

By: Senator(s) Robertson

To: Finance

SENATE BILL NO. 2689

1 AN ACT TO AMEND SECTIONS 25-11-103, 25-11-105, 25-11-109,
 2 25-11-111, 25-11-113, 25-11-114, 25-11-115, 25-11-117, 25-11-311
 3 AND 25-11-315, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT PERSONS
 4 WHO BECOME MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM ON
 5 OR AFTER JULY 1, 2006, MAY RETIRE AT AGE 60 IF THEY HAVE AT LEAST
 6 TEN YEARS OF CREDITABLE SERVICE OR AT ANY AGE IF THEY HAVE AT
 7 LEAST 30 YEARS OF CREDITABLE SERVICE; TO PROVIDE THAT PERSONS WHO
 8 BECOME MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM ON OR
 9 AFTER JULY 1, 2006, MUST HAVE AT LEAST 10 YEARS OF SERVICE CREDIT
 10 BEFORE VARIOUS BENEFITS ACCRUE AND BEFORE VARIOUS TYPES OF SERVICE
 11 MAY BE CLAIMED AS CREDITABLE SERVICE; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 25-11-103, Mississippi Code of 1972, is
 14 amended as follows:

15 25-11-103. The following words and phrases as used in
 16 Articles 1 and 3, unless a different meaning is plainly required
 17 by the context, have the following meanings:

18 (a) "Accumulated contributions" means the sum of all
 19 the amounts deducted from the compensation of a member and
 20 credited to his individual account in the annuity savings account,
 21 together with regular interest as provided in Section 25-11-123.

22 (b) "Actuarial cost" means the amount of funds
 23 presently required to provide future benefits as determined by the
 24 board based on applicable tables and formulas provided by the
 25 actuary.

26 (c) "Actuarial equivalent" means a benefit of equal
 27 value to the accumulated contributions, annuity or benefit, as the
 28 case may be, when computed upon the basis of such mortality tables
 29 as adopted by the board of trustees, and regular interest.

30 (d) "Actuarial tables" means such tables of mortality
31 and rates of interest as adopted by the board in accordance with
32 the recommendation of the actuary.

33 (e) "Agency" means any governmental body employing
34 persons in the state service.

35 (f) "Average compensation" means the average of the
36 four (4) highest years of earned compensation reported for an
37 employee in a fiscal or calendar year period, or combination
38 thereof that do not overlap, or the last forty-eight (48)
39 consecutive months of earned compensation reported for an
40 employee. The four (4) years need not be successive or joined
41 years of service. In no case shall the average compensation so
42 determined be in excess of One Hundred Fifty Thousand Dollars
43 (\$150,000.00). In computing the average compensation, any amount
44 lawfully paid in a lump sum for personal leave or major medical
45 leave shall be included in the calculation to the extent that the
46 amount does not exceed an amount that is equal to thirty (30) days
47 of earned compensation and to the extent that it does not cause
48 the employees' earned compensation to exceed the maximum
49 reportable amount specified in Section 25-11-103(k); however, this
50 thirty-day limitation shall not prevent the inclusion in the
51 calculation of leave earned under federal regulations before July
52 1, 1976, and frozen as of that date as referred to in Section
53 25-3-99. Only the amount of lump-sum pay for personal leave due
54 and paid upon the death of a member attributable for up to one
55 hundred fifty (150) days shall be used in the deceased member's
56 average compensation calculation in determining the beneficiary's
57 benefits. In computing the average compensation, no amounts shall
58 be used that are in excess of the amount on which contributions
59 were required and paid, and no nontaxable amounts paid by the
60 employer for health or life insurance premiums for the employee
61 shall be used. If any member who is or has been granted any
62 increase in annual salary or compensation of more than eight

63 percent (8%) retires within twenty-four (24) months from the date
64 that the increase becomes effective, then the board shall exclude
65 that part of the increase in salary or compensation that exceeds
66 eight percent (8%) in calculating that member's average
67 compensation for retirement purposes. The board may enforce this
68 provision by rule or regulation. However, increases in
69 compensation in excess of eight percent (8%) per year granted
70 within twenty-four (24) months of the date of retirement may be
71 included in the calculation of average compensation if
72 satisfactory proof is presented to the board showing that the
73 increase in compensation was the result of an actual change in the
74 position held or services rendered, or that the compensation
75 increase was authorized by the State Personnel Board or was
76 increased as a result of statutory enactment, and the employer
77 furnishes an affidavit stating that the increase granted within
78 the last twenty-four (24) months was not contingent on a promise
79 or agreement of the employee to retire. Nothing in Section
80 25-3-31 shall affect the calculation of the average compensation
81 of any member for the purposes of this article. The average
82 compensation of any member who retires before July 1, 1992, shall
83 not exceed the annual salary of the Governor.

