

By: Representatives Howell, Barnett

To: Appropriations

HOUSE BILL NO. 78

1 AN ACT TO AMEND SECTION 25-11-111, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE CONDITIONS FOR RETIREMENT AND THE RETIREMENT
3 ALLOWANCE FORMULA FOR PERSONS WHO BECAME MEMBERS OF THE PUBLIC
4 EMPLOYEES' RETIREMENT SYSTEM ON OR AFTER JULY 1, 2006; TO AMEND
5 SECTION 25-11-114, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE
6 PRECEDING SECTION; TO BRING FORWARD SECTION 25-11-115, MISSISSIPPI
7 CODE OF 1972, WHICH RELATES TO RETIREMENT OPTIONS FOR MEMBERS OF
8 THE RETIREMENT SYSTEM; AND FOR RELATED PURPOSES.

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

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

12 25-11-111. (a) Any member upon withdrawal from service upon
13 or after attainment of the age of sixty (60) years who has
14 completed at least four (4) years of creditable service, or any
15 member who became a member of the system before July 1, 2006, upon
16 withdrawal from service regardless of age who has completed at
17 least twenty-five (25) years of creditable service, or any member
18 who became a member of the system on or after July 1, 2006, upon
19 withdrawal from service upon or after attaining the age of
20 fifty-five (55) years who has completed at least twenty-five (25)
21 years of creditable service, shall be entitled to receive a
22 retirement allowance, which shall begin on the first of the month
23 following the date the member's application for the allowance is
24 received by the board, but in no event before withdrawal from
25 service.

26 (b) Any member whose withdrawal from service occurs before
27 attaining the age of sixty (60) years, who has completed four (4)
28 or more years of creditable service and has not * * * received a
29 refund of his accumulated contributions, shall be entitled to
30 receive a retirement allowance, beginning upon his attaining the

31 age of sixty (60) years, of the amount earned and accrued at the
32 date of withdrawal from service.

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

44 (d) For any member who became a member of the system before
45 July 1, 2006, the annual amount of the retirement allowance shall
46 consist of:

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

51 (2) An employer's annuity, which, together with the
52 member's annuity provided above, shall be equal to two percent
53 (2%) of the average compensation for each year of state service up
54 to and including twenty-five (25) years of membership service, and
55 two and one-half percent (2-1/2%) of the average compensation for
56 each year of state service exceeding twenty-five (25) years of
57 membership service * * *; and

58 * * *

59 (3) A prior service annuity equal to two percent (2%)
60 of the average compensation for each year of state service up to
61 and including twenty-five (25) years of prior service, and two and
62 one-half percent (2-1/2%) of the average compensation for each

63 year of state service exceeding twenty-five (25) years of prior
64 service for which the member is allowed credit. * * *

65 * * *

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

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

92 (e) For any member who became a member of the system on or
93 after July 1, 2006, the annual amount of the retirement allowance
94 shall consist of:

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

99 (2) An employer's annuity, which, together with the
100 member's annuity provided above, shall be equal to one and
101 seven-eighths percent (1-7/8%) of the average compensation for
102 each year of state service up to and including twenty-five (25)
103 years of membership service, and two and one-fourth percent
104 (2-1/4%) of the average compensation for each year of state
105 service exceeding twenty-five (25) years of membership service;
106 and

107 (3) A prior service annuity equal to one and
108 seven-eighths percent (1-7/8%) of the average compensation for
109 each year of state service up to and including twenty-five (25)
110 years of prior service, and two and one-fourth percent (2-1/4%) of
111 the average compensation for each year of state service exceeding
112 twenty-five (25) years of prior service for which the member is
113 allowed credit.

114 (f) * * * The retirement allowance otherwise payable may be
115 converted into a retirement allowance of equivalent actuarial
116 value in such an amount that, with the member's benefit under
117 Title II of the federal Social Security Act, the member will
118 receive, so far as possible, approximately the same amount
119 annually before and after the earliest age at which the member
120 becomes eligible to receive a social security benefit.

121 * * *

122 (g) No member, except members excluded by the Age
123 Discrimination in Employment Act Amendments of 1986 (Public Law
124 99-592), under either Article 1 or Article 3 in state service
125 shall be required to retire because of age.

