HOUSE BILL NO. 1148
(As Sent to Governor)

AN ACT TO CREATE A NEW CODE SECTION TO BE CODIFIED AS SECTION 37-101-30, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE BOARD OF TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING TO IMPLEMENT A RETIREMENT INCENTIVE PROGRAM FOR FACULTY AND STAFF OF INSTITUTIONS OF HIGHER LEARNING; TO CREATE NEW SECTIONS TO BE CODIFIED AS SECTIONS 25-11-111.1, 25-13-11.1 AND 21-29-325, MISSISSIPPI CODE OF 1972, TO REQUIRE THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO PAY RETIREMENT BENEFITS TO MEMBERS WHO RETIRE ON OR AFTER JANUARY 1, 2003, AND THEIR BENEFICIARIES BY MEANS OF DIRECT DEPOSIT UNLESS THE MEMBER OR BENEFICIARY CAN DEMONSTRATE THAT PAYMENT BY MEANS OF DIRECT DEPOSIT WILL CAUSE THE MEMBER OR BENEFICIARY UNDUE HARDSHIP; TO AMEND SECTIONS 25-11-103, 25-11-105, 25-11-109, 25-11-112, 25-11-113, 25-11-115, 25-11-120, 25-11-123, 25-11-127, 25-11-133, 25-11-309, 25-13-16, 25-13-17, 25-13-29, 25-13-33, 21-29-301, 21-29-317 AND 21-29-323, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF THE TERM "AVERAGE COMPENSATION" UNDER THE LAWS GOVERNING THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO INCREASE THE MAXIMUM AMOUNT THAT MAY BE CONSIDERED AVERAGE COMPENSATION; TO REVISE THE DEFINITION OF THE TERM "EARNED COMPENSATION" UNDER THE LAWS GOVERNING THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO INCREASE THE MAXIMUM AMOUNT THAT MAY BE EARNED ANNUALLY AND BE CONSIDERED EARNED COMPENSATION FOR PURPOSES OF RETIREMENT, TO REVISE THE MANNER IN WHICH THE COMPENSATION OF FEE PAID OFFICIALS IS TREATED FOR PURPOSES OF EARNED COMPENSATION; TO PROVIDE THAT FROM AND AFTER JULY 1, 2002, INDIVIDUALS WHO ARE EMPLOYED BY A GOVERNMENTAL ENTITY TO PERFORM PROFESSIONAL SERVICES ON LESS THAN A FULL-TIME BASIS SHALL BECOME MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM IF THEY ARE PAID REGULAR PERIODIC COMPENSATION THAT IS SUBJECT TO PAYROLL TAXES, THEY ARE PROVIDED ALL OTHER EMPLOYEE BENEFITS AND THEY MEET MEMBERSHIP CRITERIA ESTABLISHED BY THE BOARD OF TRUSTEES THAT APPLY TO ALL OTHER MEMBERS; TO PROVIDE THAT ACTIVE MEMBERS EMPLOYED ON LESS THAN A FULL-TIME BASIS SHALL CONTINUE TO BE ACTIVE MEMBERS FOR AS LONG AS THEY CONTINUE TO BE EMPLOYED IN THAT POSITION; TO PROVIDE THAT MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO SERVED IN THE COMMISSIONED CORPS OF THE UNITED STATES PUBLIC HEALTH SERVICE PRIOR TO 1972 SHALL BE ENTITLED TO A CERTAIN AMOUNT OF CREDITABLE SERVICE FOR SUCH SERVICE; TO CONFORM TO FEDERAL LAW THE AMOUNT OF TIME WITHIN WHICH PAYMENTS MUST BE MADE FOR EMPLOYEE CONTRIBUTIONS FOR SERVICE INTERRUPTED BY QUALIFIED MILITARY SERVICE BY MEMBERS OF ALL SYSTEMS ADMINISTERED BY THE BOARD OF TRUSTEES; TO AUTHORIZE THE BOARD OF TRUSTEES TO CHANGE THE MANNER IN WHICH MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM RECEIVE THE COST OF LIVING ADJUSTMENT IF THE CURRENT MANNER OF PAYMENT WILL CAUSE A FINANCIAL HARDSHIP TO THE RETIRED MEMBER OR HIS BENEFICIARY; TO AUTHORIZE MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO BECOME ELIGIBLE FOR SERVICE RETIREMENT BENEFITS WHILE PURSUING A DISABILITY RETIREMENT ALLOWANCE TO ELECT TO RECEIVE A SERVICE RETIREMENT ALLOWANCE PENDING A DETERMINATION ON ELIGIBILITY FOR A DISABILITY RETIREMENT ALLOWANCE AND TO PROVIDE THAT NO PERSON MAY APPLY FOR A DISABILITY RETIREMENT ALLOWANCE AFTER THE PERSON BEGINS TO RECEIVE A SERVICE RETIREMENT ALLOWANCE; TO PROVIDE THAT...
RETIREMENT OPTION 4-C SHALL NOT BE AVAILABLE TO RETIREES WHO RETIRE EFFECTIVE ON OR AFTER JULY 1, 2004; TO PROVIDE THAT MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO ARE PURSUING A DISABILITY RETIREMENT ALLOWANCE AND SIMULTANEOUSLY OR SUBSEQUENTLY ELECT TO BEGIN RECEIVING A RETIREMENT ALLOWANCE WHILE CONTINUING TO PURSUE A DISABILITY RETIREMENT ALLOWANCE SHALL NOT BE ELIGIBLE TO SELECT OPTION 4-C OR OPTION 6; TO REVISE THE MANNER IN WHICH THE RETIREMENT ALLOWANCE IS CALCULATED IF A RETIRED MEMBER MARRIES AND ELECTS TO RECEIVE A REDUCED BENEFIT; TO PROVIDE THAT FROM AND AFTER JANUARY 1, 2003, IF THERE IS AN ELECTION OF OPTION 6 AFTER AGE 65, THE ACTUARIAL EQUIVALENT FACTOR BASED ON THE RETIREE'S AGE AT THE TIME OF RETIREMENT SHALL BE USED TO CALCULATE THE REDUCED MAXIMUM MONTHLY RETIREMENT ALLOWANCE; TO PROVIDE THAT IN THE CASE OF DISABILITY APPEALS UNDER THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM, THE HEARING OFFICER SHALL HAVE THE AUTHORITY TO DEFER A DECISION IN ORDER TO REQUEST A MEDICAL EVALUATION OR TEST OR ADDITIONAL EXISTING MEDICAL RECORDS NOT PREVIOUSLY FURNISHED BY THE CLAIMANT; TO PROVIDE THAT MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM MAY CONTINUE IN MUNICIPAL OR COUNTY OFFICE OR BE ELECTED TO A MUNICIPAL OR COUNTY OFFICE WITHOUT WAIVING THE SALARY FOR THAT OFFICE IF THE COMPENSATION RECEIVED FOR THE OFFICE DOES NOT EXCEED 25% OF THE RETIREE'S AVERAGE COMPENSATION; TO CLARIFY THE RESPONSIBILITY OF CHANCERY AND CIRCUIT CLERKS TO MAKE CERTAIN EMPLOYER AND EMPLOYEE CONTRIBUTIONS TO THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; TO CONFORM THE MAXIMUM AMOUNT OF COMPENSATION THAT MAY BE CONSIDERED FOR THE PURPOSE OF ALL PLANS ADMINISTERED BY THE BOARD OF TRUSTEES TO FEDERAL LAW REQUIREMENTS; TO PROVIDE THAT MEMBERS UNDER THE SUPPLEMENTAL LEGISLATIVE RETIREMENT PLAN SHALL BE SUBJECT TO THE SAME MAXIMUM RETIREMENT BENEFIT LIMITATION AS MEMBERS UNDER OTHER PLANS ADMINISTERED BY THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; TO PROVIDE THAT THE MEDICAL BOARD IS NOT REQUIRED TO CONDUCT A MEDICAL EXAMINATION OF APPLICANTS FOR DISABILITY RETIREMENT UNDER THE HIGHWAY SAFETY PATROL RETIREMENT SYSTEM; AND FOR RELATED PURPOSES.

