HOUSE BILL NO. 207

AN ACT TO AMEND SECTION 25-11-111, MISSISSIPPI CODE OF 1972, TO REDUCE THE NUMBER OF YEARS OF CREDITABLE SERVICE WITH WHICH A MEMBER OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM MAY RETIRE REGARDLESS OF AGE FROM TWENTY-FIVE YEARS TO TWENTY YEARS; TO AMEND SECTION 25-11-114, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING PROVISION; TO AMEND SECTION 25-13-11, MISSISSIPPI CODE OF 1972, TO REDUCE THE NUMBER OF YEARS OF CREDITABLE SERVICE WITH WHICH A MEMBER OF THE HIGHWAY SAFETY PATROL RETIREMENT SYSTEM MAY RETIRE REGARDLESS OF AGE FROM TWENTY-FIVE YEARS TO TWENTY YEARS; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 25-11-111, Mississippi Code of 1972, is amended as follows:

25-11-111. (a) Any member upon withdrawal from service upon or after attainment of the age of sixty (60) years who has completed at least four (4) years of creditable service, or any member upon withdrawal from service, regardless of age, who has completed at least twenty (20) years of creditable service, shall be entitled to receive a retirement allowance, which shall begin on the first of the month following the date the member's application for the allowance is received by the board, but in no event before withdrawal from service.

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

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

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

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

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

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

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

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

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

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

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

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

(4) Any retired member or beneficiary thereof who was eligible to receive a retirement allowance before July 1, 1991, and who is still receiving a retirement allowance on July 1, 1992,
shall receive an increase in the annual retirement allowance of
the retired member equal to one-eighth of one percent (1/8 of 1%) of the average compensation for each year of state service in excess of twenty-five (25) years of membership service up to and including thirty (30) years. The maximum increase shall be five-eighths of one percent (5/8 of 1%). In no case shall a member who has been retired prior to July 1, 1987, receive less than Ten Dollars ($10.00) per month for each year of creditable service and proportionately for each quarter year thereof. Persons retired on or after July 1, 1987, shall receive at least Ten Dollars ($10.00) per month for each year of service and proportionately for each quarter year thereof reduced for the option selected. However, the Ten Dollars ($10.00) minimum per month for each year of creditable service shall not apply to a retirement allowance computed under Section 25-11-14 based on a percentage of the member's average compensation.

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

(6) Any member upon withdrawal from service upon or after attaining the age of sixty (60) years who has completed at least four (4) years of creditable service, or any member upon withdrawal from service regardless of age who has completed at least twenty (20) years of creditable service, shall be entitled to receive a retirement allowance computed in accordance with the formula set forth in this section. The retirement allowance otherwise payable may be converted into a retirement allowance of equivalent actuarial value in such an amount that, with the member's benefit under Title II of the federal Social Security
Act, the member will receive, so far as possible, approximately
the same amount annually before and after the earliest age at
which the member becomes eligible to receive a social security
benefit.

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

### RETIREMENT ALLOWANCE COMPUTATION

#### IMPLEMENTATION TABLE

<table>
<thead>
<tr>
<th>(A)</th>
<th>(B)</th>
</tr>
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<tbody>
<tr>
<td>PHASE</td>
<td>2% FOR YEARS</td>
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<tr>
<td></td>
<td>ABOVE THIS</td>
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<tr>
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<td>NUMBER AND</td>
</tr>
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<td></td>
<td>≤25 YEARS</td>
</tr>
</tbody>
</table>

| Phase 1 | 20 years | 2.250% |
| Phase 2 | 15 years | 2.250% |
| Phase 3 | 10 years | 2.250% |
| Phase 4 | 5 years  | 2.250% |
| Phase 5 | 0 years  | 2.250% |
| Phase 6 | 0 years  | 2.375% |
| Phase 7 | 0 years  | 2.500% |
Column A shows the years to which two percent (2%) is applicable in computing the retirement allowance, which are all the years of service exceeding the number specified in Column A for the phase that has been implemented up to and including twenty-five (25) years.

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

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

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

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

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

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

SECTION 2. Section 25-11-114, Mississippi Code of 1972, is amended as follows:

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

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

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

(ii) Had nominated his spouse as beneficiary

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

(c) The spouse annuity shall begin on the first day of the month following the date of the member’s death, but in case of late filing, retroactive payments will be made for a period of not more than one (1) year.
(d) The spouse annuity shall be the greater of twenty percent (20%) of the deceased member's average compensation as defined in Section 25-11-103 at the time of death or Fifty Dollars ($50.00) monthly. If the spouse dies or if the spouse remarries before age sixty (60), the spouse annuity shall terminate.

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

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

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

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

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

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

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

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

(5) If all the annuities provided for in this section payable on account of the death of a member terminate before there has been paid an aggregate amount equal to the member's accumulated contributions standing to the member's credit in the

H. B. No. 207
03/HR40/R13
PAGE 11 (RF\BD)
annuity savings account at the time of the member's death, the
difference between the accumulated contributions and the aggregate
amount of annuity payments shall be paid to such person as the
member has nominated by written designation duly executed and
filed with the board. If there is no designated beneficiary
surviving at termination of benefits, the difference shall be
payable pursuant to Section 25-11-117.1(1).

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

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

(7) In the event the deceased or disabled member has less
than four (4) years of creditable service, the average
compensation as defined in Section 25-11-103 shall be the average
of all annual earned compensation in state service for the
purposes of benefits provided in this section.
(8) In case of death or total and permanent disability under subsection (4) or subsection (6) of this section and before the board shall consider any application for a retirement allowance, the employer must certify to the board that the member's death or disability was a direct result of an accident or a traumatic event occurring during and as a result of the performance of the regular and assigned duties of the employee and that the death or disability was not the result of the willful negligence of the employee.

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

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

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

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

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

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

The annual amount of the retirement allowance shall consist of:

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

(b) An employer's annuity, which, together with the member's annuity provided above, shall be equal to two and one-half percent (2-1/2%) of the average compensation, based on
the four (4) highest consecutive years, for each year of membership service.

(c) A prior service annuity equal to two and one-half percent (2-1/2\%) of the average compensation, based on the four (4) highest consecutive years, for each year of prior service for which the member is allowed credit.

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

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

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

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

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

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

If there are multiple beneficiaries receiving a retirement allowance from a deceased member's account, the ad hoc increase shall be divided proportionately.

SECTION 4. This act shall take effect and be in force from and after July 1, 2003.