

By: Representative Moore (60th)

To: Appropriations

HOUSE BILL NO. 474

1 AN ACT TO ALLOW ANY PERSON WHO BECOMES A MEMBER OF THE PUBLIC
2 EMPLOYEES' RETIREMENT SYSTEM AFTER JUNE 30, 2003, TO ELECT TO HAVE
3 ALL OF HIS OR HER EMPLOYEE AND EMPLOYER CONTRIBUTIONS PAID INTO
4 THE DEFERRED COMPENSATION PROGRAM INSTEAD OF INTO THE RETIREMENT
5 SYSTEM; TO PROVIDE THAT ANY PERSON WHO MAKES THAT ELECTION WILL
6 NOT EARN ANY CREDITABLE SERVICE IN THE RETIREMENT SYSTEM, AND WILL
7 NOT BE ELIGIBLE FOR A RETIREMENT ALLOWANCE, A DISABILITY
8 RETIREMENT ALLOWANCE OR DEATH BENEFITS UNDER THE RETIREMENT
9 SYSTEM; TO PROVIDE THAT A PERSON MAY MAKE THE ELECTION WITHIN ONE
10 YEAR FROM THE DATE THAT THE PERSON WAS EMPLOYED IN STATE SERVICE;
11 TO PROVIDE THAT AN ELECTION MADE UNDER THIS SECTION IS IRREVOCABLE
12 AFTER IT HAS BEEN MADE; TO PROVIDE THAT IF A PERSON WHO MADE THE
13 ELECTION LEAVES STATE SERVICE FOR MORE THAN ONE YEAR AND LATER
14 RETURNS TO EMPLOYMENT IN STATE SERVICE, THE PERSON WILL HAVE THE
15 OPPORTUNITY TO MAKE ANOTHER ELECTION THAT APPLIES TO THE LATER
16 EMPLOYMENT; TO AMEND SECTIONS 25-11-109, 25-11-111, 25-11-113,
17 25-11-114, 25-11-117, 25-11-123, 25-11-127, AND 25-14-11,
18 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS;
19 AND FOR RELATED PURPOSES.

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

21 **SECTION 1.** (1) Any person who is employed in state service
22 after June 30, 2003, and becomes a member of the Public Employees'
23 Retirement System may elect to have all of his or her employee and
24 employer contributions made under Section 25-11-123 paid into the
25 deferred compensation program established under Section 25-14-1 et
26 seq. instead of into the Public Employees' Retirement System.

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

33 (3) Any person eligible to make the election under this
34 section may make the election within one (1) year from the date
35 that the person was employed in state service. At the time that



36 the election is made, all of the person's employee and employer
37 contributions that were made to the Public Employees' Retirement
38 System from the time the person became employed until the time the
39 election is made shall be transferred to the deferred compensation
40 program to the credit of the person.

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

54 **SECTION 2.** Section 25-11-109, Mississippi Code of 1972, is
55 amended as follows:

56 25-11-109. (1) Under such rules and regulations as the
57 board of trustees shall adopt, each person who becomes a member of
58 this retirement system, as provided in Section 25-11-105, on or
59 prior to July 1, 1953, or who becomes a member and contributes to
60 the system for a minimum period of four (4) years, shall receive
61 credit for all state service rendered before February 1, 1953. To
62 receive such credit, such member shall file a detailed statement
63 of all services as an employee rendered by him in the state
64 service before February 1, 1953. For any member who joined the
65 system after July 1, 1953, any creditable service for which the
66 member is not required to make contributions shall not be credited
67 to the member until the member has contributed to the system for a
68 minimum period of at least four (4) years.



69 (2) In the computation of membership service or prior
70 service under the provisions of this article, the total months of
71 accumulative service during any fiscal year shall be calculated in
72 accordance with the schedule as follows: ten (10) or more months
73 of creditable service during any fiscal year shall constitute a
74 year of creditable service; seven (7) months to nine (9) months
75 inclusive, three-quarters (3/4) of a year of creditable service;
76 four (4) months to six (6) months inclusive, one-half-year of
77 creditable service; one (1) month to three (3) months inclusive,
78 one-quarter (1/4) of a year of creditable service. In no case
79 shall credit be allowed for any period of absence without
80 compensation except for disability while in receipt of a
81 disability retirement allowance, nor shall less than fifteen (15)
82 days of service in any month, or service less than the equivalent
83 of one-half (1/2) of the normal working load for the position and
84 less than one-half (1/2) of the normal compensation for the
85 position in any month, constitute a month of creditable service,
86 nor shall more than one (1) year of service be creditable for all
87 services rendered in any one (1) fiscal year; however, for a
88 school employee, substantial completion of the legal school term
89 when and where the service was rendered shall constitute a year of
90 service credit for both prior service and membership service. Any
91 state or local elected official shall be deemed a full-time
92 employee for the purpose of creditable service for prior service
93 or membership service. However, an appointed or elected official
94 compensated on a per diem basis only shall not be allowed
95 creditable service for terms of office.

96 In the computation of any retirement allowance or any annuity
97 or benefits provided in this article, any fractional period of
98 service of less than one (1) year shall be taken into account and
99 a proportionate amount of such retirement allowance, annuity or
100 benefit shall be granted for any such fractional period of
101 service.