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

SECTION 1. The following provision shall be codified as Section 37-101-30, Mississippi Code of 1972:

37-101-30. (1) The Legislature finds and declares that a compelling state interest exists in providing a retirement incentive program or encouraging the retirement of those employees of institutions of higher learning who are current and active contributing members of the Public Employees' Retirement System.

(2) As used in this section:

(a) "Board" means the Board of Trustees of State Institutions of Higher Learning.

(b) "Program" means the retirement incentive program established under this section.

(3) (a) The board is authorized to pay, in fiscal years selected by the board, a monetary incentive to employees who are

H. B. No. 1148
02/HR03/R1633SG
PAGE 2 (RF\LH)
eligible for retirement in exchange for a voluntary agreement of
the employee:

(i) To retire on a specific date as set forth in
subsection (6) of this section, and

(ii) To waive any and all claims, known or
unknown, arising out of or related to employment or cessation of
employment at institutions of higher learning.

(b) The granting of additional compensation shall be
made in exchange for additional consideration given by the
employee.

(c) The retirement incentive authorized by this section
is a voluntary plan for institutions of higher learning faculty
and staff offering an incentive for retirement. The plan shall be
available to all full-time faculty and staff who meet the
eligibility criteria set forth in subsection (4) of this section.

(4) (a) To be eligible to participate in the program,
full-time faculty and staff of institutions of higher learning
must, as of the effective date of their retirement, be eligible to
retire under the laws governing the Public Employees' Retirement
System by virtue of:

(i) Having twenty-five (25) years of creditable
service, or

(ii) Being age sixty (60) and having at least four
(4) years of creditable service.

(b) The institution of higher learning offering the
program shall, in all cases, utilize the records of the Public
Employees' Retirement System as the source for determining
eligibility.

(c) The program is offered as an alternative to any
other retirement incentive plan that may be offered by the state
or the Public Employees' Retirement System in the future.

(5) In accordance with applicable law, the institution of
higher learning shall provide a cash benefit to each participant
in the program based upon a percentage of the participant's current salary that is subject to federal income tax, state income tax and Federal Insurance Contributions Act withholding. The participant shall be compensated for unused annual leave as otherwise provided by law. The cash benefit paid under this section shall not be subject to employer or employee contributions under the laws governing the Public Employees' Retirement System.

(6) Eligible employees shall make their election to participate in the program in the manner and at the time prescribed by the board. The date of retirement for all employees participating in this program shall be June 30 of any fiscal year in which the program is offered. Employees electing to participate in the program shall agree to waive any claims, known or unknown, arising out of or related to employment or cessation of employment at institutions of higher learning. An employee may revoke the election to participate in the program within seven (7) days after the execution of the election.

(7) The additional compensation authorized under the program is made in exchange for additional consideration given by the employee.

(8) The board shall prescribe such rules and regulations as it shall consider necessary to carry out the purposes of this section.

SECTION 2. The following provision shall be codified as Section 25-11-111.1, Mississippi Code of 1972:

25-11-111.1. The Public Employees' Retirement System shall make payments of retirement benefits under this chapter to members who retire effective on or after January 1, 2003, and to the beneficiaries of those members, by means of direct deposit to an account with a financial institution that is a participant of the Automated Clearing House designated by the member or beneficiary, unless the member or beneficiary can demonstrate that payment by
means of direct deposit will cause the member or beneficiary undue hardship.

