

By: Senator(s) Thames, Minor, Jordan,
Furniss

To: Finance

SENATE BILL NO. 2586

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



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

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

104 **SECTION 1.** The following provision shall be codified as

105 Section 25-11-111.1, Mississippi Code of 1972:

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



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

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

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

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

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

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

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

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



144 credited to his individual account in the annuity savings account,
145 together with regular interest thereon as provided in Section
146 25-11-123.

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

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

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

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

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



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

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



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

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

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

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



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

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

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

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

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



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

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

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

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

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

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

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



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

310 (p) "Medical board" shall mean the board of physicians
311 or any governmental or nongovernmental disability determination
312 service designated by the board of trustees that is qualified to
313 make disability determinations as provided for in Section
314 25-11-119.

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

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

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

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



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

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

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

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

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

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

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



373 shall also include all offices and positions of trust or
374 employment in the employ of joint state and federal agencies
375 administering state and federal funds and service rendered by
376 employees of the public schools. Effective July 1, 1973, all
377 nonprofessional public school employees, such as bus drivers,
378 janitors, maids, maintenance workers and cafeteria employees,
379 shall have the option to become members in accordance with Section
380 25-11-105(b), and shall be eligible to receive credit for services
381 prior to July 1, 1973, provided the contributions and interest are
382 paid by the employee in accordance with said section; provided,
383 further, that the county or municipal separate school district may
384 pay the employer contribution and pro rata share of interest of
385 the retroactive service from available funds. From and after July
386 1, 1998, retroactive service credit shall be purchased at the
387 actuarial cost in accordance with Section 25-11-105(b).

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

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

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

395 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

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

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

404 (ii) From and after July 1, 2002, any individual
405 who is employed by a governmental entity to perform professional



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

414 (b) All persons who shall become employees in the state
415 service after January 31, 1953, except those specifically excluded
416 or as to whom election is provided in Articles 1 and 3, unless
417 they shall file with the board prior to the lapse of sixty (60)
418 days of employment or sixty (60) days after the effective date of
419 the cited articles, whichever is later, on a form prescribed by
420 the board, a notice of election not to be covered by the
421 membership of the retirement system and a duly executed waiver of
422 all present and prospective benefits which would otherwise inure
423 to them on account of their participation in the system, shall
424 become members of the retirement system; provided, however, that
425 no credit for prior service will be granted to members until they
426 have contributed to Article 3 of the retirement system for a
427 minimum period of at least four (4) years. Such members shall
428 receive credit for services performed prior to January 1, 1953, in
429 employment now covered by Article 3, but no credit shall be
430 granted for retroactive services between January 1, 1953, and the
431 date of their entry into the retirement system unless the employee
432 pays into the retirement system both the employer's and the
433 employee's contributions on wages paid him during the period from
434 January 31, 1953, to the date of his becoming a contributing
435 member, together with interest at the rate determined by the board
436 of trustees. Members reentering after withdrawal from service
437 shall qualify for prior service under the provisions of Section
438 25-11-117. From and after July 1, 1998, upon eligibility as noted



439 above, the member may receive credit for such retroactive service
440 provided:

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

444 (2) The member shall pay to the retirement system
445 on the date he or she is eligible for such credit or at any time
446 thereafter prior to the date of retirement the actuarial cost for
447 each year of such creditable service. The provisions of this
448 subparagraph (2) shall be subject to the limitations of Section
449 415 of the Internal Revenue Code and regulations promulgated
450 thereunder.

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

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

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

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



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

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

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



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

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

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

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

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

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



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

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

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

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



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

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

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

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

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



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

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

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

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



636 (2) The member shall pay to the retirement system
637 on the date he or she is eligible for such credit or at any time
638 thereafter prior to the date of retirement the actuarial cost for
639 each year of such creditable service. The provisions of this
640 subparagraph (2) shall be subject to the limitations of Section
641 415 of the Internal Revenue Code and regulations promulgated
642 thereunder.

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

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

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

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



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

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

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



734 benefit shall be granted for any such fractional period of
735 service.

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

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

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

754 (b) For service on and after July 1, 1984, the member
755 shall receive credit for personal and major medical leave
756 beginning July 1, 1984, at the rates authorized in Sections
757 25-3-93 and 25-3-95, computed as a full-time employee.

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

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



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

773 When membership ceases, such prior service certificates shall
774 become void. Should the employee again become a member, he shall
775 enter the system as an employee not entitled to prior service
776 credit except as provided in Sections 25-11-105(I), 25-11-113 and
777 25-11-117.

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

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



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

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

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

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

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

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



833 (3) times the member's qualified military service; provided,
834 however, that in no event shall such period exceed five (5) years.

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

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

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

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

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



866 subsection are subject to the limitations of Section 415 of the
867 Internal Revenue Code and regulations promulgated thereunder.

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

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

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

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

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

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

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

895 Any actively contributing member participating in the School
896 Administrator Sabbatical Program established in Section 37-9-77
897 shall qualify for continued participation under this subsection
898 (9).



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

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

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

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

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

924 25-11-112. (1) Any member who is receiving a retirement
925 allowance for service or disability retirement, or any beneficiary
926 thereof, who has received a monthly benefit for at least one (1)
927 full fiscal year, shall be eligible to receive an additional
928 benefit, on December 1 or July 1 of the year as provided in
929 subsection (3) of this section, equal to the greater of the
930 amounts calculated under paragraph (a) or (b) below:



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

934 (b) The sum of:

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

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

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

948 (3) (a) The additional benefit provided for under this
949 section shall be paid in one (1) payment in December of each year
950 to those persons who are receiving a retirement allowance on
951 December 1 of that year, unless an election is made under this
952 subsection. However, if a retiree who is receiving a retirement
953 allowance that will terminate upon the retiree's death is
954 receiving the additional benefit in one (1) payment and dies on or
955 after July 1 but before December 1, the beneficiary designated on
956 the retirement application, if any, shall receive in a single
957 payment a fractional part of the additional benefit based on the
958 number of months in which a retirement allowance was received
959 during the fiscal year. Likewise, if a retiree is receiving a
960 retirement allowance that will terminate upon his or her death in
961 two (2) to six (6) monthly installments, any remaining payments of
962 the additional benefit will be paid in a lump sum to the
963 beneficiary designated on the application, or if none, pursuant to



964 Section 25-11-117.1(1). Any similar remaining payments of
965 additional benefits payable under this section to a deceased
966 beneficiary who was receiving a monthly benefit shall be payable
967 in accordance with the provisions of Section 25-11-117.1(2). If
968 the additional monthly benefit is being received in one (1)
969 payment, such additional benefit shall also be prorated based on
970 the number of months in which a retirement allowance was received
971 during the fiscal year when (i) the monthly benefit payable to a
972 beneficiary terminates due to the expiration of an option,
973 remarriage or cessation of dependent status or due to the
974 retiree's return to covered employment, and (ii) the monthly
975 benefit terminates on or after July 1 and before December 1. The
976 board may, in its discretion, allow a retired member or a
977 beneficiary thereof who is receiving the additional annual payment
978 in the manner provided for in this paragraph to change the manner
979 in which the additional annual payment is received to that
980 provided for in paragraph (b) of this subsection if the retired
981 member or beneficiary submits satisfactory documentation that the
982 continued receipt of the additional annual payment as provided for
983 in this paragraph will cause a financial hardship to the retired
984 member or beneficiary.

985 (b) Retired members or beneficiaries thereof who on
986 July 1, 1999, or July 1 of any fiscal year thereafter, are
987 receiving a retirement allowance, may elect by an irrevocable
988 agreement in writing filed in the Office of the Public Employees'
989 Retirement System no less than thirty (30) days before July 1 of
990 the appropriate year, to begin receiving the additional benefit
991 provided for under this section in twelve (12) equal monthly
992 installments beginning July 1, 1999, or July 1 of any fiscal year
993 thereafter. This irrevocable agreement shall be binding on the
994 member and subsequent beneficiaries. Payment of those monthly
995 installments shall not extend beyond the month in which a
996 retirement allowance is due and payable. The board may, in its



997 discretion, allow a retired member or a beneficiary thereof who is
998 receiving the additional annual payment in the manner provided for
999 in this paragraph to change the manner in which the additional
1000 annual payment is received to that provided for in paragraph (a)
1001 of this subsection if the retired member or beneficiary submits
1002 satisfactory documentation that the continued receipt of the
1003 additional annual payment as provided for in this paragraph will
1004 cause a financial hardship to the retired member or beneficiary.

1005 (4) The additional payment or payments provided for under
1006 this section are for the fiscal year in which they are paid.

1007 (5) The amount provided for under subsection (1)(b)(ii) of
1008 this section is calculated using the following formula:

1009 $[(1.03)^n - 1] \times [\text{annual retirement allowance}],$

1010 where n is the number of full fiscal years in retirement beginning
1011 with the fiscal year in which the member reaches age fifty-five
1012 (55).

1013 (6) Any retired member or beneficiary thereof who has
1014 previously elected to receive the additional annual payment in
1015 monthly installments may elect, upon application on a form
1016 prescribed by the board of trustees, to have that payment made in
1017 one (1) additional payment each year. This written election must
1018 be filed in the Office of the Public Employees' Retirement System
1019 before June 1, 2000, and shall be effective for the fiscal year
1020 beginning July 1, 2000.

1021 (7) In the event of death of a retired member or a
1022 beneficiary thereof who is receiving the additional annual payment
1023 in two (2) to six (6) monthly installments pursuant to an election
1024 made before July 1, 1999, and who would otherwise be eligible to
1025 receive the additional benefit provided for under this section in
1026 one (1) payment in December of the current fiscal year, any
1027 remaining amounts shall be paid in a lump sum to the designated
1028 beneficiary.



1029 (8) When a member retires after July 1 and has previously
1030 received a retirement allowance for one or more full fiscal years,
1031 such retired member shall be eligible immediately for the
1032 additional benefit. The additional benefit shall be based on the
1033 current retirement allowance and the number of full fiscal years
1034 in retirement and shall be prorated and paid in monthly
1035 installments based on the number of months a retirement allowance
1036 is paid during the fiscal year.