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

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

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

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

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

149 (j) For the purposes of this section, if a member of the
150 system withdrew from state service and received a refund of the
151 amount of the accumulated contributions to the credit of the
152 member in the annuity savings account before July 1, 2006, and the
153 person reenters state service and becomes a member of the system
154 again on or after July 1, 2006, and repays all or part of the
155 amount received as a refund and interest in order to receive
156 creditable service for service rendered before July 1, 2006, the
157 member shall be considered to have become a member of the system
158 on or after July 1, 2006.

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

161 25-11-114. (1) The applicable benefits provided in
162 subsections (2) and (3) of this section shall be paid to eligible
163 beneficiaries of any member who has completed four (4) or more
164 years of creditable service and who dies before retirement and who
165 has not filed a Pre-Retirement Optional Retirement Form as
166 provided in Section 25-11-111.

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

171 (i) Had retired on the date of his death with
172 entitlement to an annuity provided for in Section 25-11-111,
173 notwithstanding that he might not have attained age sixty (60),
174 or if he became a member of the system before July 1, 2006,
175 notwithstanding that he might not have acquired twenty-five (25)
176 years of creditable service, or if he became a member of the
177 system on or after July 1, 2006, notwithstanding that he might not
178 have attained the age of fifty-five (55) years and acquired
179 twenty-five (25) years of creditable service; and

180 (ii) Had nominated his spouse as beneficiary.

181 (b) If, at the time of the member's death, there are no
182 dependent children, and the surviving spouse, who otherwise would
183 receive the annuity under this subsection (2), has filed with the
184 system a signed written waiver of his or her rights to the annuity
185 and that waiver was in effect at the time of the member's death, a
186 lump sum distribution of the deceased member's accumulated
187 contributions shall be refunded in accordance with Section
188 25-11-117.

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

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

193 (d) The spouse annuity shall be payable for life and
194 shall be the greater of twenty percent (20%) of the deceased
195 member's average compensation as defined in Section 25-11-103 at
196 the time of death or Fifty Dollars (\$50.00) monthly. Surviving
197 spouses of deceased members who previously received spouse
198 retirement benefits under this paragraph (d) from and after July
199 1, 1992, and whose benefits were terminated before July 1, 2004,
200 because of remarriage, may again receive the retirement benefits
201 authorized under this paragraph (d) by making application with the
202 board to reinstate those benefits. Any reinstatement of the
203 benefits shall be prospective only and shall begin after the first
204 of the month following the date of the application for
205 reinstatement, but no earlier than July 1, 2004.

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

214 Any member who has completed four (4) or more years of
215 creditable service and who dies before retirement and leaves a
216 spouse who has been married to the member for not less than one
217 (1) year immediately preceding his death and has not exercised any
218 other option shall be deemed to have exercised Option 2 under
219 Section 25-11-115 for the benefit of his spouse, which spouse
220 shall be paid Option 2 settlement benefits under this article
221 beginning on the first of the month following the date of death,
222 but in case of late filing, retroactive payments will be made for
223 a period of not more than one (1) year. The method of calculating

224 the retirement benefits shall be on the same basis as provided in
225 Section 25-11-111(d). However, if the member dies before being
226 qualified for full unreduced benefits, then the benefits shall be
227 reduced by three percent (3%) per year for the lesser of either
228 the years of service or age required for full unreduced benefits
229 in Section 25-11-111(d).

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

241 (b) A child shall be considered to be a dependent child
242 until marriage, or the attainment of age nineteen (19), whichever
243 comes first; however, this age limitation shall be extended beyond
244 age nineteen (19), but in no event beyond the attainment of age
245 twenty-three (23), as long as the child is a student regularly
246 pursuing a full-time course of resident study or training in an
247 accredited high school, trade school, technical or vocational
248 institute, junior or community college, college, university or
249 comparable recognized educational institution duly licensed by a
250 state. A student child whose birthday falls during the school
251 year (September 1 through June 30) is considered not to reach age
252 twenty-three (23) until the July 1 following the actual
253 twenty-third birthday. A full-time course of resident study or
254 training means a day or evening noncorrespondence course that
255 includes school attendance at the rate of at least thirty-six (36)
256 weeks per academic year or other applicable period with a subject

257 load sufficient, if successfully completed, to attain the
258 educational or training objective within the period generally
259 accepted as minimum for completion, by a full-time day student, of
260 the academic or training program concerned. Any child who is
261 physically or mentally incompetent, as adjudged by either a
262 Mississippi court of competent jurisdiction or by the board, shall
263 receive benefits for as long as the incompetency exists.