SECTION 3. The following provision shall be codified as Section 25-13-11.1, Mississippi Code of 1972:

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

SECTION 4. The following provision shall be codified as Section 21-29-325, Mississippi Code of 1972:

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

SECTION 5. Section 25-11-103, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

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

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

(g) "Beneficiary" shall mean any person entitled to receive a retirement allowance, an annuity or other benefit as provided by Articles 1 and 3. In the event of the death prior to
retirement of any member whose spouse and/or children are not
entitled to a retirement allowance on the basis that the member
has less than four (4) years of service credit and/or has not been
married for a minimum of one (1) year or the spouse has waived his
or her entitlement to a retirement allowance pursuant to Section
25-11-114, the lawful spouse of a member at the time of the death
of such member shall be the beneficiary of such member unless the
member has designated another beneficiary subsequent to the date
of marriage in writing, and filed such writing in the office of
the executive director of the board of trustees. No designation
or change of beneficiary shall be made in any other manner.

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

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

(j) "Child" means either a natural child of the member,
a child that has been made a child of the member by applicable
court action before the death of the member, or a child under the
permanent care of the member at the time of the latter's death,
which permanent care status shall be determined by evidence
satisfactory to the board.
(k) "Earned compensation" shall mean the full amount earned by an employee for a given pay period including any maintenance furnished up to a maximum of One Hundred Fifty Thousand Dollars ($150,000.00) per year, and proportionately for less than one (1) year of service. The value of such maintenance when not paid in money shall be fixed by the employing state agency, and, in case of doubt, by the board of trustees as defined in Section 25-11-15. In any case, earned compensation shall be limited to the regular periodic compensation paid, exclusive of litigation fees, bond fees, and other similar extraordinary nonrecurring payments. In addition, any member in a covered position, as defined by Public Employees' Retirement System laws and regulations, who is also employed by another covered agency or political subdivision shall have the earnings of that additional employment reported to the Public Employees' Retirement System regardless of whether the additional employment is sufficient in itself to be a covered position. In addition, computation of earned compensation shall be governed by the following:

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

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

(iii) In the case of members of the State Legislature, all remuneration or amounts paid, except mileage allowance, shall apply.

(iv) The amount by which an eligible employee's salary is reduced pursuant to a salary reduction agreement authorized under Section 25-17-5 shall be included as earned compensation under this paragraph, provided this inclusion does
not conflict with federal law, including federal regulations and
federal administrative interpretations thereunder, pertaining to
the Federal Insurance Contributions Act or to Internal Revenue
Code Section 125 cafeteria plans.

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

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

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

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

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

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

(o) "Fiscal year" shall mean the period beginning on
July 1 of any year and ending on June 30 of the next succeeding
year.
(p) "Medical board" shall mean the board of physicians or any governmental or nongovernmental disability determination service designated by the board of trustees that is qualified to make disability determinations as provided for in Section 25-11-119.

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 6. Section 25-11-105, Mississippi Code of 1972, is
amended as follows:

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

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

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

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

(b) All persons who shall become employees in the state service after January 31, 1953, except those specifically excluded or as to whom election is provided in Articles 1 and 3, unless they shall file with the board prior to the lapse of sixty (60) days of employment or sixty (60) days after the effective date of the cited articles, whichever is later, on a form prescribed by the board, a notice of election not to be covered by the membership of the retirement system and a duly executed waiver of all present and prospective benefits which would otherwise inure to them on account of their participation in the system, shall become members of the retirement system; * * * however, * * * no credit for prior service will be granted to members until they have contributed to Article 3 of the retirement system for a minimum period of at least four (4) years. Such members shall receive credit for services performed prior to January 1, 1953, in employment now covered by Article 3, but no credit shall be granted for retroactive services between January 1, 1953, and the date of their entry into the retirement system unless the employee pays into the retirement system both the employer's and the employee's contributions on wages paid him during the period from January 31, 1953, to the date of his becoming a contributing member, together with interest at the rate determined by the board of trustees. Members reentering after withdrawal from service shall qualify for prior service under the provisions of Section 25-11-117. From and after July 1, 1998, upon eligibility as noted above, the member may receive credit for such retroactive service provided:
(1) The member shall furnish proof satisfactory to the board of trustees of certification of such service from the covered employer where the services were performed; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(k) Employees of a political subdivision or instrumentality who were employed by such political subdivision or instrumentality prior to an agreement between such entity and the Public Employees' Retirement System to extend the benefits of this article to its employees, and which agreement provides for the establishment of retroactive service credit, and who have been members of the retirement system and have remained contributors to the retirement system for four (4) years, may receive credit for such retroactive service with such political subdivision or instrumentality, provided the employee and/or employer, as provided under the terms of the modification of the joinder agreement in allowing such coverage, pay into the retirement system the employer's and employee's contributions on wages paid the member during such previous employment, together with interest or actuarial cost as determined by the board covering the period from the date the service was rendered until the payment for the credit for such service was made. Such wages shall be verified by the Social Security Administration or employer payroll records.

Effective July 1, 1998, upon eligibility as noted above, a member may receive credit for such retroactive service with such political subdivision or instrumentality provided:

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

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

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

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

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

II. THOSE WHO ARE NOT ELIGIBLE FOR MEMBERSHIP

The following classes of employees and officers shall not become members of this retirement system, any other provisions of Articles 1 and 3 to the contrary notwithstanding:
(a) Patient or inmate help in state charitable, penal or correctional institutions;
(b) Students of any state educational institution employed by any agency of the state for temporary, part-time or intermittent work;
(c) Participants of Comprehensive Employment and Training Act of 1973 (CETA) being Public Law 93-203, who enroll on or after July 1, 1979.
(d) From and after July 1, 2002, individuals who are employed by a governmental entity to perform professional service on less than a full-time basis who do not meet the criteria established in I(a)(ii) of this section.