1037 **SECTION 8.** Section 25-11-113, Mississippi Code of 1972, is
1038 amended as follows:

1039 25-11-113. (1) (a) Upon the application of a member or his
1040 employer, any active member in state service who has at least four
1041 (4) years of membership service credit may be retired by the board
1042 of trustees on the first of the month following the date of filing
1043 such application on a disability retirement allowance, but in no
1044 event shall the disability retirement allowance commence before
1045 termination of state service, provided that the medical board,
1046 after an evaluation of medical evidence which may or may not
1047 include an actual physical examination by the medical board, shall
1048 certify that the member is mentally or physically incapacitated
1049 for the further performance of duty, that such incapacity is
1050 likely to be permanent, and that the member should be retired;
1051 however, the board of trustees may accept a disability medical
1052 determination from the Social Security Administration in lieu of a
1053 certification from the medical board. For the purposes of
1054 disability determination, the medical board shall apply the
1055 following definition of disability: the inability to perform the
1056 usual duties of employment or the incapacity to perform such
1057 lesser duties, if any, as the employer, in its discretion, may
1058 assign without material reduction in compensation, or the
1059 incapacity to perform the duties of any employment covered by the
1060 Public Employees' Retirement System (Section 25-11-101 et seq.)
1061 that is actually offered and is within the same general



1062 territorial work area, without material reduction in compensation.
1063 The employer shall be required to furnish the job description and
1064 duties of the member. The employer shall further certify whether
1065 the employer has offered the member other duties and has complied
1066 with the applicable provisions of the Americans With Disabilities
1067 Act in affording reasonable accommodations which would allow the
1068 employee to continue employment.

1069 (b) An inactive member with four (4) or more years of
1070 membership service * * * may not file a claim for a disability
1071 retirement allowance later than six (6) months after the member's
1072 withdrawal from service. If a claim for a disability retirement
1073 allowance is filed by such member within six (6) months after
1074 withdrawal from service, the member must present satisfactory
1075 proof * * * to the board * * * that the disability was the direct
1076 cause of withdrawal from state service.

1077 (c) If a member returns to covered employment after
1078 withdrawal from service, such member may not apply for a regular
1079 nonduty related disability retirement allowance until the member
1080 has remained a contributing member for a period of not less than
1081 six (6) months.

1082 (d) Any member who is or becomes eligible for service
1083 retirement benefits under Section 25-11-111 while pursuing a
1084 disability retirement allowance under this section or Section
1085 25-11-114 may elect to receive a service retirement allowance
1086 pending a final determination on eligibility for a disability
1087 retirement allowance or withdrawal of the application for the
1088 disability retirement allowance. In such a case, an application
1089 for a disability retirement allowance must be on file with the
1090 system prior to the commencement of a service retirement
1091 allowance. If the application is approved, the option selected
1092 and beneficiary designated on the retirement application shall be
1093 used to determine the disability retirement allowance. If the
1094 application is not approved or if the application is withdrawn,



1095 the service retirement allowance shall continue to be paid in
1096 accordance with the option selected. No person may apply for a
1097 disability retirement allowance after such person begins to
1098 receive a service retirement allowance.

1099 (e) If the medical board certifies that the member is
1100 not mentally or physically incapacitated for the future
1101 performance of duty, the member may request, within sixty (60)
1102 days, a hearing before the hearing officer as provided in Section
1103 25-11-120. All hearings shall be held in accordance with rules
1104 and regulations adopted by the board * * * to govern such
1105 hearings. Such hearing may be closed upon the request of the
1106 member.

1107 (f) The medical board may request additional medical
1108 evidence and/or other physicians to conduct an evaluation of the
1109 member's condition. If the medical board requests additional
1110 medical evidence and the member refuses the request, the
1111 application shall be considered void.

1112 (2) Allowance on disability retirement.

1113 (a) Upon retirement for disability, an eligible member
1114 shall receive a retirement allowance if he has attained the age of
1115 sixty (60) years.

1116 (b) Except as provided in paragraph (c) of this
1117 subsection (2), an eligible member who is retired for disability
1118 and who has not attained sixty (60) years of age shall receive a
1119 disability benefit as computed in Section 25-11-111(d)(1) through
1120 (d)(4) which shall consist of:

1121 (i) A member's annuity which shall be the
1122 actuarial equivalent of his accumulated contributions at the time
1123 of retirement; and

1124 (ii) An employer's annuity equal to the amount
1125 that would have been payable as a retirement allowance for both
1126 membership service and prior service had the member continued in
1127 service to the age of sixty (60) years, which shall apply to the



1128 allowance for disability retirement paid to retirees receiving
1129 such allowance upon and after April 12, 1977. This employer's
1130 annuity shall be computed on the basis of the average "earned
1131 compensation" as defined in Section 25-11-103.

1132 (c) For persons who become members after June 30, 1992,
1133 and for active members on June 30, 1992, who elect benefits under
1134 this paragraph (c) instead of those provided under paragraph (b)
1135 of this subsection (2), the disability allowance shall consist of
1136 two (2) parts: a temporary allowance and a deferred allowance.

1137 The temporary allowance shall equal the greater of (i) forty
1138 percent (40%) of average compensation at the time of disability,
1139 plus ten percent (10%) of average compensation for each of the
1140 first two (2) dependent children, as defined in Sections 25-11-103
1141 and 25-11-114, or (ii) the accrued benefit based on actual
1142 service. It shall be payable for a period of time based on the
1143 member's age at disability, as follows:

1144	Age at Disability	Duration
1145	60 and earlier	to age 65
1146	61	to age 66
1147	62	to age 66
1148	63	to age 67
1149	64	to age 67
1150	65	to age 68
1151	66	to age 68
1152	67	to age 69
1153	68	to age 70
1154	69 and over	one year

1155 The deferred allowance shall commence when the temporary
1156 allowance ceases and shall be payable for life. The deferred
1157 allowance shall equal the greater of (i) the allowance that would
1158 have been payable had the member continued in service to the
1159 termination age of the temporary allowance, but no more than forty
1160 percent (40%) of average compensation, or (ii) the accrued benefit



1161 based on actual service at the time of disability. The deferred
1162 allowance as determined at the time of disability shall be
1163 adjusted in accordance with Section 25-11-112 for the period
1164 during which the temporary annuity is payable. In no case shall a
1165 member receive less than Ten Dollars (\$10.00) per month for each
1166 year of service and proportionately for each quarter year thereof
1167 reduced for the option selected.

1168 (d) The member may elect to receive the actuarial
1169 equivalent of the disability retirement allowance in a reduced
1170 allowance payable throughout life under any of the provisions of
1171 the options provided under Section 25-11-115.

1172 (e) Should a disability retiree who has not selected an
1173 option under Section 25-11-115 die before being repaid in
1174 disability benefits the sum of his total contributions, then his
1175 named beneficiary shall receive the difference in cash, which
1176 shall apply to all deceased disability retirees from and after
1177 January 1, 1953.

1178 (3) Reexamination of retirees retired on account of
1179 disability. Except as otherwise provided in this section, once
1180 each year during the first five (5) years following retirement of
1181 a member on a disability retirement allowance, and once in every
1182 period of three (3) years thereafter, the board of trustees may,
1183 and upon his application shall, require any disability retiree who
1184 has not yet attained the age of sixty (60) years or the
1185 termination age of the temporary allowance under paragraph (2) (c)
1186 of this section to undergo a medical examination, such examination
1187 to be made at the place of residence of said retiree or other
1188 place mutually agreed upon by a physician or physicians designated
1189 by the board. The board, however, in its discretion, may
1190 authorize the medical board to establish reexamination schedules
1191 appropriate to the medical condition of individual disability
1192 retirees. Should any disability retiree who has not yet attained
1193 the age of sixty (60) years or the termination age of the



1194 temporary allowance under paragraph (2)(c) of this section refuse
1195 to submit to any medical examination provided herein, his
1196 allowance may be discontinued until his withdrawal of such
1197 refusal; and should his refusal continue for one (1) year, all his
1198 rights to a disability benefit shall be revoked by the board of
1199 trustees.

1200 (4) If the medical board reports and certifies to the board
1201 of trustees, after a comparable job analysis or other similar
1202 study, that such disability retiree is engaged in, or is able to
1203 engage in, a gainful occupation paying more than the difference
1204 between his disability allowance, exclusive of cost of living
1205 adjustments, and the average compensation, and if the board of
1206 trustees concurs in such report, the disability benefit shall be
1207 reduced to an amount which, together with the amount earnable by
1208 him, shall equal the amount of his average compensation. If his
1209 earning capacity be later changed, the amount of the said benefit
1210 may be further modified, provided that the revised benefit shall
1211 not exceed the amount originally granted. A retiree receiving a
1212 disability benefit who is restored to active service at a salary
1213 less than the average compensation shall not become a member of
1214 the retirement system.

1215 (5) Should a disability retiree under the age of sixty (60)
1216 years or the termination age of the temporary allowance under
1217 paragraph (2)(c) of this section be restored to active service at
1218 a compensation not less than his average compensation, his
1219 disability benefit shall cease, he shall again become a member of
1220 the retirement system, and contributions shall be withheld and
1221 reported. Any such prior service certificate, on the basis of
1222 which his service was computed at the time of retirement, shall be
1223 restored to full force and effect. In addition, upon his
1224 subsequent retirement he shall be credited with all creditable
1225 service as a member, but the total retirement allowance paid to
1226 the retired member in his previous retirement shall be deducted



1227 from his retirement reserve and taken into consideration in
1228 recalculating the retirement allowance under a new option
1229 selected.

1230 (6) If following reexamination in accordance with the
1231 provisions contained in this section, the medical board determines
1232 that a retiree retired on account of disability is physically and
1233 mentally able to return to the employment from which he is
1234 retired, the board of trustees, upon certification of such
1235 findings from the medical board, shall, after a reasonable period
1236 of time, terminate the disability allowance, whether or not the
1237 retiree is reemployed or seeks such reemployment. In addition, if
1238 the board of trustees determines that the retiree is no longer
1239 sustaining a loss of income as established by documented evidence
1240 of the retiree's earned income, the eligibility for a disability
1241 allowance shall terminate and the allowance terminated within a
1242 reasonable period of time. In the event the retirement allowance
1243 is terminated under the provisions of this section, the retiree
1244 may subsequently qualify for a retirement allowance under Section
1245 25-11-111 based on actual years of service credit plus credit for
1246 the period during which a disability allowance was paid.

1247 (7) Any current member as of June 30, 1992, who retires on a
1248 disability retirement allowance after June 30, 1992, and who has
1249 not elected to receive benefits under paragraph (2)(c) of this
1250 section, shall relinquish all rights under the Age Discrimination
1251 in Employment Act of 1967, as amended, with regard to the benefits
1252 payable under this section.