102 In the computation of unused leave for creditable service
103 authorized in Section 25-11-103, the following shall govern:
104 twenty-one (21) days of unused leave shall constitute one (1)
105 month of creditable service and in no case shall credit be allowed
106 for any period of unused leave of less than fifteen (15) days.
107 The number of months of unused leave shall determine the number of
108 quarters or years of creditable service in accordance with the
109 above schedule for membership and prior service. In order for the
110 member to receive creditable service for the number of days of
111 unused leave, the system must receive certification from the
112 governing authority.

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

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

120 (b) For service on and after July 1, 1984, the member
121 shall receive credit for personal and major medical leave
122 beginning July 1, 1984, at the rates authorized in Sections
123 25-3-93 and 25-3-95, computed as a full-time employee.

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

128 (4) Upon verification of the statement of prior service, the
129 board shall issue a prior service certificate certifying to each
130 member the length of prior service for which credit shall have
131 been allowed on the basis of his statement of service. So long as
132 membership continues, a prior service certificate shall be final
133 and conclusive for retirement purposes as to such service,
134 provided that any member may within five (5) years from the date



135 of issuance or modification of such certificate request the board
136 of trustees to modify or correct his prior service certificate.
137 Any modification or correction authorized shall only apply
138 prospectively.

139 When membership ceases, such prior service certificates shall
140 become void. Should the employee again become a member, he shall
141 enter the system as an employee not entitled to prior service
142 credit except as provided in Sections 25-11-105(I), 25-11-113 and
143 25-11-117.

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

150 (6) Any member who served on active duty in the Armed Forces
151 of the United States, who served in the Commissioned Corps of the
152 United States Public Health Service prior to 1972 or who served in
153 maritime service during periods of hostility in World War II,
154 shall be entitled to creditable service at no cost for his service
155 on active duty in the Armed Forces, in the Commissioned Corps of
156 the United States Public Health Service prior to 1972 or in such
157 maritime service, provided he entered state service after his
158 discharge from the Armed Forces or entered state service after he
159 completed such maritime service. The maximum period for such
160 creditable service for all military service as defined in this
161 subsection (6) shall not exceed four (4) years unless positive
162 proof can be furnished by such person that he was retained in the
163 Armed Forces during World War II or in maritime service during
164 World War II by causes beyond his control and without opportunity
165 of discharge. The member shall furnish proof satisfactory to the
166 board of trustees of certification of military service or maritime
167 service records showing dates of entrance into active duty service



168 and the date of discharge. From and after July 1, 1993, no
169 creditable service shall be granted for any military service or
170 maritime service to a member who qualifies for a retirement
171 allowance in another public retirement system administered by the
172 Board of Trustees of the Public Employees' Retirement System based
173 in whole or in part on such military or maritime service. In no
174 case shall the member receive creditable service if the member
175 received a dishonorable discharge from the Armed Forces of the
176 United States.

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

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

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

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

199 (b) The payments required to be made in paragraph
200 (a)(i) of this subsection may be made over a period beginning with



201 the date of return to membership service and not exceeding three
202 (3) times the member's qualified military service; however, in no
203 event shall such period exceed five (5) years.

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

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

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

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

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



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

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

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

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

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

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

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

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

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



266 shall qualify for continued participation under this subsection
267 (9).

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

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

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

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

291 (11) Any person who has made the election provided for under
292 Section 1 of this act is not eligible for creditable service under
293 this article for the person's employment while operating under the
294 election.

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

297 25-11-111. (a) Any member upon withdrawal from service upon
298 or after attainment of the age of sixty (60) years who shall have



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

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

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

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

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

330 (2) An employer's annuity which, together with the
331 member's annuity provided above, shall be equal to one and



332 seven-eighths percent (1-7/8%) of the average compensation for
333 each year of state service up to and including twenty-five (25)
334 years of membership service, and two and one-fourth percent
335 (2-1/4%) of the average compensation for each year of state
336 service exceeding twenty-five (25) years of membership service.
337 However, after the board of trustees has begun implementing the
338 changes in the computation of the retirement allowance as provided
339 in subsection (e), the employer's annuity shall be equal to:

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

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

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

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



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

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

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

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



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

404 (6) Any member upon withdrawal from service upon or
405 after attaining the age of sixty (60) years who has completed at
406 least four (4) years of creditable service, or any member upon
407 withdrawal from service regardless of age who has completed at
408 least twenty-five (25) years of creditable service, shall be
409 entitled to receive a retirement allowance computed in accordance
410 with the formula set forth in this section. Such retirement
411 allowance otherwise payable may be converted into a retirement
412 allowance of equivalent actuarial value in such an amount that,
413 with the member's benefit under Title II of the federal Social
414 Security Act, the member will receive, so far as possible,
415 approximately the same amount annually before and after the
416 earliest age at which the member becomes eligible to receive a
417 social security benefit.

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



430 member or beneficiary of such a member as each phase is
431 implemented.