III. TERMINATION OF MEMBERSHIP

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

SECTION 7. Section 25-11-109, Mississippi Code of 1972, is amended as follows:

25-11-109. (1) Under such rules and regulations as the board of trustees shall adopt, each person who becomes a member of this retirement system, as provided in Section 25-11-105, on or prior to July 1, 1953, or who becomes a member and contributes to the system for a minimum period of four (4) years, shall receive credit for all state service rendered before February 1, 1953. To receive such credit, such member shall file a detailed statement of all services as an employee rendered by him in the state service before February 1, 1953. For any member who joined the system after July 1, 1953, any creditable service for which the member is not required to make contributions shall not be credited to the member until the member has contributed to the system for a minimum period of at least four (4) years.
(2) In the computation of membership service or prior service under the provisions of this article, the total months of accumulative service during any fiscal year shall be calculated in accordance with the schedule as follows: ten (10) or more months of creditable service during any fiscal year shall constitute a year of creditable service; seven (7) months to nine (9) months inclusive, three-quarters (3/4) of a year of creditable service; four (4) months to six (6) months inclusive, one-half-year of creditable service; one (1) month to three (3) months inclusive, one-quarter (1/4) of a year of creditable service. In no case shall credit be allowed for any period of absence without compensation except for disability while in receipt of a disability retirement allowance, nor shall less than fifteen (15) days of service in any month, or service less than the equivalent of one-half (1/2) of the normal working load for the position and less than one-half (1/2) of the normal compensation for the position in any month, constitute a month of creditable service, nor shall more than one (1) year of service be creditable for all services rendered in any one (1) fiscal year; however, for a school employee, substantial completion of the legal school term when and where the service was rendered shall constitute a year of service credit for both prior service and membership service. Any state or local elected official shall be deemed a full-time employee for the purpose of creditable service for prior service or membership service. However, an appointed or elected official compensated on a per diem basis only shall not be allowed creditable service for terms of office.

In the computation of any retirement allowance or any annuity or benefits provided in this article, any fractional period of service of less than one (1) year shall be taken into account and a proportionate amount of such retirement allowance, annuity or benefit shall be granted for any such fractional period of service.
In the computation of unused leave for creditable service authorized in Section 25-11-103, the following shall govern:

- twenty-one (21) days of unused leave shall constitute one (1) month of creditable service and in no case shall credit be allowed for any period of unused leave of less than fifteen (15) days.

The number of months of unused leave shall determine the number of quarters or years of creditable service in accordance with the above schedule for membership and prior service. In order for the member to receive creditable service for the number of days of unused leave, the system must receive certification from the governing authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(9).

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

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

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

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

**SECTION 8.** Section 25-11-112, Mississippi Code of 1972, is amended as follows:

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

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

(b) The sum of:

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

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

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

(3) (a) The additional benefit provided for under this section shall be paid in one (1) payment in December of each year to those persons who are receiving a retirement allowance on December 1 of that year, unless an election is made under this subsection. However, if a retiree who is receiving a retirement allowance that will terminate upon the retiree's death is receiving the additional benefit in one (1) payment and dies on or after July 1 but before December 1, the beneficiary designated on the retirement application, if any, shall receive in a single payment a fractional part of the additional benefit based on the number of months in which a retirement allowance was received during the fiscal year. Likewise, if a retiree is receiving a retirement allowance that will terminate upon his or her death in two (2) to six (6) monthly installments, any remaining payments of
the additional benefit will be paid in a lump sum to the beneficiary designated on the application, or if none, pursuant to Section 25-11-117.1(1). Any similar remaining payments of additional benefits payable under this section to a deceased beneficiary who was receiving a monthly benefit shall be payable in accordance with the provisions of Section 25-11-117.1(2). If the additional monthly benefit is being received in one (1) payment, the additional benefit shall also be prorated based on the number of months in which a retirement allowance was received during the fiscal year when (i) the monthly benefit payable to a beneficiary terminates due to the expiration of an option, remarriage or cessation of dependent status or due to the retiree's return to covered employment, and (ii) the monthly benefit terminates on or after July 1 and before December 1. The board may, in its discretion, allow a retired member or a beneficiary thereof who is receiving the additional annual payment in the manner provided for in this paragraph to change the manner in which the additional annual payment is received to that provided for in paragraph (b) of this subsection if the retired member or beneficiary submits satisfactory documentation that the continued receipt of the additional annual payment as provided for in this paragraph will cause a financial hardship to the retired member or beneficiary.

(b) Retired members or beneficiaries thereof who on July 1, 1999, or July 1 of any fiscal year thereafter, are receiving a retirement allowance, may elect by an irrevocable agreement in writing filed in the Office of the Public Employees' Retirement System no less than thirty (30) days before July 1 of the appropriate year, to begin receiving the additional benefit provided for under this section in twelve (12) equal monthly installments beginning July 1, 1999, or July 1 of any fiscal year thereafter. This irrevocable agreement shall be binding on the member and subsequent beneficiaries. Payment of those monthly
installments shall not extend beyond the month in which a
tirement allowance is due and payable. The board may, in its
discretion, allow a retired member or a beneficiary thereof who is
receiving the additional annual payment in the manner provided for
in this paragraph to change the manner in which the additional
annual payment is received to that provided for in paragraph (a)
of this subsection if the retired member or beneficiary submits
satisfactory documentation that the continued receipt of the
additional annual payment as provided for in this paragraph will
cause a financial hardship to the retired member or beneficiary.

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

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

\[(1.03)^n - 1\] x [annual retirement allowance],

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

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

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

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

SECTION 9. Section 25-11-113, Mississippi Code of 1972, is amended as follows:

25-11-113. (1) (a) Upon the application of a member or his employer, any active member in state service who has at least four years of membership service credit may be retired by the board of trustees on the first of the month following the date of filing such application on a disability retirement allowance, but in no event shall the disability retirement allowance commence before termination of state service, provided that the medical board, after an evaluation of medical evidence that may or may not include an actual physical examination by the medical board, shall certify that the member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent, and that the member should be retired; however, the board of trustees may accept a disability medical determination from the Social Security Administration in lieu of a certification from the medical board. For the purposes of disability determination, the medical board shall apply the following definition of disability: the inability to perform the usual duties of employment or the incapacity to perform such lesser duties, if any, as the employer, in its discretion, may assign without material reduction in compensation, or the incapacity to perform the duties of any employment covered by the
that is actually offered and is within the same general
territorial work area, without material reduction in compensation.
The employer shall be required to furnish the job description and
duties of the member. The employer shall further certify whether
the employer has offered the member other duties and has complied
with the applicable provisions of the Americans With Disabilities
Act in affording reasonable accommodations which would allow the
employee to continue employment.