1253 **SECTION 9.** Section 25-11-115, Mississippi Code of 1972, is
1254 amended as follows:

1255 25-11-115. (1) Upon application for superannuation or
1256 disability retirement, any member may elect to receive his benefit
1257 in a retirement allowance payable throughout life with no further
1258 payments to anyone at his death, except that in the event his
1259 total retirement payments under this article do not equal his



1260 total contributions under this article, his named beneficiary
1261 shall receive the difference in cash at his death. Or he may
1262 elect upon retirement, or upon becoming eligible for retirement,
1263 to receive the actuarial equivalent subject to the provisions of
1264 subsection (3) of this section of his retirement allowance in a
1265 reduced retirement allowance payable throughout life with the
1266 provision that:

1267 **Option 1.** If he dies before he has received in annuity
1268 payment the value of the member's annuity savings account as it
1269 was at the time of his retirement, the balance shall be paid to
1270 his legal representative or to such person as he shall nominate by
1271 written designation duly acknowledged and filed with the board; or

1272 **Option 2.** Upon his death, his reduced retirement allowance
1273 shall be continued throughout the life of, and paid to, such
1274 person as he has nominated by written designation duly
1275 acknowledged and filed with the board of trustees at the time of
1276 his retirement;

1277 **Option 3.** Upon his death, one-half (1/2) of his reduced
1278 retirement allowance shall be continued throughout the life of,
1279 and paid to, such person as he shall have nominated by written
1280 designation duly acknowledged and filed with the board of trustees
1281 at the time of his retirement, and the other one-half (1/2) of his
1282 reduced retirement allowance to some other designated beneficiary;

1283 **Option 4-A.** Upon his death, one-half (1/2) of his reduced
1284 retirement allowance, or such other specified amount, shall be
1285 continued throughout the life of, and paid to, such person as he
1286 shall have nominated by written designation duly acknowledged and
1287 filed with the board of trustees at the time of his retirement; or

1288 **Option 4-B.** A reduced retirement allowance shall be
1289 continued throughout the life of the retirant, but with the
1290 further guarantee of payments to the named beneficiary,
1291 beneficiaries or to the estate for a specified number of years
1292 certain. If the retired member or the last designated beneficiary



1293 receiving annuity payments dies prior to receiving all guaranteed
1294 payments due, the actuarial equivalent of the remaining payments
1295 shall be paid pursuant to Section 25-11-117.1(1);

1296 **Option 4-C.** Such retirement allowance otherwise payable may
1297 be converted into a retirement allowance of equivalent actuarial
1298 value in such an amount that, with the member's benefit under
1299 Title II of the federal Social Security Act, the member will
1300 receive, so far as possible, approximately the same amount
1301 annually before and after the earliest age at which the member
1302 becomes eligible to receive a social security benefit. This
1303 option shall not be available to retirees whose retirement is
1304 effective on or after January 1, 2003.

1305 **Option 6.** Any member who has at least twenty-eight (28)
1306 years of creditable service at the time of retirement or who is at
1307 least sixty-three (63) years of age and eligible to retire, may
1308 select the maximum retirement benefit or an optional benefit as
1309 provided in this subsection together with a partial lump sum
1310 distribution. The amount of the lump sum distribution under this
1311 option shall be equal to the maximum monthly benefit multiplied by
1312 twelve (12), twenty-four (24) or thirty-six (36) as selected by
1313 the member. The maximum retirement benefit shall be actuarially
1314 reduced to reflect the amount of the lump sum distribution
1315 selected and further reduced for any other optional benefit
1316 selected. The annuity and lump sum distribution shall be computed
1317 to result in no actuarial loss to the system. The lump sum
1318 distribution shall be made as a single payment payable at the time
1319 the first monthly annuity payment is paid to the retiree. The
1320 amount of the lump sum distribution shall be deducted from the
1321 member's annuity savings account in computing what contributions
1322 remain at the death of the retiree and/or a beneficiary. The lump
1323 sum distribution option may be elected only once by a member upon
1324 initial retirement, and may not be elected by a retiree, by



1325 members applying for a disability retirement annuity, by survivors
1326 or by a member selecting Option 4-C.

1327 (2) No change in the option selected shall be permitted
1328 after the member's death or after the member has received his
1329 first retirement check except as provided in subsections (3) and
1330 (4) of this section and in Section 25-11-127. Members who are
1331 pursuing a disability retirement allowance and simultaneously or
1332 subsequently elect to begin to receive a service retirement
1333 allowance while continuing to pursue a disability retirement
1334 allowance, shall not be eligible to select Option 4-C or Option 6
1335 and such options may not be selected at a later time if the
1336 application for a disability retirement allowance is voided or
1337 denied. However, any retired member who is receiving a retirement
1338 allowance under Option 2 or Option 4-A upon July 1, 1992, and
1339 whose designated beneficiary predeceased him or whose marriage to
1340 a spouse who is his designated beneficiary is terminated by
1341 divorce or other dissolution, upon written notification to the
1342 retirement system of the death of the designated beneficiary or of
1343 the termination of his marriage to his designated beneficiary, the
1344 retirement allowance payable to the member after receipt of such
1345 notification by the retirement system shall be equal to the
1346 retirement allowance which would have been payable had the member
1347 not elected the option. In addition, any retired member who is
1348 receiving the maximum retirement allowance for life, a retirement
1349 allowance under Option 1 or who is receiving a retirement
1350 allowance under Option 2 or Option 4-A on July 1, 1992, may elect
1351 to provide survivor benefits under Option 2 or Option 4-A to a
1352 spouse who was not previously the member's beneficiary and whom
1353 the member married before July 1, 1992.

1354 (3) Any retired member who is receiving a reduced retirement
1355 allowance under Option 2 or Option 4-A whose designated
1356 beneficiary predeceases him, or whose marriage to a spouse who is
1357 his designated beneficiary is terminated by divorce or other



1358 dissolution, may elect to cancel his reduced retirement allowance
1359 and receive the maximum retirement allowance for life in an amount
1360 equal to the amount that would have been payable if the member had
1361 not elected Option 2 or Option 4-A. Such election must be made in
1362 writing to the office of the executive director of the system on a
1363 form prescribed by the board. Any such election shall be
1364 effective the first of the month following the date the election
1365 is received by the system.

1366 (4) Any retired member who is receiving the maximum
1367 retirement allowance for life, or a retirement allowance under
1368 Option 1, and who marries after his retirement may elect to cancel
1369 his maximum retirement allowance and receive a reduced retirement
1370 allowance under Option 2 or Option 4-A to provide continuing
1371 lifetime benefits to his spouse. Such election must be made in
1372 writing to the office of the executive director of the system on a
1373 form prescribed by the board not earlier than the date of the
1374 marriage. Any such election shall be effective the first of the
1375 month following the date the election is received by the
1376 system. * * *

1377 (5) In the event the election of an optional benefit is made
1378 after the member has attained the age of sixty-five (65) years,
1379 the actuarial equivalent factor shall be used to compute the
1380 reduced retirement allowance as if the election had been made on
1381 his sixty-fifth birthday; however, from and after January 1, 2003,
1382 in the event of the election of Option 6 after the member has
1383 attained the age of sixty-five (65) years, the actuarial
1384 equivalent factor based on such retiree's age at the time of
1385 retirement shall be used to compute the reduced maximum monthly
1386 retirement allowance. However, if a retiree marries or remarries
1387 after retirement and elects either Option 2 or Option 4-A as
1388 provided in subsection (2) or (4) of this section, the actuarial
1389 equivalent factor used to compute the reduced retirement allowance
1390 shall be the factor for the age of the retiree and his or her



1391 beneficiary at the time such election for recalculation of
1392 benefits is made.

1393 (6) Notwithstanding any provision of Section 25-11-1 et
1394 seq., no payments may be made for a retirement allowance on a
1395 monthly basis for a period of time in excess of that allowed by
1396 federal law.

1397 (7) If a retirant and his eligible beneficiary, if any, both
1398 die before they have received in annuity payments a total amount
1399 equal to the accumulated contributions standing to the retirant's
1400 credit in the annuity savings account at the time of his
1401 retirement, the difference between the accumulated contributions
1402 and the total amount of annuities received by them shall be paid
1403 to such persons as the retirant has nominated by written
1404 designation duly executed and filed in the office of the executive
1405 director. If no designated person survives the retirant and his
1406 beneficiary, the difference, if any, shall be paid pursuant to
1407 Section 25-11-117.1(1).

1408 (8) Any retired member who retired on Option 2(5) or 4-A(5)
1409 prior to July 1, 1992, who is still receiving a retirement
1410 allowance on July 1, 1994, shall receive an increase in the annual
1411 retirement allowance effective July 1, 1994, equal to the amount
1412 they would have received under Option 2 or Option 4-A without a
1413 reduction for Option 5 based on the ages at retirement of the
1414 retiree and beneficiary and option factors in effect on July 1,
1415 1992. Such increase shall be prospective only.

1416 **SECTION 10.** Section 25-11-120, Mississippi Code of 1972, is
1417 amended as follows:

1418 25-11-120. (1) Any individual aggrieved by an
1419 administrative determination, including a determination of the
1420 medical board, relating to the eligibility for or payment of
1421 benefits, or the calculation of creditable service or other
1422 similar matters relating to the Public Employees' Retirement
1423 System or any other retirement system or program administered by



1424 the board, may request a hearing before a hearing officer
1425 designated by the board. Such hearings shall be conducted in
1426 accordance with rules and regulations adopted by the board and
1427 formal rules of evidence shall not apply. The hearing officer is
1428 authorized to administer oaths, hear testimony of witnesses and
1429 receive documentary and other evidence. In case of disability
1430 appeals, the hearing officer shall have the authority to defer a
1431 decision in order to request a medical evaluation or test or
1432 additional existing medical records not previously furnished by
1433 the claimant. After the hearing and the receipt of any additional
1434 medical evidence requested by the hearing officer, the hearing
1435 officer shall certify the record to the board, which shall include
1436 the hearing officer's proposed statement of facts, conclusions of
1437 law and recommendation. The record may include a taped recording
1438 of the proceedings of the hearing in lieu of a transcribed copy of
1439 the proceedings. The board shall receive the record and make its
1440 determination based solely on matters contained therein.

1441 (2) Any individual aggrieved by the determination of the
1442 board may appeal to the Circuit Court of the First Judicial
1443 District of Hinds County, Mississippi, in accordance with the
1444 Uniform Circuit Court Rules governing appeals to the circuit court
1445 in civil cases. Such appeal shall be made solely on the record
1446 before the board and this procedure shall be the exclusive method
1447 of appealing determinations of the board.

1448 (3) The board is authorized to appoint a committee of the
1449 board to serve as hearing officer or to employ or contract with
1450 qualified personnel to perform the duties of hearing officer and
1451 court reporter as may be necessary for conducting, recording and
1452 transcribing such hearings. The board may assess and collect fees
1453 to offset costs related to such hearings. Those fees shall be
1454 deposited to the credit of the Public Employees' Retirement
1455 System.



1456 **SECTION 11.** Section 25-11-123, Mississippi Code of 1972, is
1457 amended as follows:

1458 25-11-123. All of the assets of the system shall be credited
1459 according to the purpose for which they are held to one (1) of
1460 four (4) reserves; namely, the annuity savings account, the
1461 annuity reserve, the employer's accumulation account, and the
1462 expense account.