432 RETIREMENT ALLOWANCE COMPUTATION

433 IMPLEMENTATION TABLE

434	(A)	(B)	
435	PHASE	2% FOR YEARS	PERCENTAGE
436		ABOVE THIS	FOR YEARS
437		NUMBER AND	ABOVE 25
438		≤25 YEARS	YEARS

439			
440	Phase 1	20 years	2.250%
441	Phase 2	15 years	2.250%
442	Phase 3	10 years	2.250%
443	Phase 4	5 years	2.250%
444	Phase 5	0 years	2.250%
445	Phase 6	0 years	2.375%
446	Phase 7	0 years	2.500%

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

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

455 (f) No member, except members excluded by the Age
456 Discrimination in Employment Act Amendments of 1986 (Public Law
457 99-592), under either Article 1 or Article 3 in state service
458 shall be required to retire because of age.

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



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

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

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

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

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

486 **SECTION 4.** Section 25-11-113, Mississippi Code of 1972, is
487 amended as follows:

488 25-11-113. (1) (a) Upon the application of a member or his
489 employer, any active member in state service who has at least four
490 (4) years of membership service credit may be retired by the board
491 of trustees on the first of the month following the date of filing
492 such application on a disability retirement allowance, but in no
493 event shall the disability retirement allowance commence before
494 termination of state service, provided that the medical board,



495 after an evaluation of medical evidence that may or may not
496 include an actual physical examination by the medical board, shall
497 certify that the member is mentally or physically incapacitated
498 for the further performance of duty, that such incapacity is
499 likely to be permanent, and that the member should be retired;
500 however, the board of trustees may accept a disability medical
501 determination from the Social Security Administration in lieu of a
502 certification from the medical board. For the purposes of
503 disability determination, the medical board shall apply the
504 following definition of disability: the inability to perform the
505 usual duties of employment or the incapacity to perform such
506 lesser duties, if any, as the employer, in its discretion, may
507 assign without material reduction in compensation, or the
508 incapacity to perform the duties of any employment covered by the
509 Public Employees' Retirement System (Section 25-11-101 et seq.)
510 that is actually offered and is within the same general
511 territorial work area, without material reduction in compensation.
512 The employer shall be required to furnish the job description and
513 duties of the member. The employer shall further certify whether
514 the employer has offered the member other duties and has complied
515 with the applicable provisions of the Americans With Disabilities
516 Act in affording reasonable accommodations which would allow the
517 employee to continue employment.

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

525 (c) Any member who is or becomes eligible for service
526 retirement benefits under Section 25-11-111 while pursuing a
527 disability retirement allowance under this section or Section



528 25-11-114 may elect to receive a service retirement allowance
529 pending a final determination on eligibility for a disability
530 retirement allowance or withdrawal of the application for the
531 disability retirement allowance. In such a case, an application
532 for a disability retirement allowance must be on file with the
533 system before the commencement of a service retirement allowance.
534 If the application is approved, the option selected and
535 beneficiary designated on the retirement application shall be used
536 to determine the disability retirement allowance. If the
537 application is not approved or if the application is withdrawn,
538 the service retirement allowance shall continue to be paid in
539 accordance with the option selected. No person may apply for a
540 disability retirement allowance after the person begins to receive
541 a service retirement allowance.

542 (d) If the medical board certifies that the member is
543 not mentally or physically incapacitated for the future
544 performance of duty, the member may request, within sixty (60)
545 days, a hearing before the hearing officer as provided in Section
546 25-11-120. All hearings shall be held in accordance with rules
547 and regulations adopted by the board to govern such hearings.
548 Such hearing may be closed upon the request of the member.

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

554 (2) Allowance on disability retirement.

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

558 (b) Except as provided in paragraph (c) of this
559 subsection (2), an eligible member who is retired for disability
560 and who has not attained sixty (60) years of age shall receive a



561 disability benefit as computed in Section 25-11-111(d) (1) through
562 (d) (4) which shall consist of:

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

566 (ii) An employer's annuity equal to the amount
567 that would have been payable as a retirement allowance for both
568 membership service and prior service had the member continued in
569 service to the age of sixty (60) years, which shall apply to the
570 allowance for disability retirement paid to retirees receiving
571 such allowance upon and after April 12, 1977. This employer's
572 annuity shall be computed on the basis of the average "earned
573 compensation" as defined in Section 25-11-103.

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

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

586	Age at Disability	Duration
587	60 and earlier	to age 65
588	61	to age 66
589	62	to age 66
590	63	to age 67
591	64	to age 67
592	65	to age 68
593	66	to age 68



594 67 to age 69
595 68 to age 70
596 69 and over one year

597 The deferred allowance shall commence when the temporary
598 allowance ceases and shall be payable for life. The deferred
599 allowance shall equal the greater of (i) the allowance that would
600 have been payable had the member continued in service to the
601 termination age of the temporary allowance, but no more than forty
602 percent (40%) of average compensation, or (ii) the accrued benefit
603 based on actual service at the time of disability. The deferred
604 allowance as determined at the time of disability shall be
605 adjusted in accordance with Section 25-11-112 for the period
606 during which the temporary annuity is payable. In no case shall a
607 member receive less than Ten Dollars (\$10.00) per month for each
608 year of service and proportionately for each quarter year thereof
609 reduced for the option selected.