(b) Any inactive member with four (4) or more years of
membership service credit, who has withdrawn from active state
service, is not eligible for a disability retirement allowance
unless the disability occurs within six (6) months of the
termination of active service and unless satisfactory proof is
presented to the board of trustees that the disability was the
direct cause of withdrawal from state service.

(c) Any member who is or becomes eligible for service
retirement benefits under Section 25-11-111 while pursuing a
disability retirement allowance under this section or Section
25-11-114 may elect to receive a service retirement allowance
pending a final determination on eligibility for a disability
retirement allowance or withdrawal of the application for the
disability retirement allowance. In such a case, an application
for a disability retirement allowance must be on file with the
system before the commencement of a service retirement allowance.
If the application is approved, the option selected and
beneficiary designated on the retirement application shall be used
to determine the disability retirement allowance. If the
application is not approved or if the application is withdrawn,
the service retirement allowance shall continue to be paid in
accordance with the option selected. No person may apply for a
disability retirement allowance after the person begins to receive
a service retirement allowance.
(d) If the medical board certifies that the member is not mentally or physically incapacitated for the future performance of duty, the member may request, within sixty (60) days, a hearing before the hearing officer as provided in Section 25-11-120. All hearings shall be held in accordance with rules and regulations adopted by the board to govern such hearings. Such hearing may be closed upon the request of the member.

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

(2) Allowance on disability retirement.

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

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

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

(ii) An employer's annuity equal to the amount that would have been payable as a retirement allowance for both membership service and prior service had the member continued in service to the age of sixty (60) years, which shall apply to the allowance for disability retirement paid to retirees receiving such allowance upon and after April 12, 1977. This employer's annuity shall be computed on the basis of the average "earned compensation" as defined in Section 25-11-103.
For persons who become members after June 30, 1992, and for active members on June 30, 1992, who elect benefits under this paragraph (c) instead of those provided under paragraph (b) of this subsection (2), the disability allowance shall consist of two (2) parts: a temporary allowance and a deferred allowance.

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

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<th>Age at Disability</th>
<th>Duration</th>
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<td>60 and earlier</td>
<td>to age 65</td>
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<td>61</td>
<td>to age 66</td>
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<td>to age 70</td>
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<td>69 and over</td>
<td>one year</td>
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The deferred allowance shall commence when the temporary allowance ceases and shall be payable for life. The deferred allowance shall equal the greater of (i) the allowance that would have been payable had the member continued in service to the termination age of the temporary allowance, but no more than forty percent (40%) of average compensation, or (ii) the accrued benefit based on actual service at the time of disability. The deferred allowance as determined at the time of disability shall be adjusted in accordance with Section 25-11-112 for the period during which the temporary annuity is payable. In no case shall a
member receive less than Ten Dollars ($10.00) per month for each year of service and proportionately for each quarter year thereof reduced for the option selected.

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

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

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

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

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

(5) Should a disability retiree under the age of sixty (60) years or the termination age of the temporary allowance under paragraph (2)(c) of this section be restored to active service at a compensation not less than his average compensation, his disability benefit shall cease, he shall again become a member of the retirement system, and contributions shall be withheld and reported. Any such prior service certificate, on the basis of which his service was computed at the time of retirement, shall be restored to full force and effect. In addition, upon his subsequent retirement he shall be credited with all creditable service as a member, but the total retirement allowance paid to the retired member in his previous retirement shall be deducted from his retirement reserve and taken into consideration in recalculting the retirement allowance under a new option selected.
(6) If following reexamination in accordance with the provisions contained in this section, the medical board determines that a retiree retired on account of disability is physically and mentally able to return to the employment from which he is retired, the board of trustees, upon certification of such findings from the medical board, shall, after a reasonable period of time, terminate the disability allowance, whether or not the retiree is reemployed or seeks such reemployment. In addition, if the board of trustees determines that the retiree is no longer sustaining a loss of income as established by documented evidence of the retiree's earned income, the eligibility for a disability allowance shall terminate and the allowance terminated within a reasonable period of time. In the event the retirement allowance is terminated under the provisions of this section, the retiree may subsequently qualify for a retirement allowance under Section 25-11-111 based on actual years of service credit plus credit for the period during which a disability allowance was paid.

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

SECTION 10. Section 25-11-115, Mississippi Code of 1972, is amended as follows:

25-11-115. (1) Upon application for superannuation or disability retirement, any member may elect to receive his benefit in a retirement allowance payable throughout life with no further payments to anyone at his death, except that in the event his total retirement payments under this article do not equal his total contributions under this article, his named beneficiary shall receive the difference in cash at his death. Or he may elect upon retirement, or upon becoming eligible for retirement,
to receive the actuarial equivalent subject to the provisions of 
subsection (3) of this section of his retirement allowance in a 
reduced retirement allowance payable throughout life with the 
provision that:

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

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

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

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

Option 4-B. A reduced retirement allowance shall be 
continued throughout the life of the retirant, but with the 
further guarantee of payments to the named beneficiary, 
beneficiaries or to the estate for a specified number of years 
certain. If the retired member or the last designated beneficiary 
receiving annuity payments dies prior to receiving all guaranteed 
payments due, the actuarial equivalent of the remaining payments 
shall be paid pursuant to Section 25-11-117.1(1);
Option 4-C. Such retirement allowance otherwise payable may be converted into a retirement allowance of equivalent actuarial value in such an amount that, with the member's benefit under Title II of the federal Social Security Act, the member will receive, so far as possible, approximately the same amount annually before and after the earliest age at which the member becomes eligible to receive a social security benefit. This option shall not be available to retirees whose retirement is effective on or after July 1, 2004.