1463 (a) **Annuity savings account.** In the annuity savings account
1464 shall be accumulated the contributions made by members to provide
1465 for their annuities, including interest thereon which shall be
1466 posted monthly. Credits to and charges against the annuity
1467 savings account shall be made as follows:

1468 (1) Beginning July 1, 1991, the employer shall cause to
1469 be deducted from the salary of each member on each and every
1470 payroll of such employer for each and every payroll period seven
1471 and one-fourth percent (7-1/4%) of earned compensation as defined
1472 in Section 25-11-103. Future contributions shall be fixed
1473 biennially by the board on the basis of the liabilities of the
1474 retirement system for the various allowances and benefits as shown
1475 by actuarial valuation; provided, however, that any member earning
1476 at a rate less than Sixteen Dollars and Sixty-seven Cents (\$16.67)
1477 per month, or Two Hundred Dollars (\$200.00) per year, shall
1478 contribute not less than One Dollar (\$1.00) per month, or Twelve
1479 Dollars (\$12.00) per year.

1480 (2) The deductions provided herein shall be made
1481 notwithstanding that the minimum compensation provided by law for
1482 any member shall be reduced thereby. Every member shall be deemed
1483 to consent and agree to the deductions made and provided for
1484 herein and shall receipt for his full salary or compensation, and
1485 payment of salary or compensation less the deduction shall be a
1486 full and complete discharge and a quittance of all claims and
1487 demands whatsoever for the services rendered by such person during
1488 the period covered by such payment, except as to the benefits



1489 provided under Articles 1 and 3. The board shall provide by rules
1490 for the methods of collection of contributions from members and
1491 the employer. The board shall have full authority to require the
1492 production of evidence necessary to verify the correctness of
1493 amounts contributed.

1494 (b) **Annuity reserve.** The annuity reserve shall be the
1495 account representing the actuarial value of all annuities in
1496 force, and to it shall be charged all annuities and all benefits
1497 in lieu of annuities, payable as provided in this article. If a
1498 beneficiary retired on account of disability is restored to active
1499 service with a compensation not less than his average final
1500 compensation at the time of his last retirement, the remainder of
1501 his contributions shall be transferred from the annuity reserve to
1502 the annuity savings account and credited to his individual account
1503 therein, and the balance of his annuity reserve shall be
1504 transferred to the employer's accumulation account.

1505 (c) **Employer's accumulation account.** The employer's
1506 accumulation account shall represent the accumulation of all
1507 reserves for the payment of all retirement allowances and other
1508 benefits payable from contributions made by the employer, and
1509 against this account shall be charged all retirement allowances
1510 and other benefits on account of members. Credits to and charges
1511 against the employer's accumulation account shall be made as
1512 follows:

1513 (1) On account of each member there shall be paid
1514 monthly into the employer's accumulation account by the employers
1515 for the preceding fiscal year an amount equal to a certain
1516 percentage of the total earned compensation, as defined in Section
1517 25-11-103, of each member. The percentage rate of such
1518 contributions shall be fixed biennially by the board on the basis
1519 of the liabilities of the retirement system for the various
1520 allowances and benefits as shown by actuarial valuation. Beginning
1521 January 1, 1990, the rate shall be fixed at nine and three-fourths



1522 percent (9-3/4%). Political subdivisions joining Article 3 of the
1523 Public Employees' Retirement System after July 1, 1968, may adjust
1524 the employer's contributions by agreement with the Board of
1525 Trustees of the Public Employees' Retirement System to provide
1526 service credits for any period prior to execution of the agreement
1527 based upon an actuarial determination of employer's contribution
1528 rates.

1529 (2) On the basis of regular interest and of such
1530 mortality and other tables as shall be adopted by the board of
1531 trustees, the actuary engaged by the board to make each valuation
1532 required by this article during the period over which the accrued
1533 liability contribution is payable, immediately after making such
1534 valuation, shall determine the uniform and constant percentage of
1535 the earnable compensation of each member which, if contributed by
1536 the employer on the basis of compensation of such member
1537 throughout his entire period of membership service, would be
1538 sufficient to provide for the payment of any retirement allowance
1539 payable on his account for such service. The percentage rate so
1540 determined shall be known as the "normal contribution rate."
1541 After the accrued liability contribution has ceased to be payable,
1542 the normal contribution rate shall be the percentage rate of the
1543 salary of all members obtained by deducting from the total
1544 liabilities on account of membership service the amount in the
1545 employer's accumulation account, and dividing the remainder by one
1546 percent (1%) of the present value of the prospective future
1547 salaries of all members as computed on the basis of the mortality
1548 and service tables adopted by the board of trustees and regular
1549 interest. The normal rate of contributions shall be determined by
1550 the actuary after each valuation.

1551 (3) The total amount payable in each year to the
1552 employer's accumulation account shall not be less than the sum of
1553 the percentage rate known as the "normal contribution" rate and
1554 the "accrued liability contribution" rate of the total



1555 compensation earnable by all members during the preceding year,
1556 provided that the payment by the employer shall be sufficient,
1557 when combined with the amounts in the account, to provide the
1558 allowances and other benefits chargeable to this account during
1559 the year then current.

1560 (4) The accrued liability contribution shall be
1561 discontinued as soon as the accumulated balance in the employer's
1562 accumulation account shall equal the present value, computed on
1563 the basis of the normal contribution rate then in force, or the
1564 prospective normal contributions to be received on account of all
1565 persons who are at that time members.

1566 (5) All allowances and benefits in lieu thereof, with
1567 the exception of those payable on account of members who receive
1568 no prior service credit, payable from contributions of the
1569 employer, shall be paid from the employer's accumulation account.

1570 (6) Upon the retirement of a member, an amount equal to
1571 his retirement allowance shall be transferred from the employer's
1572 accumulation account to the annuity reserve.

1573 (d) **Expense account.** The expense account shall be the
1574 account to which the expenses of the administration of the system
1575 shall be charged, exclusive of amounts payable as retirement
1576 allowances and as other benefits provided herein. The Legislature
1577 shall make annual appropriations in amounts sufficient to
1578 administer the system, which shall be credited to this account.
1579 There shall be transferred to the State Treasury from this
1580 account, not less than once per month, an amount sufficient for
1581 payment of the estimated expenses of the system for the succeeding
1582 thirty (30) days. Any interest earned on the expense account
1583 shall accrue to the benefit of the system. Provided, however,
1584 that notwithstanding the provisions of Sections 25-11-15(10) and
1585 25-11-105(f)(5)E, all expenses of the administration of the system
1586 shall be paid from the interest earnings, provided the interest
1587 earnings are in excess of the actuarial interest assumption as



1588 determined by the board, and provided the present cost of the
1589 administrative expense fee of two percent (2%) of the
1590 contributions reported by the political subdivisions and
1591 instrumentalities shall be reduced to one percent (1%) from and
1592 after July 1, 1983, through June 30, 1984, and shall be eliminated
1593 thereafter.

1594 (e) **Collection of contributions.** The employer shall cause
1595 to be deducted on each and every payroll of a member for each and
1596 every payroll period, beginning subsequent to January 31, 1953,
1597 the contributions payable by such member as provided in Articles 1
1598 and 3.

1599 The employer shall make deductions from salaries of employees
1600 as provided in Articles 1 and 3 and shall transmit monthly, or at
1601 such time as the board of trustees shall designate, the amount
1602 specified to be deducted to the Executive Director of the Public
1603 Employees' Retirement System. The executive director, after
1604 making a record of all such receipts, shall deposit such amounts
1605 as provided by law.

1606 (f) (1) Upon the basis of each actuarial valuation provided
1607 herein, the board of trustees shall biennially determine the
1608 normal contribution rate and the accrued liability contribution
1609 rate as provided in this section. The sum of these two (2) rates
1610 shall be known as the "employer's contribution rate." Beginning
1611 on earned compensation effective January 1, 1990, the rate
1612 computed as provided in this section shall be nine and
1613 three-fourths percent (9-3/4%). The percentage rate of such
1614 contributions shall be fixed biennially by the board on the basis
1615 of the liabilities of the retirement system for the various
1616 allowances and benefits as shown by actuarial valuation.
1617 Notwithstanding any other provision of law, the county board of
1618 education, the governing authorities of separate, consolidated, or
1619 municipal school districts, and all other such boards set up by
1620 law which handle and disburse school funds, shall pay from local



1621 tax sources one and one-half percent (1-1/2%) of the total
1622 employer's contribution rate of nine and three-fourths percent
1623 (9-3/4%).

1624 (2) The amount payable by the employer on account of
1625 normal and accrued liability contributions shall be determined by
1626 applying the employer's contribution rate to the amount of
1627 compensation earned by employees who are members of the system.
1628 Monthly, or at such time as the board of trustees shall designate,
1629 each department or agency shall compute the amount of the
1630 employer's contribution payable, with respect to the salaries of
1631 its employees who are members of the system, and shall cause that
1632 amount to be paid to the board of trustees from the personal
1633 service allotment of the amount appropriated for the operation of
1634 the department or agency, or from funds otherwise available to the
1635 agency, for the payment of salaries to its employees.

1636 (3) Constables shall pay employer and employee
1637 contributions on their net fee income as well as the employee
1638 contributions on all direct treasury or county payroll income.
1639 The county shall be responsible for the employer contribution on
1640 all direct treasury or county payroll income of constables.

1641 (4) Chancery and circuit clerks shall be responsible
1642 for both the employer and employee share of contributions on the
1643 proportionate share of net income attributable to fees, as well as
1644 the employee share of net income attributable to direct treasury
1645 or county payroll income, and the employing county shall be
1646 responsible for the employer contributions on the net income
1647 attributable to direct treasury or county payroll income.

1648 (5) Once each year, under procedures established by the
1649 system, each employer shall submit to the Public Employees'
1650 Retirement System a copy of their report to Social Security of all
1651 employees' earnings.

1652 (6) The board shall provide by rules for the methods of
1653 collection of contributions of employers and members. The amounts



1654 determined due by an agency to the various funds as specified in
1655 Articles 1 and 3 are made obligations of the agency to the board
1656 and shall be paid as provided herein. Failure to deduct such
1657 contributions shall not relieve the employee and employer from
1658 liability thereof. Delinquent employee contributions and any
1659 accrued interest shall be the obligation of the employee and
1660 delinquent employer contributions and any accrued interest shall
1661 be the obligation of the employer. The employer may, in its
1662 discretion, elect to pay any or all of the interest on delinquent
1663 employee contributions. From and after July 1, 1996, under rules
1664 and regulations established by the board, all employers are
1665 authorized and shall transfer all funds due to the Public
1666 Employees' Retirement System electronically and shall transmit any
1667 wage or other reports by computerized reporting systems.

1668 **SECTION 12.** Section 25-11-127, Mississippi Code of 1972, is
1669 amended as follows:

1670 25-11-127. (1) (a) No person who is being paid a
1671 retirement allowance or a pension after retirement under this
1672 article shall be employed or paid for any service by the State of
1673 Mississippi, except as provided in this section. * * *

1674 (b) No retiree of this retirement system who is
1675 reemployed or is reelected to office after retirement shall
1676 continue to draw retirement benefits while so reemployed, except
1677 as provided in this section.