84 (g) "Beneficiary" means any person entitled to receive
85 a retirement allowance, an annuity or other benefit as provided by
86 Articles 1 and 3. The term "beneficiary" may also include an
87 organization, estate, trust or entity; however, a beneficiary
88 designated or entitled to receive monthly payments under an
89 optional settlement based on life contingency or pursuant to a
90 statutory monthly benefit may only be a natural person. In the
91 event of the death before retirement of any member who became a
92 member of the system before July 1, 2006, and whose spouse and/or
93 children are not entitled to a retirement allowance on the basis
94 that the member has less than four (4) years of service credit, or
95 who became a member of the system on or after July 1, 2006, and

96 whose spouse and/or children are not entitled to a retirement
97 allowance on the basis that the member has less than ten (10)
98 years of service credit, and/or has not been married for a minimum
99 of one (1) year or the spouse has waived his or her entitlement to
100 a retirement allowance under Section 25-11-114, the lawful spouse
101 of a member at the time of the death of the member shall be the
102 beneficiary of the member unless the member has designated another
103 beneficiary after the date of marriage in writing, and filed that
104 writing in the office of the executive director of the board of
105 trustees. No designation or change of beneficiary shall be made
106 in any other manner.

107 (h) "Board" means the board of trustees provided in
108 Section 25-11-15 to administer the retirement system created under
109 this article.

110 (i) "Creditable service" means "prior service,"
111 "retroactive service" and all lawfully credited unused leave not
112 exceeding the accrual rates and limitations provided in Section
113 25-3-91 et seq., as of the date of withdrawal from service plus
114 "membership service" for which credit is allowable as provided in
115 Section 25-11-109. Except to limit creditable service reported to
116 the system for the purpose of computing an employee's retirement
117 allowance or annuity or benefits provided in this article, nothing
118 in this paragraph shall limit or otherwise restrict the power of
119 the governing authority of a municipality or other political
120 subdivision of the state to adopt such vacation and sick leave
121 policies as it deems necessary.

122 (j) "Child" means either a natural child of the member,
123 a child that has been made a child of the member by applicable
124 court action before the death of the member, or a child under the
125 permanent care of the member at the time of the latter's death,
126 which permanent care status shall be determined by evidence
127 satisfactory to the board.

128 (k) "Earned compensation" means the full amount earned
129 by an employee for a given pay period including any maintenance
130 furnished up to a maximum of One Hundred Fifty Thousand Dollars
131 (\$150,000.00) per year, and proportionately for less than one (1)
132 year of service. The value of that maintenance when not paid in
133 money shall be fixed by the employing state agency, and, in case
134 of doubt, by the board of trustees as defined in Section 25-11-15.
135 Earned compensation shall not include any nontaxable amounts paid
136 by the employer for health or life insurance premiums for an
137 employee. In any case, earned compensation shall be limited to
138 the regular periodic compensation paid, exclusive of litigation
139 fees, bond fees, and other similar extraordinary nonrecurring
140 payments. In addition, any member in a covered position, as
141 defined by Public Employees' Retirement System laws and
142 regulations, who is also employed by another covered agency or
143 political subdivision shall have the earnings of that additional
144 employment reported to the Public Employees' Retirement System
145 regardless of whether the additional employment is sufficient in
146 itself to be a covered position. In addition, computation of
147 earned compensation shall be governed by the following:

148 (i) In the case of constables, the net earnings
149 from their office after deduction of expenses shall apply, except
150 that in no case shall earned compensation be less than the total
151 direct payments made by the state or governmental subdivisions to
152 the official.

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

156 (iii) In the case of members of the State
157 Legislature, all remuneration or amounts paid, except mileage
158 allowance, shall apply.