Option 6. Any member who has at least twenty-eight (28) years of creditable service at the time of retirement or who is at least sixty-three (63) years of age and eligible to retire, may select the maximum retirement benefit or an optional benefit as provided in this subsection together with a partial lump sum distribution. The amount of the lump sum distribution under this option shall be equal to the maximum monthly benefit multiplied by twelve (12), twenty-four (24) or thirty-six (36) as selected by the member. The maximum retirement benefit shall be actuarially reduced to reflect the amount of the lump sum distribution selected and further reduced for any other optional benefit selected. The annuity and lump sum distribution shall be computed to result in no actuarial loss to the system. The lump sum distribution shall be made as a single payment payable at the time the first monthly annuity payment is paid to the retiree. The amount of the lump sum distribution shall be deducted from the member's annuity savings account in computing what contributions remain at the death of the retiree and/or a beneficiary. The lump sum distribution option may be elected only once by a member upon initial retirement, and may not be elected by a retiree, by members applying for a disability retirement annuity, by survivors or by a member selecting Option 4-C.

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

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

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

(5) In the event the election of an optional benefit is made after the member has attained the age of sixty-five (65) years, the actuarial equivalent factor shall be used to compute the reduced retirement allowance as if the election had been made on his sixty-fifth birthday; however, from and after January 1, 2003, if there is an election of Option 6 after the member has attained the age of sixty-five (65) years, the actuarial equivalent factor based on the retiree's age at the time of retirement shall be used to compute the reduced maximum monthly retirement allowance.

However, if a retiree marries or remarries after retirement and elects either Option 2 or Option 4-A as provided in subsection (2) or (4) of this section, the actuarial equivalent factor used to compute the reduced retirement allowance shall be the factor for the age of the retiree and his or her beneficiary at the time such election for recalculation of benefits is made.

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

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

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

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

25-11-120. (1) Any individual aggrieved by an
administrative determination, including a determination of the
medical board, relating to the eligibility for or payment of
benefits, or the calculation of creditable service or other
similar matters relating to the Public Employees' Retirement
System or any other retirement system or program administered by
the board, may request a hearing before a hearing officer
designated by the board. Such hearings shall be conducted in
accordance with rules and regulations adopted by the board and
formal rules of evidence shall not apply. The hearing officer is
authorized to administer oaths, hear testimony of witnesses and receive documentary and other evidence. In case of disability appeals, the hearing officer shall have the authority to defer a decision in order to request a medical evaluation or test or additional existing medical records not previously furnished by the claimant. After the hearing and the receipt of any additional medical evidence requested by the hearing officer, the hearing officer shall certify the record to the board, which shall include the hearing officer's proposed statement of facts, conclusions of law and recommendation. The record may include a taped recording of the proceedings of the hearing in lieu of a transcribed copy of the proceedings. The board shall receive the record and make its determination based solely on matters contained therein.

(2) Any individual aggrieved by the determination of the board may appeal to the Circuit Court of the First Judicial District of Hinds County, Mississippi, in accordance with the Uniform Circuit Court Rules governing appeals to the circuit court in civil cases. Such appeal shall be made solely on the record of appealing determinations of the board.

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

**SECTION 12.** Section 25-11-123, Mississippi Code of 1972, is amended as follows:

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

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

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

(2) The deductions provided herein shall be made
notwithstanding that the minimum compensation provided by law for
any member shall be reduced thereby. Every member shall be deemed
to consent and agree to the deductions made and provided for
herein and shall receipt for his full salary or compensation, and
payment of salary or compensation less the deduction shall be a
full and complete discharge and a quittance of all claims and
demands whatsoever for the services rendered by such person during
the period covered by such payment, except as to the benefits
provided under Articles 1 and 3. The board shall provide by rules
for the methods of collection of contributions from members and
the employer. The board shall have full authority to require the
production of evidence necessary to verify the correctness of
amounts contributed.
(b) **Annuity reserve.** The annuity reserve shall be the account representing the actuarial value of all annuities in force, and to it shall be charged all annuities and all benefits in lieu of annuities, payable as provided in this article. If a beneficiary retired on account of disability is restored to active service with a compensation not less than his average final compensation at the time of his last retirement, the remainder of his contributions shall be transferred from the annuity reserve to the annuity savings account and credited to his individual account therein, and the balance of his annuity reserve shall be transferred to the employer's accumulation account.

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

1. On account of each member there shall be paid monthly into the employer's accumulation account by the employers for the preceding fiscal year an amount equal to a certain percentage of the total earned compensation, as defined in Section 25-11-103, of each member. The percentage rate of such contributions shall be fixed biennially by the board on the basis of the liabilities of the retirement system for the various allowances and benefits as shown by actuarial valuation. Beginning January 1, 1990, the rate shall be fixed at nine and three-fourths percent (9-3/4%). Political subdivisions joining Article 3 of the Public Employees' Retirement System after July 1, 1968, may adjust the employer's contributions by agreement with the Board of Trustees of the Public Employees' Retirement System to provide service credits for any period prior to execution of the agreement.
based upon an actuarial determination of employer's contribution rates.

(2) On the basis of regular interest and of such mortality and other tables as shall be adopted by the board of trustees, the actuary engaged by the board to make each valuation required by this article during the period over which the accrued liability contribution is payable, immediately after making such valuation, shall determine the uniform and constant percentage of the earnable compensation of each member which, if contributed by the employer on the basis of compensation of such member throughout his entire period of membership service, would be sufficient to provide for the payment of any retirement allowance payable on his account for such service. The percentage rate so determined shall be known as the "normal contribution rate."

After the accrued liability contribution has ceased to be payable, the normal contribution rate shall be the percentage rate of the salary of all members obtained by deducting from the total liabilities on account of membership service the amount in the employer's accumulation account, and dividing the remainder by one percent (1%) of the present value of the prospective future salaries of all members as computed on the basis of the mortality and service tables adopted by the board of trustees and regular interest. The normal rate of contributions shall be determined by the actuary after each valuation.