1678 (c) No person employed or elected under the exceptions
1679 provided for in this section shall become a member under Article 3
1680 of the retirement system.

1681 (2) Any person who has been retired under the provisions of
1682 Article * * * 3 and who is later reemployed in service covered by
1683 this article shall cease to receive benefits under this article
1684 and shall again become a contributing member of the retirement
1685 system. When the person retires again, if the reemployment
1686 exceeds six (6) months, the person shall have his or her benefit



1687 recomputed, including service after again becoming a member,
1688 provided that the total retirement allowance paid to the retired
1689 member in his or her previous retirement shall be deducted from
1690 the member's retirement reserve and taken into consideration in
1691 recalculating the retirement allowance under a new option
1692 selected.

1693 * * *

1694 (3) The board * * * shall have the right to prescribe rules
1695 and regulations for carrying out the provisions of this section.

1696 (4) The provisions of this section shall not be construed to
1697 prohibit any retiree, regardless of age, from being employed and
1698 drawing a retirement allowance either:

1699 (a) For a period of time not to exceed one-half (1/2)
1700 of the normal working days for the position in any fiscal year
1701 during which the retiree will receive no more than one-half (1/2)
1702 of the salary in effect for the position at the time of
1703 employment, or

1704 (b) For a period of time in any fiscal year sufficient
1705 in length to permit a retiree to earn not in excess of twenty-five
1706 percent (25%) of retiree's average compensation.

1707 To determine the normal working days for a position under
1708 paragraph (a) of this subsection, the employer shall determine the
1709 required number of working days for the position on a full-time
1710 basis and the equivalent number of hours representing the
1711 full-time position. The retiree then may work up to one-half
1712 (1/2) of the required number of working days or up to one-half
1713 (1/2) of the equivalent number of hours and receive up to one-half
1714 (1/2) of the salary for the position. In the case of employment
1715 with multiple employers, the limitation shall equal one-half (1/2)
1716 of the number of days or hours for a single full-time position.

1717 Notice shall be given in writing to the executive
1718 director * * *, setting forth the facts upon which the employment
1719 is being made, and the notice shall be given within five (5) days



1720 from the date of employment and also from the date of termination
1721 of the employment.

1722 * * *

1723 (5) Any member may continue in municipal or county elected
1724 office * * * or be * * * elected to a municipal or county office,
1725 provided that the person:

1726 (a) Files annually, in writing, in the office of the
1727 employer and the office of the executive director of the system
1728 before such person takes office or as soon as possible after
1729 retirement, a waiver of all salary or compensation and elects to
1730 receive in lieu of that salary or compensation a retirement
1731 allowance as provided in this section, in which event no salary or
1732 compensation shall thereafter be due or payable for those
1733 services; however, any such officer or employee may receive, in
1734 addition to the retirement allowance, * * * office expense
1735 allowance, mileage or travel expense authorized by any statute of
1736 the State of Mississippi; or

1737 (b) Receives compensation for such elective office in
1738 an amount not to exceed twenty-five percent (25%) of such
1739 retiree's average compensation.

1740 **SECTION 13.** Section 25-11-133, Mississippi Code of 1972, is
1741 amended as follows:

1742 25-11-133. (1) The maintenance of actuarial reserves for
1743 the various allowances and benefits under Articles 1 and 3, and
1744 the payment of all annuities, retirement allowances, refunds and
1745 other benefits granted hereunder are hereby made obligations of
1746 the employer's accumulation accounts. All income, interest and
1747 dividends derived from deposits and investments authorized by said
1748 articles shall be used for the payment of the obligations of the
1749 system.

1750 (2) In the event of the termination of the Public Employees'
1751 Retirement System established pursuant to the provisions of
1752 Section 25-11-101 et seq., all members of the system as of the



1753 date of termination of the system shall be deemed to have a vested
1754 right to benefits to the extent and in the same manner that rights
1755 would be vested under the statute existing as of the date of
1756 termination of the system, except that any member who, because of
1757 a termination of the system has not fulfilled the requirements for
1758 length of service, shall nonetheless be entitled to compensation
1759 as of the date that such member would otherwise be eligible, with
1760 such compensation to be computed on the basis of time actually a
1761 member of the service and compensation actually earned during the
1762 time a member, in the manner now provided by statute.

1763 In the event of a deficit in the availability of funds for
1764 payment due under the provisions of the Public Employees'
1765 Retirement System, an appropriation shall hereinafter be made
1766 sufficient for the payment thereof as an obligation of the state.

1767 (3) Notwithstanding any provisions of this section or this
1768 title to the contrary, the maximum annual retirement allowance
1769 attributable to the employer contributions payable by the system
1770 to a member shall be subject to the limitations set forth in
1771 Section 415 of the Internal Revenue Code and any regulations
1772 issued thereunder as applicable to governmental plans as such term
1773 is defined under Section 414(d) of the Internal Revenue Code.

1774 (4) Notwithstanding any other provision of this plan, all
1775 distributions from this plan shall conform to the regulations
1776 issued under Section 401(a)(9) of the Internal Revenue Code,
1777 applicable to governmental plans, as defined in Section 414(d) of
1778 the Internal Revenue Code, including the incidental death benefit
1779 provisions of Section 401(a)(9)(G) of the Internal Revenue Code.
1780 Further, such regulations shall override any plan provision that
1781 is inconsistent with Section 401(a)(9) of the Internal Revenue
1782 Code.

1783 (5) The actuarial assumptions used to convert a retirement
1784 allowance from the normal form of payment to an optional form of



1785 payment shall be an appendix to Article 3 and subject to approval
1786 by the board of trustees based upon certification by the actuary.

1787 (6) Notwithstanding any other provision of this plan, the
1788 maximum compensation that can be considered for all plan purposes
1789 shall not be greater than that allowed under Section 401(a)(17) of
1790 the Internal Revenue Code.

1791 **SECTION 14.** Section 25-11-139, Mississippi Code of 1972, is
1792 amended as follows:

1793 25-11-139. (1) Any retirement allowance or other annuity or
1794 benefit provided by Articles 1 and 3 shall be paid in equal
1795 monthly installments for life and shall not be increased,
1796 decreased, revoked or repealed, except for error upon detection,
1797 regardless of the length of time between the reporting error or
1798 the time payment started and the time the board became aware of
1799 the error, or except where specifically otherwise provided by said
1800 articles. This responsibility is, and has been, the duty of the
1801 board since the creation of the retirement system.

1802 (2) Each member shall have a period of two (2) years from
1803 the effective date of his retirement within which to submit
1804 documentation of any additional service credit, including prior
1805 service, military service or unused leave. Any increase in
1806 benefits resulting from the submission of such documentation shall
1807 be paid from the first of the month following receipt of such
1808 documentation and shall not be retroactive to the effective date
1809 of retirement.

1810 (3) Pursuant to Section 25-11-111, Mississippi Code of 1972,
1811 it is and has been the sole responsibility of the member or
1812 beneficiary thereof to apply for benefits and no benefits shall be
1813 paid for any period prior to the first of the month following the
1814 receipt of such application for such benefits, but in no event
1815 prior to termination of employment, except as authorized in
1816 Section 25-11-114.



1817 **SECTION 15.** Section 25-11-309, Mississippi Code of 1972, is
1818 amended as follows:

1819 25-11-309. The retirement allowance from the Supplemental
1820 Legislative Retirement Plan shall consist of fifty percent (50%)
1821 of an amount equal to the retirement allowance determined by
1822 creditable service as an elected Senator or Representative of the
1823 State Legislature or as President of the Senate payable by the
1824 Public Employees' Retirement System in accordance with Section
1825 25-11-101 et seq. * * *

1826 The percentage of the retirement allowance as provided in
1827 this section shall be transferred from the annuity savings account
1828 of the member and the employer accumulation account in the
1829 Supplemental Legislative Retirement Plan to the retirement account
1830 of the member in the Public Employees' Retirement System as
1831 provided.

1832 **SECTION 16.** Section 25-13-5, Mississippi Code of 1972, is
1833 amended as follows:

1834 25-13-5. (1) Creditable service on which a member's service
1835 or disability retirement benefit is based shall consist of "prior
1836 service" and membership service. Prior service shall mean service
1837 performed for the Highway Safety Patrol as defined in Section
1838 25-13-3 before the chapter becomes effective and service performed
1839 as a sworn agent for the Mississippi Bureau of Narcotics prior to
1840 the effective date of this act. No prior service credits shall be
1841 granted any person who re-enters the employment of the Highway
1842 Safety Patrol after the effective date of this chapter, except
1843 that any former sworn officer of the Highway Safety Patrol who
1844 returns to the Highway Safety Patrol in any capacity, and who has
1845 had not less than two (2) years of prior service as a sworn
1846 officer of the Highway Safety Patrol, and who was disabled by
1847 wounds or accident in line of duty, may become a member of the
1848 Highway Safety Patrol Retirement System with full credit for any
1849 previous service as set forth in Section 25-13-3 with the Highway



1850 Safety Patrol. Membership service shall mean all services for
1851 which credit may be allowed under this chapter subsequent to July
1852 1, 1958, and all lawfully credited unused leave as of the date of
1853 withdrawal from service, as certified by the appointing authority.

1854 (2) Each member shall have a period of two (2) years from
1855 the effective date of his retirement within which to submit
1856 documentation of any additional service credit, including prior
1857 service, military service or unused leave. Any increase in
1858 benefits resulting from the submission of such documentation shall
1859 be paid from the first of the month following receipt of such
1860 documentation and shall not be retroactive to the effective date
1861 of retirement.

1862 **SECTION 17.** Section 25-13-16, Mississippi Code of 1972, is
1863 amended as follows:

1864 25-13-16. (1) Upon application for superannuation or
1865 disability retirement, any member who retires after July 1, 1990,
1866 may elect to receive his benefit pursuant to the provisions of
1867 Sections 25-13-11 and 25-13-13. Or he may elect upon retirement,
1868 or upon becoming eligible for retirement, to receive the actuarial
1869 equivalent, subject to the provisions of subsection (3) of this
1870 section, of his retirement allowance in a reduced retirement
1871 allowance payable throughout life with the provision that:

1872 **Option 1.** If he dies before he has received in annuity
1873 payment the value of the member's annuity savings account as it
1874 was at the time of his retirement, the balance shall be paid to
1875 his legal representative or to such person as he shall nominate by
1876 written designation duly acknowledged and filed with the board; or

1877 **Option 2.** Upon his death, his reduced retirement allowance
1878 shall be continued throughout the life of, and paid to, such
1879 person as he has nominated by written designation duly
1880 acknowledged and filed with the board of trustees at the time of
1881 his retirement;



1882 **Option 3.** Upon his death, one-half (1/2) of his reduced
1883 retirement allowance shall be continued throughout the life of,
1884 and paid to, such person as he shall have nominated by written
1885 designation duly acknowledged and filed with the board of trustees
1886 at the time of his retirement, and the other one-half (1/2) of his
1887 reduced retirement allowance to some other designated beneficiary;

1888 **Option 4-A.** Upon his death, one-half (1/2) of his reduced
1889 retirement allowance, or such other specified amount, shall be
1890 continued throughout the life of, and paid to, such person as he
1891 shall have nominated by written designation duly acknowledged and
1892 filed with the board of trustees at the time of his retirement; or

1893 **Option 4-B.** A reduced retirement allowance shall be
1894 continued throughout the life of the retirant, but with the
1895 further guarantee of payments to the named beneficiary,
1896 beneficiaries or to the estate for a specified number of years
1897 certain. If the retired member or the last designated beneficiary
1898 receiving annuity payments dies prior to receiving all guaranteed
1899 payments due, the actuarial equivalent of the remaining payments
1900 shall be paid pursuant to Section 25-13-21.1(1).