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

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

620 (3) Reexamination of retirees retired on account of
621 disability. Except as otherwise provided in this section, once
622 each year during the first five (5) years following retirement of
623 a member on a disability retirement allowance, and once in every
624 period of three (3) years thereafter, the board of trustees may,
625 and upon his application shall, require any disability retiree who
626 has not yet attained the age of sixty (60) years or the



627 termination age of the temporary allowance under paragraph (2)(c)
628 of this section to undergo a medical examination, such examination
629 to be made at the place of residence of the retiree or other place
630 mutually agreed upon by a physician or physicians designated by
631 the board. The board, however, in its discretion, may authorize
632 the medical board to establish reexamination schedules appropriate
633 to the medical condition of individual disability retirees.
634 Should any disability retiree who has not yet attained the age of
635 sixty (60) years or the termination age of the temporary allowance
636 under paragraph (2)(c) of this section refuse to submit to any
637 medical examination provided herein, his allowance may be
638 discontinued until his withdrawal of such refusal; and should his
639 refusal continue for one (1) year, all his rights to a disability
640 benefit shall be revoked by the board of trustees.

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

656 (5) Should a disability retiree under the age of sixty (60)
657 years or the termination age of the temporary allowance under
658 paragraph (2)(c) of this section be restored to active service at
659 a compensation not less than his average compensation, his



660 disability benefit shall cease, he shall again become a member of
661 the retirement system, and contributions shall be withheld and
662 reported. Any such prior service certificate, on the basis of
663 which his service was computed at the time of retirement, shall be
664 restored to full force and effect. In addition, upon his
665 subsequent retirement he shall be credited with all creditable
666 service as a member, but the total retirement allowance paid to
667 the retired member in his previous retirement shall be deducted
668 from his retirement reserve and taken into consideration in
669 recalculating the retirement allowance under a new option
670 selected.

671 (6) If following reexamination in accordance with the
672 provisions contained in this section, the medical board determines
673 that a retiree retired on account of disability is physically and
674 mentally able to return to the employment from which he is
675 retired, the board of trustees, upon certification of such
676 findings from the medical board, shall, after a reasonable period
677 of time, terminate the disability allowance, whether or not the
678 retiree is reemployed or seeks such reemployment. In addition, if
679 the board of trustees determines that the retiree is no longer
680 sustaining a loss of income as established by documented evidence
681 of the retiree's earned income, the eligibility for a disability
682 allowance shall terminate and the allowance terminated within a
683 reasonable period of time. In the event the retirement allowance
684 is terminated under the provisions of this section, the retiree
685 may subsequently qualify for a retirement allowance under Section
686 25-11-111 based on actual years of service credit plus credit for
687 the period during which a disability allowance was paid.

688 (7) Any current member as of June 30, 1992, who retires on a
689 disability retirement allowance after June 30, 1992, and who has
690 not elected to receive benefits under paragraph (2)(c) of this
691 section, shall relinquish all rights under the Age Discrimination



692 in Employment Act of 1967, as amended, with regard to the benefits
693 payable under this section.

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

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

700 25-11-114. (1) The applicable benefits provided in
701 subsections (2) and (3) of this section shall be paid to eligible
702 beneficiaries of any member who has completed four (4) or more
703 years of creditable service and who dies before retirement and who
704 has not filed a Pre-Retirement Optional Retirement Form as
705 provided in Section 25-11-111.

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

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

714 (ii) Had nominated his spouse as beneficiary.

715 (b) If, at the time of the member's death, there are no
716 dependent children, and the surviving spouse, who otherwise would
717 receive the annuity under this subsection (2), has filed with the
718 system a signed written waiver of his or her rights to the annuity
719 and that waiver was in effect at the time of the member's death, a
720 lump sum distribution of the deceased member's accumulated
721 contributions shall be refunded in accordance with Section
722 25-11-117.

723 (c) The spouse annuity shall begin on the first day of
724 the month following the date of the member's death, but in case of



725 late filing, retroactive payments will be made for a period of not
726 more than one (1) year.

727 (d) The spouse annuity shall be the greater of twenty
728 percent (20%) of the deceased member's average compensation as
729 defined in Section 25-11-103 at the time of death or Fifty Dollars
730 (\$50.00) monthly. If the spouse dies or if the spouse remarries
731 before age sixty (60), the spouse annuity shall terminate.

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

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

756 (3) (a) Subject to the maximum limitation provided in this
757 paragraph, the member's dependent children each shall receive an



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

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



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

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

801 (4) (a) Death benefits in the line of duty. Regardless of
802 the number of years of the member's creditable service, the spouse
803 and/or the dependent children of an active member who is killed in
804 the line of performance of duty or dies as a direct result of an
805 accident occurring in the line of performance of duty shall
806 qualify, on approval of the board, for a retirement allowance on
807 the first of the month following the date of death, but in the
808 case of late filing, retroactive payments will be made for a
809 period of not more than one (1) year. The spouse shall receive a
810 retirement allowance equal to one-half (1/2) of the average
811 compensation as defined in Section 25-11-103. In addition to the
812 retirement allowance for the spouse, or if there is no surviving
813 spouse, the member's dependent child shall receive a retirement
814 allowance in the amount of one-fourth (1/4) of the member's
815 average compensation as defined in Section 25-11-103; however, if
816 there are two (2) or more dependent children, each dependent child
817 shall receive an equal share of a total annuity equal to one-half
818 (1/2) of the member's average compensation. If there are more
819 than two (2) dependent children, upon a child's ceasing to be a
820 dependent child, his annuity shall terminate and there shall be a
821 redetermination of the amounts payable to any remaining dependent
822 children. Such benefits shall cease to be paid for the support



823 and maintenance of each child upon such child attaining the age of
824 nineteen (19) years; however, the spouse shall continue to be
825 eligible for the aforesaid retirement allowance. Such benefits
826 may be paid to a surviving parent or lawful custodian of such
827 children for the use and benefit of the children without the
828 necessity of appointment as guardian. Such retirement allowance
829 shall cease to the spouse upon remarriage but continue to be
830 payable for each dependent child until the age of nineteen (19)
831 years.

