MISSISSIPPI LEGISLATURE REGULAR SESSION 2002

By: Representative Moore (60th) To: Appropriations

HOUSE BILL NO. 1533

AN ACT TO ALLOW ANY PERSON WHO BECOMES A MEMBER OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM AFTER JUNE 30, 2002, TO ELECT TO HAVE ALL OF HIS OR HER EMPLOYEE AND EMPLOYER CONTRIBUTIONS PAID INTO THE DEFERRED COMPENSATION PROGRAM INSTEAD OF INTO THE RETIREMENT SYSTEM; TO PROVIDE THAT ANY PERSON WHO MAKES THAT ELECTION WILL NOT EARN ANY CREDITABLE SERVICE IN THE RETIREMENT SYSTEM, AND WILL NOT BE ELIGIBLE FOR A RETIREMENT ALLOWANCE, A DISABILITY RETIREMENT ALLOWANCE OR DEATH BENEFITS UNDER THE RETIREMENT SYSTEM; TO PROVIDE THAT A PERSON MAY MAKE THE ELECTION WITHIN ONE YEAR FROM THE DATE THAT THE PERSON WAS EMPLOYED IN STATE SERVICE; TO PROVIDE THAT AN ELECTION MADE UNDER THIS SECTION IS IRREVOCABLE AFTER IT HAS BEEN MADE; TO PROVIDE THAT IF A PERSON WHO MADE THE ELECTION LEAVES STATE SERVICE FOR MORE THAN ONE YEAR AND LATER RETURNS TO EMPLOYMENT IN STATE SERVICE, THE PERSON WILL HAVE THE OPPORTUNITY TO MAKE ANOTHER ELECTION THAT APPLIES TO THE LATER EMPLOYMENT; TO AMEND SECTIONS 25-11-109, 25-11-111, 25-11-113, 25-11-114, 25-11-117, 25-11-123, 25-11-127, AND 25-14-1, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) Any person who is employed in state service after June 30, 2002, and becomes a member of the Public Employees' Retirement System may elect to have all of his or her employee and employer contributions made under Section 25-11-123 paid into the deferred compensation program established under Section 25-14-1 et seq. instead of into the Public Employees' Retirement System.

(2) If a person makes the election under this section, the person will still be a member of the Public Employees' Retirement System, but the person will not earn any creditable service in the Public Employees' Retirement System, and will not be eligible for a retirement allowance a disability retirement allowance or death benefits under the Public Employees' Retirement System.

(3) Any person eligible to make the election under this section may make the election within one (1) year from the date that the person was employed in state service. At the time that...
the election is made, all of the person's employee and employer
contributions that were made to the Public Employees' Retirement
System from the time the person became employed until the time the
election is made shall be transferred to the deferred compensation
program to the credit of the person.

(4) An election made under this section is irrevocable after
it has been made. However, if a person who made the election
leaves state service for more than one (1) year and later returns
to employment in state service, the person will have the
opportunity to make another election under this section, in the
same manner as for the original election, that applies to the
later employment. If the person does not make the election for
his or her later employment, none of the employee and employer
contributions that were made to the deferred compensation program
may be transferred to the Public Employees' Retirement System, and
the person will not receive creditable service in the Public
Employees' Retirement System for the years of his or her previous
employment while operating under the election.

SECTION 2. 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; provided that 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:

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 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 member shall receive credit for leave (combined personal and major medical) for service as an elected official prior to that date at the rate of 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) Anything in this article to the contrary notwithstanding, 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 (6) shall not exceed four 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; provided,
however, that in no event shall such period exceed fifteen (15)
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).
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.

Any person who has made the election provided for under Section 1 of this act is not eligible for creditable service under this article for the person's employment while operating under the election.

SECTION 3. Section 25-11-111, Mississippi Code of 1972, is amended as follows:

25-11-111. (a) Any member upon withdrawal from service upon or after attainment of the age of sixty (60) years who shall have completed at least four (4) years of creditable service, or any member upon withdrawal from service regardless of age who shall...
have completed at least twenty-five (25) years of creditable service, shall be entitled to receive a retirement allowance which shall begin on the first of the month following the date the member's application for the allowance is received by the board, but in no event before withdrawal from service.