1901 **Option 4-C.** Such retirement allowance otherwise payable may
1902 be converted into a retirement allowance of equivalent actuarial
1903 value in such an amount that, with the member's benefit under
1904 Title II of the federal Social Security Act, the member will
1905 receive, so far as possible, approximately the same amount
1906 annually before and after the earliest age at which the member
1907 becomes eligible to receive a social security benefit. This
1908 option shall not be available to retirees whose retirement is
1909 effective on or after January 1, 2003.

1910 **Option 6.** Any member who is eligible to retire with an
1911 unreduced benefit may select the maximum retirement benefit or an
1912 optional benefit as provided in this subsection together with a
1913 partial lump sum distribution. The amount of the lump sum
1914 distribution under this option shall be equal to the maximum



1915 monthly benefit multiplied by twelve (12), twenty-four (24) or
1916 thirty-six (36) as selected by the member. The maximum retirement
1917 benefit shall be actuarially reduced to reflect the amount of the
1918 lump sum distribution selected and further reduced for any other
1919 optional benefit selected. The annuity and lump sum distribution
1920 shall be computed to result in no actuarial loss to the system.
1921 The lump sum distribution shall be made as a single payment
1922 payable at the time the first monthly annuity payment is paid to
1923 the retiree. The amount of the lump sum distribution shall be
1924 deducted from the member's annuity savings account in computing
1925 what contributions remain at the death of the retiree and/or a
1926 beneficiary. The lump sum distribution option may be elected only
1927 once by a member upon initial retirement, and may not be elected
1928 by a retiree, by members applying for a disability retirement
1929 annuity, by survivors or by a member selecting Option 4-C.

1930 (2) No change in the option selected shall be permitted
1931 after the member's death or after the member has received his
1932 first retirement check, except as provided in subsections (3) and
1933 (4) of this section. However, any retired member who is receiving
1934 a retirement allowance under Option 2 or Option 4-A upon July 1,
1935 1999, and whose designated beneficiary predeceased him or whose
1936 marriage to a spouse who is his designated beneficiary is
1937 terminated by divorce or other dissolution, upon written
1938 notification to the retirement system of the death of the
1939 designated beneficiary or of the termination of his marriage to
1940 his designated beneficiary, the retirement allowance payable to
1941 the member after receipt of such notification by the retirement
1942 system shall be equal to the retirement allowance that would have
1943 been payable if the member had not elected the option. In
1944 addition, any retired member who is receiving the maximum
1945 retirement allowance for life, a retirement allowance under Option
1946 1 or who is receiving a retirement allowance under Option 2 or
1947 Option 4-A on July 1, 1999, may elect to provide survivor benefits



1948 under Option 2 or Option 4-A to a spouse who was not previously
1949 the member's beneficiary and who the member married before July 1,
1950 1999. Should a member retired on disability be returned to active
1951 service, the option previously selected shall be null and void.
1952 Upon subsequent retirement a new option may be selected.

1953 (3) Any retired member who is receiving a reduced retirement
1954 allowance under Option 2 or Option 4-A whose designated
1955 beneficiary predeceases him, or whose marriage to a spouse who is
1956 his designated beneficiary is terminated by divorce or other
1957 dissolution, may elect to cancel his reduced retirement allowance
1958 and receive the maximum retirement allowance for life in an amount
1959 equal to the amount that would have been payable if the member had
1960 not elected Option 2 or Option 4-A. Such election must be made in
1961 writing to the office of the executive director of the system on a
1962 form prescribed by the board. Any such election shall be
1963 effective the first of the month following the date the election
1964 is received by the system.

1965 (4) Any retired member who is receiving the maximum
1966 retirement allowance for life, or a retirement allowance under
1967 Option 1, and who marries after his retirement may elect to cancel
1968 his maximum retirement allowance and receive a reduced retirement
1969 allowance under Option 2 or Option 4-A to provide continuing
1970 lifetime benefits to his spouse. Such election must be made in
1971 writing to the office of the executive director of the system on a
1972 form prescribed by the board not earlier than the date of the
1973 marriage. Any such election shall be effective the first of the
1974 month following the date the election is received by the
1975 system. * * * However, if a retiree marries or remarries after
1976 retirement and elects either Option 2 or Option 4-A as provided in
1977 subsection (2) or (4) of this section, the actuarial equivalent
1978 factor used to compute the reduced retirement allowance shall be
1979 the factor for the age of the retiree and his or her beneficiary
1980 at the time such election for recalculation of benefits is made.



1981 (5) Any member in service who has qualified for retirement
1982 benefits may select any optional method of settlement of
1983 retirement benefits by notifying the Executive Director of the
1984 Board of Trustees of the Public Employees' Retirement System in
1985 writing, on a form prescribed by the board, of the option he has
1986 selected and by naming the beneficiary of such option and
1987 furnishing necessary proof of age. Such option, once selected,
1988 may be changed at any time prior to actual retirement or death,
1989 but upon the death or retirement of the member, the optional
1990 settlement shall be placed in effect upon proper notification to
1991 the executive director.

1992 (6) Notwithstanding any provision of Section 25-13-1 et
1993 seq., no payments may be made for a retirement allowance on a
1994 monthly basis for a period of time in excess of that allowed by
1995 federal law.

1996 (7) If a retirant and his eligible beneficiary, if any, both
1997 die before they have received in annuity payments a total amount
1998 equal to the accumulated contributions standing to the retirant's
1999 credit in the annuity savings account at the time of his
2000 retirement, the difference between the accumulated contributions
2001 and the total amount of annuities received by them shall be paid
2002 to such persons as the retirant has nominated by written
2003 designation duly executed and filed in the office of the executive
2004 director. If no designated person survives the retirant and his
2005 beneficiary, the difference, if any, shall be paid pursuant to
2006 Section 25-13-21.1(1).

2007 (8) Any retired member who retired on Option 2(5) or 4-A(5)
2008 before July 1, 1999, who is still receiving a retirement allowance
2009 as of July 1, 1999, shall receive an increase in the annual
2010 retirement allowance effective July 1, 1999, equal to the amount
2011 they would have received under Option 2 or Option 4-A without a
2012 reduction for Option 5 based on the ages at retirement of the



2013 retiree and beneficiary and option factors in effect on July 1,
2014 1999. Such increase shall be prospective only.

2015 (9) For purposes of this section:

2016 (a) "Beneficiary" means any person designated to
2017 receive a retirement allowance, an annuity or other benefit as
2018 provided by this chapter. Such designation shall be in writing
2019 filed in the Office of the Executive Director of the Board of
2020 Trustees of the Public Employees' Retirement System, and no
2021 designation or change of beneficiary shall be made in any other
2022 manner; however, notwithstanding any provision of this chapter to
2023 the contrary, the lawful spouse of a member at the time of the
2024 death of a member shall be the beneficiary of such member unless
2025 the member has designated another beneficiary subsequent to the
2026 date of marriage.

2027 (b) "Actuarial equivalent" shall mean a benefit of
2028 equal value to the accumulated contributions, annuity or benefit,
2029 as the case may be, when computed upon the basis of such mortality
2030 tables as shall be adopted by the board of trustees, and regular
2031 interest.

2032 (c) "Actuarial tables" shall mean such tables of
2033 mortality and rates of interest as shall be adopted by the board
2034 in accordance with the recommendation of the actuary.

2035 **SECTION 18.** Section 25-13-17, Mississippi Code of 1972, is
2036 amended as follows:

2037 25-13-17. (1) All persons who are covered under the terms
2038 of this chapter on the date on which this retirement system is
2039 established and who become members of the retirement system shall
2040 cease to be members under the provisions of Sections 25-11-101
2041 through 25-11-139 upon the effective date of this chapter, and
2042 shall become members of this retirement system with full credit
2043 for all prior service with the Highway Safety Patrol.

2044 (2) In computing the period of service of a member of the
2045 Highway Safety Patrol, * * * any member who served on active duty



2046 in the Armed Forces of the United States, or who served in
2047 maritime service during periods of hostility in World War II,
2048 shall be entitled to creditable service at no cost for his service
2049 on active duty in the Armed Forces or in such maritime service,
2050 provided he entered state service after his discharge from the
2051 Armed Forces or entered state service after he completed such
2052 maritime service. The maximum period for such creditable service
2053 for all military service as defined in this subsection (2) shall
2054 not exceed four (4) years unless positive proof can be furnished
2055 by such person that he was retained in the Armed Forces during
2056 World War II or in maritime service during World War II, by causes
2057 beyond his control and without opportunity of discharge. The
2058 member shall furnish proof satisfactory to the Board of Trustees
2059 of the Public Employees' Retirement System of certification of
2060 military service or maritime service records showing dates of
2061 entrance into active duty service and the date of discharge. No
2062 creditable service shall be granted for any military service or
2063 maritime service to a member who qualifies for a retirement
2064 allowance in another public retirement system administered by the
2065 Board of Trustees of the Public Employees' Retirement System based
2066 in whole or in part on such military or maritime service. In no
2067 case shall the member receive creditable service if the member
2068 received a dishonorable discharge from the Armed Forces of the
2069 United States.

2070 The credit for military service granted in this subsection
2071 shall apply to all persons who have retired from the Highway
2072 Patrol and who qualify for credit as outlined above, whether they
2073 retired before or after July 1, 2000; but this provision shall not
2074 operate to require any back payments of retirement.

