iii) shall be retroactive and  
2484 apply when computing the earned compensation of all members;  
2485 however, those amendments shall not apply when computing the  
2486 earned compensation earned by justices of the Mississippi Supreme  
2487 Court and judges of the Mississippi Court of Appeals from July 1,  
2488 1983, through June 30, 1999.

2489 **SECTION 30.** Section 17 of this act shall take effect and be  
2490 in force from and after its passage. The remainder of this act  
2491 shall take effect and be in force from and after July 1, 2002.