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

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

(d) The annual amount of the retirement allowance shall consist of:

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

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

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

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

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

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

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

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

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

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

(6) Any member upon withdrawal from service upon or after attaining the age of sixty (60) years who has completed at least four (4) years of creditable service, or any member upon withdrawal from service regardless of age who has completed at least twenty-five (25) years of creditable service, shall be entitled to receive a retirement allowance computed in accordance with the formula set forth in this section. 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.

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

RETIREMENT ALLOWANCE COMPUTATION

H. B. No. 1533
02/HR40/R1041
PAGE 13 (RF\BD)
### IMPLEMENTATION TABLE

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

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

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

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

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

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

(3) The retirement system shall retain in the annuity
reserve account amounts that are not used to pay benefits because
of a waiver executed under this subsection.

(4) The board of trustees may provide rules and
regulations for the administration of waivers under this
subsection.

(i) Any person who has made the election provided for under
Section 1 of this act is not eligible for a retirement allowance
under this section based on any period of the person's employment
while operating under the election.

SECTION 4. 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 a medical examination, 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 Public Employees' Retirement System (Section 25-11-101 et seq.) 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) 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 of trustees to govern such hearings. Such hearing may be closed upon the request of the member.
(d) 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.

(c) 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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<tr>
<th>Age at Disability</th>
<th>Duration</th>
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<tbody>
<tr>
<td>60 and earlier</td>
<td>to age 65</td>
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<tr>
<td>61</td>
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<td>62</td>
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<tr>
<td>69 and over</td>
<td>one year</td>
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</table>

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 said 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 said 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 recalculating 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.

(8) Any person who has made the election provided for under Section 1 of this act is not eligible for a disability retirement allowance under this section during the person's employment while operating under the election.

SECTION 5. Section 25-11-114, Mississippi Code of 1972, is amended as follows:

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

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

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

(ii) Had nominated his spouse as beneficiary.

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

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

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

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

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

(3) (a) Subject to the maximum limitation provided in this paragraph, the member's dependent children each shall receive an annuity of the greater of ten percent (10%) of the member's average compensation as defined in Section 25-11-103 at the time of the death of the member or Fifty Dollars ($50.00) monthly; however, if there are more than three (3) dependent children, each dependent child shall receive an equal share of a total annuity equal to thirty percent (30%) of the member's average compensation, provided that such total annuity shall not be less than One Hundred Fifty Dollars ($150.00) per month for all children.

(b) A child shall be considered to be a dependent child until marriage, or the attainment of age nineteen (19), whichever comes first; however, this age limitation shall be extended beyond age nineteen (19), but in no event beyond the attainment of age twenty-three (23), as long as the child is a student regularly pursuing a full-time course of resident study or training in an accredited high school, trade school, technical or vocational institute, junior or community college, college, university or comparable recognized educational institution duly licensed by a state. A student child whose birthday falls during the school year (September 1 through June 30) is considered not to reach age...
twenty-three (23) until the July 1 following the actual twenty-third birthday. A full-time course of resident study or training means a day or evening noncorrespondence course that includes school attendance at the rate of at least thirty-six (36) weeks per academic year or other applicable period with a subject load sufficient, if successfully completed, to attain the educational or training objective within the period generally accepted as minimum for completion, by a full-time day student, of the academic or training program concerned. Any child who is physically or mentally incompetent, as adjudged by either a Mississippi court of competent jurisdiction or by the board, shall receive benefits for as long as the incompetency exists.