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



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

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

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



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

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

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

914 (10) Notwithstanding any other section of this article and
915 in lieu of any payments to a designated beneficiary for a refund
916 of contributions under Section 25-11-117, the spouse and/or
917 children shall be eligible for the benefits payable pursuant to
918 this section, and the spouse may elect, for both the spouse and/or
919 children, to receive benefits in accordance with either



920 subsections (2) and (3) or subsection (4) of this section;
921 otherwise, the contributions to the credit of the deceased member
922 shall be refunded in accordance with Section 25-11-117.

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

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

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

935 25-11-117. (1) A member may be paid a refund of the amount
936 of accumulated contributions to the credit of the member in the
937 annuity savings account provided the member has withdrawn from
938 state service and further provided the member has not returned to
939 state service on the date the refund of the accumulated
940 contributions would be paid. Such refund of the contributions to
941 the credit of the member in the annuity savings account shall be
942 paid within ninety (90) days from receipt in the office of the
943 retirement system of the properly completed form requesting such
944 payment. In the event of death prior to retirement of any member
945 whose spouse and/or children are not entitled to a retirement
946 allowance, the accumulated contributions to the credit of the
947 deceased member in the annuity savings account shall be paid to
948 the designated beneficiary on file in writing in the office of the
949 executive director of the board of trustees within ninety (90)
950 days from receipt of a properly completed form requesting such
951 payment. If there is no such designated beneficiary on file for
952 such deceased member in the office of the system, upon the filing



953 of a proper request with the board, the contributions to the
954 credit of the deceased member in the annuity savings account shall
955 be refunded pursuant to Section 25-11-117.1(1). The payment of
956 the refund shall discharge all obligations of the retirement
957 system to the member on account of any creditable service rendered
958 by the member prior to the receipt of the refund. By the
959 acceptance of the refund, the member shall waive and relinquish
960 all accrued rights in the system.

961 (2) Pursuant to the Unemployment Compensation Amendments of
962 1992 (Public Law 102-318 (UCA)), a member or the spouse of a
963 member who is an eligible beneficiary entitled to a refund under
964 this section may elect, on a form prescribed by the board under
965 rules and regulations established by the board, to have an
966 eligible rollover distribution of accumulated contributions
967 payable under this section paid directly to an eligible retirement
968 plan, as defined under applicable federal law, or an individual
969 retirement account. If the member or the spouse of a member who
970 is an eligible beneficiary makes such election and specifies the
971 eligible retirement plan or individual retirement account to which
972 such distribution is to be paid, the distribution will be made in
973 the form of a direct trustee-to-trustee transfer to the specified
974 eligible retirement plan. Flexible rollovers under this
975 subsection shall not be considered assignments under Section
976 25-11-129.

977 (3) If any person who has received a refund reenters the
978 state service and again becomes a member of the system, the member
979 may repay all or part of the amounts previously received as a
980 refund, together with regular interest covering the period from
981 the date of refund to the date of repayment; provided, however,
982 that the amounts that are repaid by the member and the creditable
983 service related thereto shall not be used in any benefit
984 calculation or determination until the member has remained a
985 contributor to the system for a period of at least four (4) years



986 subsequent to such member's reentry into state service. Repayment
987 for such time shall be made in increments of not less than
988 one-quarter (1/4) year of creditable service beginning with the
989 most recent service for which refund has been made. Upon the
990 repayment of all or part of such refund and interest, the member
991 shall again receive credit for the period of creditable service
992 for which full repayment has been made to the system.

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

998 **SECTION 7.** Section 25-11-123, Mississippi Code of 1972, is
999 amended as follows:

1000 25-11-123. All of the assets of the system shall be credited
1001 according to the purpose for which they are held to one (1) of
1002 four (4) reserves; namely, the annuity savings account, the
1003 annuity reserve, the employer's accumulation account, and the
1004 expense account.

1005 (a) **Annuity savings account.** In the annuity savings account
1006 shall be accumulated the contributions made by members to provide
1007 for their annuities, including interest thereon which shall be
1008 posted monthly. Credits to and charges against the annuity
1009 savings account shall be made as follows:

1010 (1) Beginning July 1, 1991, the employer shall cause to
1011 be deducted from the salary of each member on each and every
1012 payroll of the employer for each and every payroll period seven
1013 and one-fourth percent (7-1/4%) of earned compensation as defined
1014 in Section 25-11-103. Future contributions shall be fixed
1015 biennially by the board on the basis of the liabilities of the
1016 retirement system for the various allowances and benefits as shown
1017 by actuarial valuation; however, any member earning at a rate less
1018 than Sixteen Dollars and Sixty-seven Cents (\$16.67) per month, or



1019 Two Hundred Dollars (\$200.00) per year, shall contribute not less
1020 than One Dollar (\$1.00) per month, or Twelve Dollars (\$12.00) per
1021 year.