(3) The total amount payable in each year to the employer's accumulation account shall not be less than the sum of the percentage rate known as the "normal contribution" rate and the "accrued liability contribution" rate of the total compensation earnable by all members during the preceding year, provided that the payment by the employer shall be sufficient, when combined with the amounts in the account, to provide the allowances and other benefits chargeable to this account during the year then current.
(4) The accrued liability contribution shall be discontinued as soon as the accumulated balance in the employer's accumulation account shall equal the present value, computed on the basis of the normal contribution rate then in force, or the prospective normal contributions to be received on account of all persons who are at that time members.

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

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

(d) Expense account. The expense account shall be the account to which the expenses of the administration of the system shall be charged, exclusive of amounts payable as retirement allowances and as other benefits provided herein. The Legislature shall make annual appropriations in amounts sufficient to administer the system, which shall be credited to this account.

There shall be transferred to the State Treasury from this account, not less than once per month, an amount sufficient for payment of the estimated expenses of the system for the succeeding thirty (30) days. Any interest earned on the expense account shall accrue to the benefit of the system. * * * However, * * *

notwithstanding the provisions of Sections 25-11-15(10) and 25-11-105(f)(5), all expenses of the administration of the system shall be paid from the interest earnings, provided the interest earnings are in excess of the actuarial interest assumption as determined by the board, and provided the present cost of the administrative expense fee of two percent (2%) of the contributions reported by the political subdivisions and instrumentalities shall be reduced to one percent (1%) from and
after July 1, 1983, through June 30, 1984, and shall be eliminated thereafter.

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

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

(f) (1) Upon the basis of each actuarial valuation provided herein, the board of trustees shall biennially determine the normal contribution rate and the accrued liability contribution rate as provided in this section. The sum of these two (2) rates shall be known as the "employer's contribution rate." Beginning on earned compensation effective January 1, 1990, the rate computed as provided in this section shall be nine and three-fourths percent (9-3/4%). The percentage rate of such contributions shall be fixed biennially by the board on the basis of the liabilities of the retirement system for the various allowances and benefits as shown by actuarial valuation.

Notwithstanding any other provision of law, the county board of education, the governing authorities of separate, consolidated, or municipal school districts, and all other such boards set up by law which handle and disburse school funds, shall pay from local tax sources one and one-half percent (1-1/2%) of the total employer's contribution rate of nine and three-fourths percent (9-3/4%).
The amount payable by the employer on account of normal and accrued liability contributions shall be determined by applying the employer's contribution rate to the amount of compensation earned by employees who are members of the system. Monthly, or at such time as the board of trustees shall designate, each department or agency shall compute the amount of the employer's contribution payable, with respect to the salaries of its employees who are members of the system, and shall cause that amount to be paid to the board of trustees from the personal service allotment of the amount appropriated for the operation of the department or agency, or from funds otherwise available to the agency, for the payment of salaries to its employees.

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

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

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

(6) The board shall provide by rules for the methods of collection of contributions of employers and members. The amounts determined due by an agency to the various funds as specified in Articles 1 and 3 are made obligations of the agency to the board and shall be paid as provided herein. Failure to deduct such...
contributions shall not relieve the employee and employer from liability thereof. Delinquent employee contributions and any accrued interest shall be the obligation of the employee and delinquent employer contributions and any accrued interest shall be the obligation of the employer. The employer may, in its discretion, elect to pay any or all of the interest on delinquent employee contributions. From and after July 1, 1996, under rules and regulations established by the board, all employers are authorized and shall transfer all funds due to the Public Employees' Retirement System electronically and shall transmit any wage or other reports by computerized reporting systems.

SECTION 13. Section 25-11-127, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

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

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

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

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

Notice shall be given in writing to the executive director, setting forth the facts upon which the employment is being made, and the notice shall be given within five (5) days from the date of employment and also from the date of termination of the employment.
(5) Any member may continue in municipal or county elected office or be elected to a municipal or county office, provided that the person:

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

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

SECTION 14. Section 25-11-133, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

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

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

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

25-11-309. (1) The retirement allowance from the Supplemental Legislative Retirement Plan shall consist of fifty percent (50%) of an amount equal to the retirement allowance determined by creditable service as an elected Senator or Representative of the State Legislature or as President of the Senate payable by the Public Employees' Retirement System in accordance with Section 25-11-101 et seq. * * *

(2) The percentage of the retirement allowance as provided in this section shall be transferred from the annuity savings account of the member and the employer accumulation account in the Supplemental Legislative Retirement Plan to the retirement account of the member in the Public Employees' Retirement System as provided.

(3) Notwithstanding any provisions of this section or this title to the contrary, the maximum annual retirement allowance attributable to the employer contributions payable under the Supplemental Legislative Retirement Plan to a member shall be subject to the limitations set forth in Section 415 of the Internal Revenue Code and any regulations issued thereunder applicable to governmental plans as such term is defined under Section 414(d) of the Internal Revenue Code.
SECTION 16. Section 25-13-16, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

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

**Option 4-C.** Such retirement allowance otherwise payable may be converted into a retirement allowance of equivalent actuarial value in such an amount that, with the member's benefit under Title II of the federal Social Security Act, the member will receive, so far as possible, approximately the same amount annually before and after the earliest age at which the member becomes eligible to receive a social security benefit. This option shall not be available to retirees whose retirement is effective on or after July 1, 2004.

**Option 6.** Any member who is eligible to retire with an unreduced benefit may select the maximum retirement benefit or an optional benefit as provided in this subsection together with a partial lump sum distribution. The amount of the lump sum distribution under this option shall be equal to the maximum monthly benefit multiplied by twelve (12), twenty-four (24) or thirty-six (36) as selected by the member. The maximum retirement benefit shall be actuarially reduced to reflect the amount of the lump sum distribution selected and further reduced for any other optional benefit selected. The annuity and lump sum distribution shall be computed to result in no actuarial loss to the system. The lump sum distribution shall be made as a single payment payable at the time the first monthly annuity payment is paid to the retiree. The amount of the lump sum distribution shall be deducted from the member's annuity savings account in computing what contributions remain at the death of the retiree and/or a beneficiary. The lump sum distribution option may be elected only once by a member upon initial retirement, and may not be elected...
by a retiree, by members applying for a disability retirement annuity, by survivors or by a member selecting Option 4-C.