2075 (3) (a) Any member of the Mississippi Highway Safety Patrol
2076 Retirement System whose membership service is interrupted as a
2077 result of qualified military service within the meaning of Section
2078 414(u)(5) of the Internal Revenue Code, and who has received the



2079 maximum service credit available under subsection (2) of this
2080 section, shall receive creditable service for the period of
2081 qualified military service that does not qualify as creditable
2082 service under subsection (2) of this section upon reentering
2083 membership service in an amount not to exceed five (5) years if:

2084 (i) The member pays the contributions he would
2085 have made to the retirement system if he had remained in
2086 membership service for the period of qualified military service
2087 based upon his salary at the time his membership service was
2088 interrupted;

2089 (ii) The member returns to membership service
2090 within ninety (90) days of the end of his qualified military
2091 service; and

2092 (iii) The employer at the time the member's
2093 service was interrupted and to which employment the member returns
2094 pays the contributions it would have made into the retirement
2095 system for such period based on the member's salary at the time
2096 the service was interrupted.

2097 (b) The payments required to be made in paragraph
2098 (a) (i) of this subsection may be made over a period beginning with
2099 the date of return to membership service and not exceeding three
2100 (3) times the member's qualified military service; provided,
2101 however, that in no event shall such period exceed five (5) years.

2102 (c) The member shall furnish proof satisfactory to the
2103 board of trustees of certification of military service showing
2104 dates of entrance into qualified service and the date of discharge
2105 as well as proof that the member has returned to active employment
2106 within the time specified.

2107 **SECTION 19.** Section 25-13-29, Mississippi Code of 1972, is
2108 amended as follows:

2109 25-13-29. At least once in each biennium the administrative
2110 board shall cause an actuarial valuation to be made by an actuary
2111 who shall certify to the assets and liabilities of the system and



2112 the amount of employer's contributions required for membership
2113 service and prior service. The cost of the survey shall be paid
2114 from any funds available to the Highway Safety Patrol.

2115 On account of each member there shall be paid quarterly into
2116 the "Disability and Relief Fund for Members of the Mississippi
2117 Highway Safety Patrol" by the Highway Safety Patrol from any funds
2118 available an amount equal to a certain percentage of the
2119 compensation of each member to be known as the "normal
2120 contributions," and an additional amount equal to a percentage of
2121 his compensation to be known as the "accrued liability
2122 contribution." The rate per centum of such contributions shall be
2123 fixed by the administrative board on the basis of the liabilities
2124 of the retirement system for the various allowances and benefits
2125 as shown by the actuarial valuation. * * *

2126 **SECTION 20.** Section 25-13-33, Mississippi Code of 1972, is
2127 amended as follows:

2128 25-13-33. (1) The maintenance of actuarial reserves for the
2129 various allowances and benefits under this chapter, and the
2130 payment of all annuities, retirement allowances, refunds and other
2131 benefits granted hereunder are hereby made obligation of the
2132 disability and relief fund. All income, interest and dividends
2133 derived from deposits and investments authorized by this chapter
2134 shall be used for the payment of the obligations of the system.

2135 (2) In the event of the termination of the Mississippi
2136 Highway Safety Patrol Retirement System, established pursuant to
2137 the provisions of Section 25-13-1 et seq., Mississippi Code of
2138 1972, all members of the system as of the date of termination of
2139 the system shall be deemed to have a vested right to benefits to
2140 the extent and in the same manner that rights would be vested
2141 under the statute existing as of the date of termination of the
2142 system; except that any member who, because of a termination of
2143 the system has not fulfilled the requirements for length of
2144 service, shall be entitled to compensation as of the date that



2145 such member would otherwise be eligible, with such compensation to
2146 be computed on the basis of time actually a member of the service
2147 and compensation actually earned during the time as a member, in
2148 the manner now provided by statute.

2149 In the event of a deficit in the availability of funds for
2150 payment due under the provisions of the Mississippi Highway Safety
2151 Patrol Retirement System, an appropriation shall hereinafter be
2152 made sufficient for the payment thereof as an obligation of the
2153 State of Mississippi.

2154 (3) Notwithstanding any provisions of this section or
2155 chapter to the contrary, the maximum annual retirement allowance
2156 attributable to the employer contributions payable by the system
2157 to a member shall be subject to the limitations set forth in
2158 Section 415 of the Internal Revenue Code and any regulations
2159 issued thereunder as applicable to governmental plans as such term
2160 is defined under Section 414(d) of the Internal Revenue Code.

2161 (4) Notwithstanding any other provision of this plan, all
2162 distributions from this plan shall conform to the regulations
2163 issued under Section 401(a)(9) of the Internal Revenue Code,
2164 applicable to governmental plans, as defined in Section 414(d) of
2165 the Internal Revenue Code, including the incidental death benefit
2166 provisions of Section 401(a)(9)(G) of the Internal Revenue Code.
2167 Further, such regulations shall override any plan provision that
2168 is inconsistent with Section 401(a)(9) of the Internal Revenue
2169 Code.

2170 (5) The actuarial assumptions used to convert a retirement
2171 allowance from the normal form of payment to an optional form of
2172 payment shall be an appendix to this chapter and subject to
2173 approval by the board of trustees based upon certification by the
2174 actuary.

2175 (6) Notwithstanding any other provision of this plan, the
2176 maximum compensation that can be considered for all plan purposes



2177 shall not be greater than that allowed under Section 401(a) (17) of
2178 the Internal Revenue Code.

2179 **SECTION 21.** Section 25-14-5, Mississippi Code of 1972, is
2180 amended as follows:

2181 25-14-5. The State of Mississippi, or any state agency,
2182 county, municipality or other political subdivision may, by
2183 contract, agree with any employee to defer, in whole or in part,
2184 any portion of that employee's income and/or may make
2185 contributions to the plan on behalf of participating members.
2186 Such funds may subsequently be used to purchase a fixed or
2187 variable life insurance or annuity contract for the purpose of
2188 protecting its obligation to the deferred compensation program for
2189 the employee from any life underwriter duly licensed by this state
2190 who represents an insurance company licensed to contract fixed and
2191 variable annuities and fixed or variable life insurance business
2192 in this state or to purchase any investments authorized for
2193 purchase by the Public Employees' Retirement System of Mississippi
2194 under Section 25-11-121; or to invest such monies in a fund or
2195 funds maintained by a corporate trustee; which fund or funds are
2196 used as an investment media for retirement, pension or profit
2197 sharing plans that are tax qualified for such purpose. Provided
2198 that in the administration of this plan, the Public Employees'
2199 Retirement System of Mississippi may adopt such regulations as are
2200 reasonable and necessary to assure the orderly functioning of the
2201 plan, but such regulations shall not unreasonably restrict all
2202 licensed life underwriters and insurance companies described
2203 herein from concurrently participating in providing contracts
2204 authorized hereunder. Anything in any other law to the contrary
2205 notwithstanding, the deferred portion of the employee's
2206 compensation, the plan and the monies in the plan created by said
2207 article, are exempt from any state, county or municipal ad valorem
2208 taxes, income taxes, premium taxes, privilege taxes, property
2209 taxes, sales and use taxes and any other taxes not so named, until



2210 the deferred compensation is paid to the employee or beneficiary
2211 and exempt from levy, garnishment, attachment or any other process
2212 whatsoever.

2213 **SECTION 22.** Section 25-14-7, Mississippi Code of 1972, is
2214 amended as follows:

2215 25-14-7. The administration of the deferred compensation
2216 program shall be under the direction of the Public Employees'
2217 Retirement System of Mississippi or the appropriate officer
2218 designated by a county, municipality, or other political
2219 subdivision. The deferred compensation program shall be operated
2220 in accordance with the guidelines established by the Internal
2221 Revenue Service as reflected in the plan document as may be
2222 modified from time to time by the board of trustees. Payroll
2223 reductions shall be made, in each instance, by the appropriate
2224 payroll officer. The administrator of a deferred compensation
2225 program may contract with a private corporation or institution for
2226 providing consolidated billing and other administrative services
2227 if deemed necessary by the administrator.

2228 The board of trustees may levy such charges and fees on
2229 participants' contributions as may reasonably be necessary to
2230 provide for the administrative expenses of operating the deferred
2231 compensation program, including, but not limited to, the services
2232 of auditors, consultants, money managers and third-party
2233 administrators.

2234 **SECTION 23.** Section 21-29-139, Mississippi Code of 1972, is
2235 amended as follows:

2236 21-29-139. If any member of said fire and/or police
2237 department who has been in paid fire and/or police department
2238 service for as long as twenty (20) years before making application
2239 hereinafter mentioned, the last ten (10) years of which shall have
2240 been continuous in the city in which the application is made,
2241 shall make written application for retirement and relief, the
2242 board of disability and relief shall, without medical examination



2243 of disability, retire him from active service in said fire and/or
2244 police department. Upon such retirement from active service, said
2245 board of disability and relief shall order the payment to such
2246 retired member monthly from said fund a sum equal to fifty percent
2247 (50%) of the average monthly base salary and longevity pay
2248 received as salary by such member in the six-month period next
2249 before the filing of such application in said fire and/or police
2250 department. Such payments shall thereafter be made to said
2251 retired member for life, such payment to be known as "retired
2252 relief."

2253 Any member of the fire and/or police department who has been
2254 in paid fire and/or police department service for longer than
2255 twenty (20) years in a municipality shall be entitled and shall
2256 receive additional retired relief payment for life in a sum equal
2257 to one and seven-tenths percent (1-7/10%) of the same average
2258 monthly base salary and longevity pay received by such member in
2259 the six-month period next preceding the filing of said
2260 application, for each full year of service in excess of twenty
2261 (20) years' service. However, no retired relief payment to any
2262 member shall exceed sixty-six and two-thirds percent (66-2/3%) of
2263 the average monthly base salary and longevity pay received by a
2264 member for the six-month period next preceding the filing of said
2265 application.

2266 The said board shall, when a member of the fire and/or police
2267 department reaches the age of sixty-five (65), retire him from
2268 active service in said fire and/or police department and order the
2269 payment of such funds as the member is entitled to hereunder.

2270 Periods of time in which a member may have been inactive on
2271 account of physical or mental disability shall not be excluded in
2272 computing the twenty-year period and the ten-year period
2273 hereinbefore mentioned. Periods of time within which a member may
2274 have been absent from his employment while in active service of
2275 the Army or Navy of the United States, United States Marine Corps



2276 or the United States Coast Guard between September 16, 1940, and
2277 July 25, 1947, or while as a civil employee engaged by the Army
2278 and Navy while serving outside the continental United States shall
2279 not be excluded in computing the twenty-year period and the
2280 ten-year period hereinbefore mentioned, provided that the
2281 discharge or release of such member from the armed forces was
2282 under conditions other than dishonorable. Any member who has been
2283 retired or is voluntarily retired hereunder, or who has received
2284 relief or disability benefits hereunder, shall be required to
2285 perform such duties as then may be required of him.

2286 Provided, however, in any city having a population of
2287 nineteen thousand (19,000) but less than twenty thousand (20,000),
2288 according to the 1970 census, the periods of time not exceeding
2289 four (4) years within which a member of the fire or police
2290 departments may have been absent from his employment while in
2291 active service in the Armed Forces of the United States, shall not
2292 be excluded in computing the twenty-year period and the ten-year
2293 period mentioned in this section.