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

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

275 (4) (a) Death benefits in the line of duty. Regardless of
276 the number of years of the member's creditable service, the spouse
277 and/or the dependent children of an active member who is killed in
278 the line of performance of duty or dies as a direct result of an
279 accident occurring in the line of performance of duty shall
280 qualify, on approval of the board, for a retirement allowance on
281 the first of the month following the date of death, but in the
282 case of late filing, retroactive payments will be made for a
283 period of not more than one (1) year. The spouse shall receive a
284 retirement allowance for life equal to one-half (1/2) of the
285 average compensation as defined in Section 25-11-103. In addition
286 to the retirement allowance for the spouse, or if there is no
287 surviving spouse, the member's dependent child shall receive a
288 retirement allowance in the amount of one-fourth (1/4) of the
289 member's average compensation as defined in Section 25-11-103;

290 however, if there are two (2) or more dependent children, each
291 dependent child shall receive an equal share of a total annuity
292 equal to one-half (1/2) of the member's average compensation. If
293 there are more than two (2) dependent children, upon a child's
294 ceasing to be a dependent child, his annuity shall terminate and
295 there shall be a redetermination of the amounts payable to any
296 remaining dependent children. Those benefits shall cease to be
297 paid for the support and maintenance of each child upon the child
298 attaining the age of nineteen (19) years; however, the spouse
299 shall continue to be eligible for the aforesaid retirement
300 allowance. Those benefits may be paid to a surviving parent or
301 lawful custodian of the children for the use and benefit of the
302 children without the necessity of appointment as guardian. Any
303 spouse who received spouse retirement benefits under this
304 paragraph (a) from and after April 4, 1984, and whose benefits
305 were terminated before July 1, 2004, because of remarriage, may
306 again receive the retirement benefits authorized under this
307 paragraph (a) by making application with the board to reinstate
308 those benefits. Any reinstatement of the benefits shall be
309 prospective only and shall begin after the first of the month
310 following the date of the application for reinstatement, but not
311 earlier than July 1, 2004.

312 (b) A child shall be considered to be a dependent child
313 until marriage, or the attainment of age nineteen (19), whichever
314 comes first; however, this age limitation shall be extended beyond
315 age nineteen (19), but in no event beyond the attainment of age
316 twenty-three (23), as long as the child is a student regularly
317 pursuing a full-time course of resident study or training in an
318 accredited high school, trade school, technical or vocational
319 institute, junior or community college, college, university or
320 comparable recognized educational institution duly licensed by a
321 state. A student child whose birthday falls during the school
322 year (September 1 through June 30) is considered not to reach age

323 twenty-three (23) until the July 1 following the actual
324 twenty-third birthday. A full-time course of resident study or
325 training means a day or evening noncorrespondence course that
326 includes school attendance at the rate of at least thirty-six (36)
327 weeks per academic year or other applicable period with a subject
328 load sufficient, if successfully completed, to attain the
329 educational or training objective within the period generally
330 accepted as minimum for completion, by a full-time day student, of
331 the academic or training program concerned. Any child who is
332 physically or mentally incompetent, as adjudged by either a
333 Mississippi court of competent jurisdiction or by the board, shall
334 receive benefits for as long as the incompetency exists.

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

346 (6) Regardless of the number of years of creditable service
347 upon the application of a member or employer, any active member
348 who becomes disabled as a direct result of an accident or
349 traumatic event resulting in a physical injury occurring in the
350 line of performance of duty, provided that the medical board or
351 other designated governmental agency after a medical examination
352 certifies that the member is mentally or physically incapacitated
353 for the further performance of duty and the incapacity is likely
354 to be permanent, may be retired by the board of trustees on the
355 first of the month following the date of filing the application

356 but in no event shall the retirement allowance begin before the
357 termination of state service. The retirement allowance shall
358 equal the allowance on disability retirement as provided in
359 Section 25-11-113 but shall not be less than fifty percent (50%)
360 of average compensation.

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

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

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

381 (9) The application for the retirement allowance must be
382 filed within one (1) year after death of an active member who is
383 killed in the line of performance of duty or dies as a direct
384 result of an accident occurring in the line of performance of duty
385 or traumatic event; but the board of trustees may consider an
386 application for disability filed after the one-year period if it
387 can be factually demonstrated to the satisfaction of the board of
388 trustees that the disability is due to the accident and that the

389 filing was not accomplished within the one-year period due to a
390 delayed manifestation of the disability or to circumstances beyond
391 the control of the member. However, in case of late filing,
392 retroactive payments will be made for a period of not more than
393 one (1) year only.