(2) No change in the option selected shall be permitted after the member's death or after the member has received his first retirement check, except as provided in subsections (3) and (4) of this section. However, any retired member who is receiving a retirement allowance under Option 2 or Option 4-A upon July 1, 1999, and whose designated beneficiary predeceased him or whose marriage to a spouse who is his designated beneficiary is terminated by divorce or other dissolution, upon written notification to the retirement system of the death of the designated beneficiary or of the termination of his marriage to his designated beneficiary, the retirement allowance payable to the member after receipt of such notification by the retirement system shall be equal to the retirement allowance that would have been payable if the member had not elected the option. In addition, any retired member who is receiving the maximum retirement allowance for life, a retirement allowance under Option 1 or who is receiving a retirement allowance under Option 2 or Option 4-A on July 1, 1999, may elect to provide survivor benefits under Option 2 or Option 4-A to a spouse who was not previously the member's beneficiary and who the member married before July 1, 1999. Should a member retired on disability be returned to active service, the option previously selected shall be null and void. Upon subsequent retirement a new option may be selected.

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

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

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

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

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

(8) Any retired member who retired on Option 2(5) or 4-A(5) before July 1, 1999, who is still receiving a retirement allowance as of July 1, 1999, shall receive an increase in the annual retirement allowance effective July 1, 1999, equal to the amount they would have received under Option 2 or Option 4-A without a reduction for Option 5 based on the ages at retirement of the retiree and beneficiary and option factors in effect on July 1, 1999. Such increase shall be prospective only.

(9) For purposes of this section:

(a) "Beneficiary" means any person designated to receive a retirement allowance, an annuity or other benefit as provided by this chapter. Such designation shall be in writing filed in the Office of the Executive Director of the Board of Trustees of the Public Employees' Retirement System, and no designation or change of beneficiary shall be made in any other manner; however, notwithstanding any provision of this chapter to the contrary, the lawful spouse of a member at the time of the death of a member shall be the beneficiary of such member unless the member has designated another beneficiary subsequent to the date of marriage.
(b) "Actuarial equivalent" shall mean a benefit of equal value to the accumulated contributions, annuity or benefit, as the case may be, when computed upon the basis of such mortality tables as shall be adopted by the board of trustees, and regular interest.

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

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

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

(2) In computing the period of service of a member of the Highway Safety Patrol, * * * any member who served on active duty in the Armed Forces of the United States, or who served in maritime service during periods of hostility in World War II, shall be entitled to creditable service at no cost for his service on active duty in the Armed Forces or in such maritime service, provided he entered state service after his discharge from the Armed Forces or entered state service after he completed such maritime service. The maximum period for such creditable service for all military service as defined in this subsection (2) shall not exceed four (4) years unless positive proof can be furnished by such person that he was retained in the Armed Forces during World War II or in maritime service during World War II, by causes beyond his control and without opportunity of discharge. The member shall furnish proof satisfactory to the Board of Trustees of the Public Employees' Retirement System of certification of
military service or maritime service records showing dates of
entrance into active duty service and the date of discharge. No
creditable service shall be granted for any military service or
maritime service to a member who qualifies for a retirement
allowance in another public retirement system administered by the
Board of Trustees of the Public Employees' Retirement System based
in whole or in part on such military or maritime service. In no
case shall the member receive creditable service if the member
received a dishonorable discharge from the Armed Forces of the
United States.

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

(3) (a) Any member of the Mississippi Highway Safety Patrol
Retirement System whose membership service is interrupted as a
result of qualified military service within the meaning of Section
414(u)(5) of the Internal Revenue Code, and who has received the
maximum service credit available under subsection (2) of this
section, shall receive creditable service for the period of
qualified military service that does not qualify as creditable
service under subsection (2) of this section upon reentering
membership service in an amount not to exceed five (5) years if:

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

(ii) The member returns to membership service
within ninety (90) days of the end of his qualified military
service; and
(iii) The employer at the time the member's service was interrupted and to which employment the member returns pays the contributions it would have made into the retirement system for such period based on the member's salary at the time the service was interrupted.

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

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

SECTION 18. Section 25-13-29, Mississippi Code of 1972, is amended as follows:

25-13-29. At least once in each biennium the administrative board shall cause an actuarial valuation to be made by an actuary who shall certify to the assets and liabilities of the system and the amount of employer's contributions required for membership service and prior service. The cost of the survey shall be paid from any funds available to the Highway Safety Patrol.

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

SECTION 19. Section 25-13-33, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

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

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

SECTION 20. Section 21-29-301, Mississippi Code of 1972, is amended as follows:

21-29-301. (1) Any member of the Municipal Retirement System whose membership service is interrupted as a result of qualified military service within the meaning of Section 414(u)(5) of the Internal Revenue Code, and who has received the maximum service credit available under Article 1, 3 or 5 of this chapter, shall receive creditable service for the period of qualified military service that does not qualify as creditable service under Article 1, 3 or 5 of this chapter upon reentering membership service in an amount not to exceed five (5) years if:
(a) The member pays the contributions he would have made to the retirement system if he had remained in membership service for the period of qualified military service based upon his salary at the time his membership service was interrupted;

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

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

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

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

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

21-29-317. (1) Notwithstanding any provisions of Articles 1, 3 and 5 of this chapter to the contrary, the maximum annual retirement allowance attributable to the employer contributions payable by the system to a member under Article 1, 3 or 5 of this chapter shall be subject to the limitations set forth in Section 415 of the Internal Revenue Code and any regulations issued thereunder as applicable to governmental plans as such term is defined under Section 414(d) of the Internal Revenue Code.

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

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

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

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

SECTION 22. Section 21-29-323, Mississippi Code of 1972, is amended as follows:

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

SECTION 23. Section 1 of this act shall take effect and be in force from and after its passage. The remainder of this act shall take effect and be in force from and after July 1, 2002.