1022 (2) The deductions provided herein shall be made
1023 notwithstanding that the minimum compensation provided by law for
1024 any member is reduced thereby. Every member shall be deemed to
1025 consent and agree to the deductions made and provided for herein
1026 and shall receipt for his full salary or compensation, and payment
1027 of salary or compensation less the deduction shall be a full and
1028 complete discharge and acquittance of all claims and demands
1029 whatsoever for the services rendered by the person during the
1030 period covered by the payment, except as to the benefits provided
1031 under Articles 1 and 3. The board shall provide by rules for the
1032 methods of collection of contributions from members and the
1033 employer. The board shall have full authority to require the
1034 production of evidence necessary to verify the correctness of
1035 amounts contributed.

1036 (3) For any person who has made the election provided
1037 for under Section 1 of this act, the employee's contributions
1038 provided for under this subsection shall be paid into the deferred
1039 compensation program as provided in Section 1 of this act instead
1040 of into the annuity savings account.

1041 (b) **Annuity reserve.** The annuity reserve shall be the
1042 account representing the actuarial value of all annuities in
1043 force, and to it shall be charged all annuities and all benefits
1044 in lieu of annuities, payable as provided in this article. If a
1045 beneficiary retired on account of disability is restored to active
1046 service with a compensation not less than his average final
1047 compensation at the time of his last retirement, the remainder of
1048 his contributions shall be transferred from the annuity reserve to
1049 the annuity savings account and credited to his individual account
1050 therein, and the balance of his annuity reserve shall be
1051 transferred to the employer's accumulation account.



1052 (c) **Employer's accumulation account.** The employer's
1053 accumulation account shall represent the accumulation of all
1054 reserves for the payment of all retirement allowances and other
1055 benefits payable from contributions made by the employer, and
1056 against this account shall be charged all retirement allowances
1057 and other benefits on account of members. Credits to and charges
1058 against the employer's accumulation account shall be made as
1059 follows:

1060 (1) On account of each member there shall be paid
1061 monthly into the employer's accumulation account by the employers
1062 for the preceding fiscal year an amount equal to a certain
1063 percentage of the total earned compensation, as defined in Section
1064 25-11-103, of each member. The percentage rate of those
1065 contributions shall be fixed biennially by the board on the basis
1066 of the liabilities of the retirement system for the various
1067 allowances and benefits as shown by actuarial valuation.
1068 Beginning January 1, 1990, the rate shall be fixed at nine and
1069 three-fourths percent (9-3/4%). The board shall reduce the
1070 employer's contribution rate by one percent (1%) from and after
1071 July 1 of the year following the year in which the board
1072 determines and the board's actuary certifies that the employer's
1073 contribution rate can be reduced by that amount without causing
1074 the unfunded accrued actuarial liability amortization period for
1075 the retirement system to exceed twenty (20) years. Political
1076 subdivisions joining Article 3 of the Public Employees' Retirement
1077 System after July 1, 1968, may adjust the employer's contributions
1078 by agreement with the Board of Trustees of the Public Employees'
1079 Retirement System to provide service credits for any period before
1080 execution of the agreement based upon an actuarial determination
1081 of employer's contribution rates.

1082 (2) On the basis of regular interest and of such
1083 mortality and other tables as are adopted by the board of
1084 trustees, the actuary engaged by the board to make each valuation



1085 required by this article during the period over which the accrued
1086 liability contribution is payable, immediately after making that
1087 valuation, shall determine the uniform and constant percentage of
1088 the earnable compensation of each member which, if contributed by
1089 the employer on the basis of compensation of the member throughout
1090 his entire period of membership service, would be sufficient to
1091 provide for the payment of any retirement allowance payable on his
1092 account for that service. The percentage rate so determined shall
1093 be known as the "normal contribution rate." After the accrued
1094 liability contribution has ceased to be payable, the normal
1095 contribution rate shall be the percentage rate of the salary of
1096 all members obtained by deducting from the total liabilities on
1097 account of membership service the amount in the employer's
1098 accumulation account, and dividing the remainder by one percent
1099 (1%) of the present value of the prospective future salaries of
1100 all members as computed on the basis of the mortality and service
1101 tables adopted by the board of trustees and regular interest. The
1102 normal rate of contributions shall be determined by the actuary
1103 after each valuation.

1104 (3) The total amount payable in each year to the
1105 employer's accumulation account shall not be less than the sum of
1106 the percentage rate known as the "normal contribution" rate and
1107 the "accrued liability contribution" rate of the total
1108 compensation earnable by all members during the preceding year,
1109 provided that the payment by the employer shall be sufficient,
1110 when combined with the amounts in the account, to provide the
1111 allowances and other benefits chargeable to this account during
1112 the year then current.

1113 (4) The accrued liability contribution shall be
1114 discontinued as soon as the accumulated balance in the employer's
1115 accumulation account shall equal the present value, computed on
1116 the basis of the normal contribution rate then in force, or the



1117 prospective normal contributions to be received on account of all
1118 persons who are at that time members.

1119 (5) All allowances and benefits in lieu thereof, with
1120 the exception of those payable on account of members who receive
1121 no prior service credit, payable from contributions of the
1122 employer, shall be paid from the employer's accumulation account.