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

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

(4) (a) Death benefits in the line of duty. Regardless of the number of years of the member's creditable service, the spouse and/or the dependent children of an active member who is killed in the line of performance of duty or dies as a direct result of an accident occurring in the line of performance of duty shall qualify, on approval of the board, for a retirement allowance on the first of the month following the date of death, but in the case of late filing, retroactive payments will be made for a period of not more than one (1) year. The spouse shall receive a retirement allowance equal to one-half (1/2) of the average
compensation as defined in Section 25-11-103. In addition to the retirement allowance for the spouse, or if there is no surviving spouse, the member's dependent child shall receive a retirement allowance in the amount of one-fourth (1/4) of the member's average compensation as defined in Section 25-11-103; however, if there are two (2) or more dependent children, each dependent child shall receive an equal share of a total annuity equal to one-half (1/2) of the member's average compensation. If there are more than two (2) dependent children, upon a child's ceasing to be a dependent child, his annuity shall terminate and there shall be a redetermination of the amounts payable to any remaining dependent children. Such benefits shall cease to be paid for the support and maintenance of each child upon such child attaining the age of nineteen (19) years; however, the spouse shall continue to be eligible for the aforesaid retirement allowance. Such benefits may be paid to a surviving parent or lawful custodian of such children for the use and benefit of the children without the necessity of appointment as guardian. Such retirement allowance shall cease to the spouse upon remarriage but continue to be payable for each dependent child until the age of nineteen (19) years.

(b) A child shall be considered to be a dependent child until marriage, or the attainment of age nineteen (19), whichever comes first; however, this age limitation shall be extended beyond age nineteen (19), but in no event beyond the attainment of age twenty-three (23), as long as the child is a student regularly pursuing a full-time course of resident study or training in an accredited high school, trade school, technical or vocational institute, junior or community college, college, university or comparable recognized educational institution duly licensed by a state. A student child whose birthday falls during the school year (September 1 through June 30) is considered not to reach age twenty-three (23) until the July 1 following the actual
twenty-third birthday. A full-time course of resident study or training means a day or evening noncorrespondence course that includes school attendance at the rate of at least thirty-six (36) weeks per academic year or other applicable period with a subject load sufficient, if successfully completed, to attain the educational or training objective within the period generally accepted as minimum for completion, by a full-time day student, of the academic or training program concerned. Any child who is physically or mentally incompetent, as adjudged by either a Mississippi court of competent jurisdiction or by the board, shall receive benefits for as long as the incompetency exists.

(5) If all the annuities provided for in this section payable on account of the death of a member terminate before there has been paid an aggregate amount equal to the member's accumulated contributions standing to the member's credit in the annuity savings account at the time of the member's death, the difference between the accumulated contributions and the aggregate amount of annuity payments shall be paid to such person as the member has nominated by written designation duly executed and filed with the board. If there is no designated beneficiary surviving at termination of benefits, the difference shall be payable pursuant to Section 25-11-117.1(1).

(6) Regardless of the number of years of creditable service upon the application of a member or employer, any active member who becomes disabled as a direct result of an accident or traumatic event resulting in a physical injury occurring in the line of performance of duty, provided the medical board or other designated governmental agency after a medical examination certifies that the member is mentally or physically incapacitated for the further performance of duty and such incapacity is likely to be permanent, may be retired by the board of trustees on the first of the month following the date of filing such application but in no event shall the retirement allowance commence before the
termination of state service. The retirement allowance shall equal the allowance on disability retirement as provided in Section 25-11-113 but shall not be less than fifty percent (50%) of average compensation.

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

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

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

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

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

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

(12) Any person who has made the election provided for under Section 1 of this act is not eligible for any benefits under this section during the person’s employment while operating under the election.

SECTION 6. Section 25-11-117, Mississippi Code of 1972, is amended as follows:

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

(2) Pursuant to the Unemployment Compensation Amendments of 1992 (Public Law 102-318 (UCA)), a member or the spouse of a member who is an eligible beneficiary entitled to a refund under this section may elect, on a form prescribed by the board under rules and regulations established by the board, to have an eligible rollover distribution of accumulated contributions payable under this section paid directly to an eligible retirement plan or individual retirement account. If the member or the spouse of a member who is an eligible beneficiary makes such election and specifies the eligible retirement plan or individual retirement account to which such distribution is to be paid, the distribution will be made in the form of a direct trustee-to-trustee transfer to the specified eligible retirement plan. Flexible rollovers under this subsection shall not be considered assignments under Section 25-11-129.
(3) If any person who has received a refund reenters the state service and again becomes a member of the system, the member may repay all or part of the amounts previously received as a refund, together with regular interest covering the period from the date of refund to the date of repayment; provided, however, that the amounts that are repaid by the member and the creditable service related thereto shall not be used in any benefit calculation or determination until the member has remained a contributor to the system for a period of at least four (4) years subsequent to such member's reentry into state service. Repayment 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 for which refund has been made. Upon the repayment of all or part of such refund and interest, the member shall again receive credit for the period of creditable service for which full repayment has been made to the system.