2294 Each member shall have a period of two (2) years from the
2295 effective date of his retirement within which to submit
2296 documentation of any additional service credit, including prior
2297 service, military service or unused leave. Any increase in
2298 benefits resulting from the submission of such documentation shall
2299 be paid from the first of the month following receipt of such
2300 documentation and shall not be retroactive to the effective date
2301 of retirement.

2302 **SECTION 24.** Section 21-29-245, Mississippi Code of 1972, is
2303 amended as follows:

2304 21-29-245. If any member of said fire and/or police
2305 department who has been in paid fire and/or police department
2306 service for as long as twenty (20) years before making application
2307 hereinafter mentioned, the last ten (10) years of which shall have
2308 been continuous in the city in which the application is made,



2309 shall make written application for retirement and relief, the
2310 Board of Disability and Relief shall without medical examinations
2311 of disability, retire him from active service in said fire and/or
2312 police department. Upon such retirement from active service said
2313 Board of Disability and Relief * * * shall order the payment to
2314 such retired member monthly from said fund a sum equal to fifty
2315 percent (50%) of the average monthly base salary and longevity pay
2316 received as salary by such member in the six-month period next
2317 before the filing of such application in said fire and/or police
2318 department. Such payments shall thereafter be made to said
2319 retired member for life, such payments to be known as "retired
2320 relief."

2321 Any member of the fire and/or police department who has been
2322 in paid fire and/or police department service for longer than
2323 twenty (20) years shall be entitled to and shall receive
2324 additional retired relief payment for life in a sum equal to one
2325 and seven-tenths percent (1-1/7%) of the same monthly base salary
2326 and longevity pay received by such member in the six-month period
2327 next preceding the filing of said application for each full year
2328 of service in excess of twenty (20) years' service. However, such
2329 additional retired relief payment shall be paid only for each year
2330 served after July 1, 1966. No retired relief payment to any
2331 member shall exceed sixty-six and two-thirds percent (66-2/3%) of
2332 the average monthly base salary and longevity pay received by a
2333 member for the six-month period next preceding the filing of said
2334 application, except such other additional benefits as may be
2335 hereinafter provided.

2336 The Board of Disability and Relief shall, when a member of
2337 the fire and/or police department completes thirty-five (35) years
2338 of paid employment, or attains the age of sixty (60), whichever
2339 occurs first, retire him from active service in said fire and/or
2340 police department and order the payment of such funds as the
2341 member is entitled to under this article.



2342 Periods of time in which a member may have been inactive on
2343 account of physical or mental disability shall not be excluded in
2344 computing the twenty-year period and the ten-year period
2345 hereinabove mentioned. Neither shall there be excluded therefrom
2346 periods of time within which a member may have been absent from
2347 his employment while serving in the Armed Forces of the United
2348 States, or any civil employee engaged by the Armed Forces of the
2349 United States while serving outside the continental United States,
2350 in time of war during World War I, World War II, the Korean
2351 Conflict, Cuban Crisis, Berlin Crisis, Vietnam Conflict, or when
2352 involuntarily called on active duty, provided that the maximum
2353 period for such creditable service shall be four (4) years unless
2354 positive proof can be furnished by such person that he was
2355 retained in the Armed Forces by cause beyond his control, and
2356 without opportunity of discharge, and provided that the discharge
2357 or release of such member from the Armed Forces was under
2358 conditions other than dishonorable. Any member who has been
2359 retired or is voluntarily retired hereunder, or who has received
2360 relief or disability benefits hereunder, shall be required to
2361 report such duties as then may be required of them.

2362 Each member shall have a period of two (2) years from the
2363 effective date of his retirement within which to submit
2364 documentation of any additional service credit, including prior
2365 service, military service or unused leave. Any increase in
2366 benefits resulting from the submission of such documentation shall
2367 be paid from the first of the month following receipt of such
2368 documentation and shall not be retroactive to the effective date
2369 of retirement.

2370 **SECTION 25.** Section 21-29-301, Mississippi Code of 1972, is
2371 amended as follows:

2372 21-29-301. (1) Any member of the Municipal Retirement
2373 System whose membership service is interrupted as a result of
2374 qualified military service within the meaning of Section 414(u)(5)



2375 of the Internal Revenue Code, and who has received the maximum
2376 service credit available under Article 1, 3 or 5 of this chapter,
2377 shall receive creditable service for the period of qualified
2378 military service that does not qualify as creditable service under
2379 Article 1, 3 or 5 of this chapter upon reentering membership
2380 service in an amount not to exceed five (5) years if:

2381 (a) The member pays the contributions he would have
2382 made to the retirement system if he had remained in membership
2383 service for the period of qualified military service based upon
2384 his salary at the time his membership service was interrupted;

2385 (b) The member returns to membership service within
2386 ninety (90) days of the end of his qualified military service; and

2387 (c) The employer at the time the member's service was
2388 interrupted and to which employment the member returns pays the
2389 contribution it would have made into the retirement system for
2390 such period based on the member's salary at the time the service
2391 was interrupted.

2392 (2) The payments required to be made in subsection (1)(a) of
2393 this section may be made over a period beginning with the date of
2394 return to membership service and not exceeding three (3) times the
2395 member's qualified military service; provided, however, that in no
2396 event shall such period exceed five (5) years.

2397 (3) The member shall furnish proof satisfactory to the board
2398 of trustees of certification of military service showing dates of
2399 entrance into qualified service and the date of discharge as well
2400 as proof that the member has returned to active employment within
2401 the time specified.

2402 **SECTION 26.** Section 21-29-317, Mississippi Code of 1972, is
2403 amended as follows:

2404 21-29-317. (1) Notwithstanding any provisions of Articles
2405 1, 3 and 5 of this chapter to the contrary, the maximum annual
2406 retirement allowance attributable to the employer contributions
2407 payable by the system to a member under Article 1, 3 or 5 of this



2408 chapter shall be subject to the limitations set forth in Section
2409 415 of the Internal Revenue Code and any regulations issued
2410 thereunder as applicable to governmental plans as such term is
2411 defined under Section 414(d) of the Internal Revenue Code.

2412 (2) Notwithstanding any other provision of this plan, all
2413 distributions from this plan shall conform to the regulations
2414 issued under Section 401(a)(9) of the Internal Revenue Code,
2415 applicable to governmental plans, as defined in Section 414(d) of
2416 the Internal Revenue Code, including the incidental death benefit
2417 provisions of Section 401(a)(9)(G) of the Internal Revenue Code.
2418 Further, such regulations shall override any plan provision that
2419 is inconsistent with Section 401(a)(9) of the Internal Revenue
2420 Code.

2421 (3) The actuarial assumptions used to convert a retirement
2422 allowance from the normal form of payment to an optional form of
2423 payment shall be an appendix to Article 7 of this chapter and
2424 subject to approval by the board of directors based upon
2425 certification by the actuary.

2426 (4) Notwithstanding any other provision of this plan, the
2427 maximum compensation that can be considered for all plan purposes
2428 shall not be greater than that allowed under Section 401(a)(17) of
2429 the Internal Revenue Code.

2430 (5) In the event of the termination of one or more of the
2431 retirement plans established pursuant to Article 1, 3 or 5 of this
2432 chapter, all members of the plan or system as of the date of
2433 termination of the system shall be deemed to have a vested right
2434 to benefits to the extent and in the same manner that rights would
2435 be vested under the laws existing as of the date of termination of
2436 the system; provided, however, that any member, who because of a
2437 termination of the system has not fulfilled the requirements for
2438 length of service, shall be entitled to compensation as of the
2439 date that such member would otherwise be eligible, with such
2440 compensation to be computed on the basis of time actually a member



2441 of the service and compensation actually earned during the time a
2442 member, in the manner now provided by law.

2443 **SECTION 27.** Section 21-29-323, Mississippi Code of 1972, is
2444 amended as follows:

2445 21-29-323. Monthly benefits payable to a spouse in the event
2446 of the death of a member before retirement or a retiree after
2447 retirement shall be divided and paid to or for the benefit of any
2448 dependent children of the deceased member or retiree in an amount
2449 equal to ten percent (10%) of the annual benefit payable to one
2450 (1) dependent child, twenty percent (20%) for two (2) * * *
2451 dependent children, and thirty percent (30%) to three (3) or more
2452 dependent children. If there are more than three (3) dependent
2453 children, upon a child ceasing to be a dependent, his annuity
2454 shall terminate and there shall be a redetermination of the
2455 amounts payable to any remaining dependent children. Such
2456 benefits shall be paid to a surviving parent or lawful custodian
2457 of such children for the use and benefit of the children without
2458 the necessity of appointment of guardian. The remaining amount
2459 shall be paid to the spouse as otherwise provided.

2460 **SECTION 28.** Section 25-41-3, Mississippi Code of 1972, is
2461 amended as follows:

2462 25-41-3. For purposes of this chapter, the following words
2463 shall have the meaning ascribed herein, to wit:

2464 (a) "Public body" means: (i) any executive or
2465 administrative board, commission, authority, council, department,
2466 agency, bureau or any other policymaking entity, or committee
2467 thereof, of the State of Mississippi, or any political subdivision
2468 or municipal corporation of the state, whether such entity be
2469 created by statute or executive order, which is supported wholly
2470 or in part by public funds or expends public funds, and (ii) any
2471 standing, interim or special committee of the Mississippi
2472 Legislature. There shall be exempted from the provisions of this
2473 chapter the judiciary, including all jury deliberations, public



2474 and private hospital staffs, public and private hospital boards
2475 and committees thereof, law enforcement officials, the military,
2476 the State Probation and Parole Board, the Workers' Compensation
2477 Commission, legislative subcommittees and legislative conference
2478 committees, the arbitration council established in Section
2479 69-3-19, license revocation, suspension and disciplinary
2480 proceedings held by the Mississippi State Board of Dental
2481 Examiners and all proceedings of the medical board and disability
2482 appeals committee of the Public Employees' Retirement System.

2483 (b) "Meeting" means an assemblage of members of a
2484 public body at which official acts may be taken upon a matter over
2485 which the public body has supervision, control, jurisdiction or
2486 advisory power.

2487 **SECTION 29.** The amendments in Section 1 of this act
2488 contained in Section 25-11-103(k)(iii) shall be retroactive and
2489 apply when computing the earned compensation of all members;
2490 provided, however, that such amendments shall not apply when
2491 computing the earned compensation earned by justices of the
2492 Mississippi Supreme Court and judges of the Mississippi Court of
2493 Appeals from July 1, 1983, through June 30, 1999.

2494 **SECTION 30.** Section 17 of this act shall take effect and be
2495 in force from and after its passage. The remainder of this act
2496 shall take effect and be in force from and after July 1, 2002.