1123 (6) Upon the retirement of a member, an amount equal to
1124 his retirement allowance shall be transferred from the employer's
1125 accumulation account to the annuity reserve.

1126 (7) For any person who has made the election provided
1127 for under Section 1 of this act, the employer's contributions
1128 provided for under this subsection shall be paid into the deferred
1129 compensation program as provided in Section 1 of this act, instead
1130 of into the employer's accumulation account.

1131 (d) **Expense account.** The expense account shall be the
1132 account to which the expenses of the administration of the system
1133 shall be charged, exclusive of amounts payable as retirement
1134 allowances and as other benefits provided herein. The Legislature
1135 shall make annual appropriations in amounts sufficient to
1136 administer the system, which shall be credited to this account.
1137 There shall be transferred to the State Treasury from this
1138 account, not less than once per month, an amount sufficient for
1139 payment of the estimated expenses of the system for the succeeding
1140 thirty (30) days. Any interest earned on the expense account
1141 shall accrue to the benefit of the system. However,
1142 notwithstanding the provisions of Sections 25-11-15(10) and
1143 25-11-105(f)(5)E, all expenses of the administration of the system
1144 shall be paid from the interest earnings, provided the interest
1145 earnings are in excess of the actuarial interest assumption as
1146 determined by the board, and provided the present cost of the
1147 administrative expense fee of two percent (2%) of the
1148 contributions reported by the political subdivisions and
1149 instrumentalities shall be reduced to one percent (1%) from and



1150 after July 1, 1983, through June 30, 1984, and shall be eliminated
1151 thereafter.

1152 (e) **Collection of contributions.** The employer shall cause
1153 to be deducted on each and every payroll of a member for each and
1154 every payroll period, beginning subsequent to January 31, 1953,
1155 the contributions payable by the member as provided in Articles 1
1156 and 3.

1157 The employer shall make deductions from salaries of employees
1158 as provided in Articles 1 and 3 and shall transmit monthly, or at
1159 such time as the board of trustees designates, the amount
1160 specified to be deducted to the Executive Director of the Public
1161 Employees' Retirement System. The executive director, after
1162 making a record of all those receipts, shall deposit such amounts
1163 as provided by law.

1164 (f) (1) Upon the basis of each actuarial valuation provided
1165 herein, the board of trustees shall biennially determine the
1166 normal contribution rate and the accrued liability contribution
1167 rate as provided in this section. The sum of these two (2) rates
1168 shall be known as the "employer's contribution rate." Beginning
1169 on earned compensation effective January 1, 1990, the rate
1170 computed as provided in this section shall be nine and
1171 three-fourths percent (9-3/4%). The board shall reduce the
1172 employer's contribution rate by one percent (1%) from and after
1173 July 1 of the year following the year in which the board
1174 determines and the board's actuary certifies that the employer's
1175 contribution rate can be reduced by that amount without causing
1176 the unfunded accrued actuarial liability amortization period for
1177 the retirement system to exceed twenty (20) years. The percentage
1178 rate of those contributions shall be fixed biennially by the board
1179 on the basis of the liabilities of the retirement system for the
1180 various allowances and benefits as shown by actuarial
1181 valuation.



1182 (2) The amount payable by the employer on account of
1183 normal and accrued liability contributions shall be determined by
1184 applying the employer's contribution rate to the amount of
1185 compensation earned by employees who are members of the system.
1186 Monthly, or at such time as the board of trustees designates, each
1187 department or agency shall compute the amount of the employer's
1188 contribution payable, with respect to the salaries of its
1189 employees who are members of the system, and shall cause that
1190 amount to be paid to the board of trustees from the personal
1191 service allotment of the amount appropriated for the operation of
1192 the department or agency, or from funds otherwise available to the
1193 agency, for the payment of salaries to its employees.

1194 For any person who has made the election provided for under
1195 Section 1 of this act, the employer's contributions provided for
1196 under this subsection (f) shall be paid into the deferred
1197 compensation program as provided in Section 1 of this act.

1198 (3) Constables shall pay employer and employee
1199 contributions on their net fee income as well as the employee
1200 contributions on all direct treasury or county payroll income.
1201 The county shall be responsible for the employer contribution on
1202 all direct treasury or county payroll income of constables.

1203 (4) Chancery and circuit clerks shall be responsible
1204 for both the employer and employee share of contributions on the
1205 proportionate share of net income attributable to fees, as well as
1206 the employee share of net income attributable to direct treasury
1207 or county payroll income, and the employing county shall be
1208 responsible for the employer contributions on the net income
1209 attributable to direct treasury or county payroll income.

1210 (5) Once each year, under procedures established by the
1211 system, each employer shall submit to the Public Employees'
1212 Retirement System a copy of their report to Social Security of all
1213 employees' earnings.



1214 (6) The board shall provide by rules for the methods of
1215 collection of contributions of employers and members. The amounts
1216 determined due by an agency to the various funds as specified in
1217 Articles 1 and 3 are made obligations of the agency to the board
1218 and shall be paid as provided herein. Failure to deduct those
1219 contributions shall not relieve the employee and employer from
1220 liability thereof. Delinquent employee contributions and any
1221 accrued interest shall be the obligation of the employee and
1222 delinquent employer contributions and any accrued interest shall
1223 be the obligation of the employer. The employer may, in its
1224 discretion, elect to pay any or all of the interest on delinquent
1225 employee contributions. From and after July 1, 1996, under rules
1226 and regulations established by the board, all employers are
1227 authorized and shall transfer all funds due to the Public
1228 Employees' Retirement System electronically and shall transmit any
1229 wage or other reports by computerized reporting systems.