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

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

409 **SECTION 3.** Section 25-11-115, Mississippi Code of 1972, is
410 brought forward as follows:

411 25-11-115. (1) Upon application for superannuation or
412 disability retirement, any member may elect to receive his benefit
413 in a retirement allowance payable throughout life with no further
414 payments to anyone at his death, except that in the event his
415 total retirement payments under this article do not equal his
416 total contributions under this article, his named beneficiary
417 shall receive the difference in cash at his death. Or he may
418 elect upon retirement, or upon becoming eligible for retirement,
419 to receive the actuarial equivalent subject to the provisions of
420 subsection (3) of this section of his retirement allowance in a

421 reduced retirement allowance payable throughout life with the
422 provision that:

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

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

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

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

444 **Option 4-B.** A reduced retirement allowance shall be
445 continued throughout the life of the retirant, but with the
446 further guarantee of payments to the named beneficiary,
447 beneficiaries or to the estate for a specified number of years
448 certain. If the retired member or the last designated beneficiary
449 receiving annuity payments dies prior to receiving all guaranteed
450 payments due, the actuarial equivalent of the remaining payments
451 shall be paid pursuant to Section 25-11-117.1(1);

452 **Option 4-C.** Such retirement allowance otherwise payable may
453 be converted into a retirement allowance of equivalent actuarial

454 value in such an amount that, with the member's benefit under
455 Title II of the federal Social Security Act, the member will
456 receive, so far as possible, approximately the same amount
457 annually before and after the earliest age at which the member
458 becomes eligible to receive a social security benefit. This
459 option shall not be available to retirees whose retirement is
460 effective on or after July 1, 2004.

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

483 (2) No change in the option selected shall be permitted
484 after the member's death or after the member has received his
485 first retirement check except as provided in subsections (3) and
486 (4) of this section and in Section 25-11-127. Members who are

487 pursuing a disability retirement allowance and simultaneously or
488 subsequently elect to begin to receive a service retirement
489 allowance while continuing to pursue a disability retirement
490 allowance, shall not be eligible to select Option 4-C or Option 6
491 and those options may not be selected at a later time if the
492 application for a disability retirement allowance is voided or
493 denied. However, any retired member who is receiving a retirement
494 allowance under Option 2 or Option 4-A upon July 1, 1992, and
495 whose designated beneficiary predeceased him or whose marriage to
496 a spouse who is his designated beneficiary is terminated by
497 divorce or other dissolution, upon written notification to the
498 retirement system of the death of the designated beneficiary or of
499 the termination of his marriage to his designated beneficiary, the
500 retirement allowance payable to the member after receipt of such
501 notification by the retirement system shall be equal to the
502 retirement allowance which would have been payable had the member
503 not elected the option. In addition, any retired member who is
504 receiving the maximum retirement allowance for life, a retirement
505 allowance under Option 1 or who is receiving a retirement
506 allowance under Option 2 or Option 4-A on July 1, 1992, may elect
507 to provide survivor benefits under Option 2 or Option 4-A to a
508 spouse who was not previously the member's beneficiary and whom
509 the member married before July 1, 1992.

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

520 effective the first of the month following the date the election
521 is received by the system.

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

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

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

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

551 (7) If a retirant and his eligible beneficiary, if any, both
552 die before they have received in annuity payments a total amount

553 equal to the accumulated contributions standing to the retirant's
554 credit in the annuity savings account at the time of his
555 retirement, the difference between the accumulated contributions
556 and the total amount of annuities received by them shall be paid
557 to such persons as the retirant has nominated by written
558 designation duly executed and filed in the office of the executive
559 director. If no designated person survives the retirant and his
560 beneficiary, the difference, if any, shall be paid pursuant to
561 Section 25-11-117.1(1).

562 (8) Any retired member who retired on Option 2(5) or 4-A(5)
563 prior to July 1, 1992, who is still receiving a retirement
564 allowance on July 1, 1994, shall receive an increase in the annual
565 retirement allowance effective July 1, 1994, equal to the amount
566 they would have received under Option 2 or Option 4-A without a
567 reduction for Option 5 based on the ages at retirement of the
568 retiree and beneficiary and option factors in effect on July 1,
569 1992. Such increase shall be prospective only.

570 **SECTION 4.** This act shall take effect and be in force from
571 and after July 1, 2006.