(8) Any person who has made the election provided for under Section 1 of this act is not eligible under this section for a refund of any contributions made during the person's employment while operating under the election, except as allowed under the deferred compensation program.

SECTION 7. 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; provided, however, that 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 acquittance 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.

(3) For any person who has made the election provided for under Section 1 of this act, the employee's contributions provided for under this subsection shall be paid into the deferred compensation program as provided in Section 1 of this act instead of into the annuity savings account.

(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.

(7) For any person who has made the election provided
for under Section 1 of this act, the employer's contributions
provided for under this subsection shall be paid into the deferred
compensation program as provided in Section 1 of this act, instead
of into the employer's accumulation account.

(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. Provided, however,
that notwithstanding the provisions of Sections 25-11-15(10) and
25-11-105(f)(5)E, 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
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) 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.

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.

For any person who has made the election provided for under Section 1 of this act, the employer's contributions provided for under this subsection shall be paid into the deferred compensation program as provided in Section 1 of this act.

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.

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 8. Section 25-11-127, Mississippi Code of 1972, is amended as follows:
25-11-127. (1) 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. This section shall not apply to any pensioner who has been elected to public office after retirement, nor to any person employed because of special knowledge or experience. This section shall not be construed to mean that any person employed or elected under the above exceptions shall become a member under Article 3 of the retirement system, nor shall any retiree of this retirement system who is reemployed or is reelected to office after retirement continue to draw retirement benefits while so reemployed.

(2) Any person who has been retired under the provisions of Articles 1 and 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) Nothing contained in this section shall be construed as prohibiting any county or city not a member of the Public Employees' Retirement System from employing persons up to the age of seventy-three (73). In addition, through June 30, 1988, nothing contained in this section shall be construed as prohibiting any governmental unit that is a member from employing persons up to the age of seventy-three (73) who are not eligible for membership at the time of employment under Article 3.
(4) The board of trustees of the retirement system shall have the right to prescribe rules and regulations for carrying out the provisions of this section.

(5) 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 of the system, 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.

(6) Any member who has attained seventy (70) years of age and who has forty (40) or more years of creditable service may continue in office or employment or be reemployed or elected, provided that the person files annually, in writing, in the office...
of the employer and the office of the executive director of the system before those services, 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, any per diem, office expense allowance, mileage or travel expense authorized by any statute of the State of Mississippi.

(7) Any member may continue in municipal or county office or employment or be reemployed or elected in a municipality or county, provided that the person files annually, in writing, in the office of the employer and the office of the executive director of the system before those services, 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, any per diem, office expense allowance, mileage or travel expense authorized by any statute of the State of Mississippi.

(8) This section does not apply to any person who has made the election provided for under Section 1 of this act.

SECTION 9. Section 25-14-11, Mississippi Code of 1972, is amended as follows:

25-14-11. The deferred compensation program established by this chapter shall exist and serve in addition to other retirement, pension, or benefit systems established by the State of Mississippi, state agencies, counties, municipalities, or other political subdivisions. The deferred compensation program established by this chapter shall not supersede, make inoperative, or reduce any benefits provided by the Public Employees' Retirement System of Mississippi, by the Teachers' Retirement System of Mississippi, or by any other system.
ST: Retirement; new PERS employees may elect to have all contributions paid into deferred compensation instead of PERS.

System of Mississippi, by programs established under the general municipal employees' retirement act, or by any other retirement, pension, or benefit program established by law. However, for any person who has made the election provided for under Section 1 of this act, the benefits that the person receives under the deferred compensation program are in lieu of the benefits that the person would otherwise receive from the Public Employees' Retirement System.

SECTION 10. This act shall take effect and be in force from and after July 1, 2002.