1230 **SECTION 8.** Section 25-11-127, Mississippi Code of 1972, is
1231 amended as follows:

1232 25-11-127. (1) (a) No person who is being paid a
1233 retirement allowance or a pension after retirement under this
1234 article shall be employed or paid for any service by the State of
1235 Mississippi, except as provided in this section.

1236 (b) No retiree of this retirement system who is
1237 reemployed or is reelected to office after retirement shall
1238 continue to draw retirement benefits while so reemployed, except
1239 as provided in this section.

1240 (c) No person employed or elected under the exceptions
1241 provided for in this section shall become a member under Article 3
1242 of the retirement system.

1243 (2) Any person who has been retired under the provisions of
1244 Article 3 and who is later reemployed in service covered by this
1245 article shall cease to receive benefits under this article and
1246 shall again become a contributing member of the retirement system.



1247 When the person retires again, if the reemployment exceeds six (6)
1248 months, the person shall have his or her benefit recomputed,
1249 including service after again becoming a member, provided that the
1250 total retirement allowance paid to the retired member in his or
1251 her previous retirement shall be deducted from the member's
1252 retirement reserve and taken into consideration in recalculating
1253 the retirement allowance under a new option selected.

1254 (3) The board shall have the right to prescribe rules and
1255 regulations for carrying out the provisions of this section.

1256 (4) The provisions of this section shall not be construed to
1257 prohibit any retiree, regardless of age, from being employed and
1258 drawing a retirement allowance either:

1259 (a) For a period of time not to exceed one-half (1/2)
1260 of the normal working days for the position in any fiscal year
1261 during which the retiree will receive no more than one-half (1/2)
1262 of the salary in effect for the position at the time of
1263 employment, or

1264 (b) For a period of time in any fiscal year sufficient
1265 in length to permit a retiree to earn not in excess of twenty-five
1266 percent (25%) of retiree's average compensation.

1267 To determine the normal working days for a position under
1268 paragraph (a) of this subsection, the employer shall determine the
1269 required number of working days for the position on a full-time
1270 basis and the equivalent number of hours representing the
1271 full-time position. The retiree then may work up to one-half
1272 (1/2) of the required number of working days or up to one-half
1273 (1/2) of the equivalent number of hours and receive up to one-half
1274 (1/2) of the salary for the position. In the case of employment
1275 with multiple employers, the limitation shall equal one-half (1/2)
1276 of the number of days or hours for a single full-time position.

1277 Notice shall be given in writing to the executive director,
1278 setting forth the facts upon which the employment is being made,
1279 and the notice shall be given within five (5) days from the date



1280 of employment and also from the date of termination of the
1281 employment.

1282 (5) Any member may continue in municipal or county elected
1283 office or be elected to a municipal or county office, provided
1284 that the person:

1285 (a) Files annually, in writing, in the office of the
1286 employer and the office of the executive director of the system
1287 before the person takes office or as soon as possible after
1288 retirement, a waiver of all salary or compensation and elects to
1289 receive in lieu of that salary or compensation a retirement
1290 allowance as provided in this section, in which event no salary or
1291 compensation shall thereafter be due or payable for those
1292 services; however, any such officer or employee may receive, in
1293 addition to the retirement allowance, office expense allowance,
1294 mileage or travel expense authorized by any statute of the State
1295 of Mississippi; or

1296 (b) Elects to receive compensation for that elective
1297 office in an amount not to exceed twenty-five percent (25%) of the
1298 retiree's average compensation. As used in this paragraph, the
1299 term "compensation" shall not include office expense allowance,
1300 mileage or travel expense authorized by a statute of the State of
1301 Mississippi. In order to receive compensation as allowed in this
1302 paragraph, the member shall file annually, in writing, in the
1303 office of the employer and the office of the executive director of
1304 the system, an election to receive, in addition to a retirement
1305 allowance, compensation as allowed in this paragraph.

1306 (6) This section does not apply to any person who has made
1307 the election provided for under Section 1 of this act.

1308 **SECTION 9.** Section 25-14-11, Mississippi Code of 1972, is
1309 amended as follows:

1310 25-14-11. The deferred compensation program established by
1311 this chapter shall exist and serve in addition to other
1312 retirement, pension, or benefit systems established by the State



1313 of Mississippi, state agencies, counties, municipalities, or other
1314 political subdivisions. The deferred compensation program
1315 established by this chapter shall not supersede, make inoperative,
1316 or reduce any benefits provided by the Public Employees'
1317 Retirement System of Mississippi, by the Teachers' Retirement
1318 System of Mississippi, by programs established under the general
1319 municipal employees' retirement act, or by any other retirement,
1320 pension, or benefit program established by law. However, for any
1321 person who has made the election provided for under Section 1 of
1322 this act, the benefits that the person receives under the deferred
1323 compensation program are in lieu of the benefits that the person
1324 would otherwise receive from the Public Employees' Retirement
1325 System.

1326 **SECTION 10.** This act shall take effect and be in force from
1327 and after July 1, 2003.