159 (iv) The amount by which an eligible employee's
160 salary is reduced under a salary reduction agreement authorized

161 under Section 25-17-5 shall be included as earned compensation
162 under this paragraph, provided this inclusion does not conflict
163 with federal law, including federal regulations and federal
164 administrative interpretations under the federal law, pertaining
165 to the Federal Insurance Contributions Act or to Internal Revenue
166 Code Section 125 cafeteria plans.

167 (v) Compensation in addition to an employee's base
168 salary that is paid to the employee under the vacation and sick
169 leave policies of a municipality or other political subdivision of
170 the state that employs him that exceeds the maximums authorized by
171 Section 25-3-91 et seq. shall be excluded from the calculation of
172 earned compensation under this article.

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

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

178 (l) "Employee" means any person legally occupying a
179 position in the state service, and shall include the employees of
180 the retirement system created under this article.

181 (m) "Employer" means the State of Mississippi or any of
182 its departments, agencies or subdivisions from which any employee
183 receives his compensation.

184 (n) "Executive director" means the secretary to the
185 board of trustees, as provided in Section 25-11-15(9), and the
186 administrator of the Public Employees' Retirement System and all
187 systems under the management of the board of trustees. Wherever
188 the term "Executive Secretary of the Public Employees' Retirement
189 System" or "executive secretary" appears in this article or in any
190 other provision of law, it shall be construed to mean the
191 Executive Director of the Public Employees' Retirement System.

192 (o) "Fiscal year" means the period beginning on July 1
193 of any year and ending on June 30 of the next succeeding year.

194 (p) "Medical board" means the board of physicians or
195 any governmental or nongovernmental disability determination
196 service designated by the board of trustees that is qualified to
197 make disability determinations as provided for in Section
198 25-11-119.

199 (q) "Member" means any person included in the
200 membership of the system as provided in Section 25-11-105.

201 (r) "Membership service" means service as an employee
202 rendered while a member of the retirement system.

203 (s) "Position" means any office or any employment in
204 the state service, or two (2) or more of them, the duties of which
205 call for services to be rendered by one (1) person, including
206 positions jointly employed by federal and state agencies
207 administering federal and state funds. The employer shall
208 determine upon initial employment and during the course of
209 employment of an employee who does not meet the criteria for
210 coverage in the Public Employees' Retirement System based on the
211 position held, whether the employee is or becomes eligible for
212 coverage in the Public Employees' Retirement System based upon any
213 other employment in a covered agency or political subdivision. If
214 or when the employee meets the eligibility criteria for coverage
215 in the other position, then the employer must withhold
216 contributions and report wages from the noncovered position in
217 accordance with the provisions for reporting of earned
218 compensation. Failure to deduct and report those contributions
219 shall not relieve the employee or employer of liability thereof.
220 The board shall adopt such rules and regulations as necessary to
221 implement and enforce this provision.

222 (t) "Prior service" means:

223 (i) For persons who became members of the system
224 before July 1, 2006, service rendered before February 1, 1953, for
225 which credit is allowable under Sections 25-11-105 and 25-11-109,
226 and which shall allow prior service for any person who is now or

227 becomes a member of the Public Employees' Retirement System and
228 who does contribute to the system for a minimum period of four (4)
229 years.

230 (ii) For persons who became members of the system
231 on or after July 1, 2006, service rendered before February 1,
232 1953, for which credit is allowable under Sections 25-11-105 and
233 25-11-109, and which shall allow prior service for any person who
234 is now or becomes a member of the Public Employees' Retirement
235 System and who does contribute to the system for a minimum period
236 of ten (10) years.

237 (u) "Regular interest" means interest compounded
238 annually at such a rate as determined by the board in accordance
239 with Section 25-11-121.

240 (v) "Retirement allowance" means an annuity for life as
241 provided in this article, payable each year in twelve (12) equal
242 monthly installments beginning as of the date fixed by the board.
243 The retirement allowance shall be calculated in accordance with
244 Section 25-11-111. However, any spouse who received a spouse
245 retirement benefit in accordance with Section 25-11-111(d) before
246 March 31, 1971, and those benefits were terminated because of
247 eligibility for a social security benefit, may again receive his
248 spouse retirement benefit from and after making application with
249 the board of trustees to reinstate the spouse retirement benefit.

250 (w) "Retroactive service" means service rendered after
251 February 1, 1953, for which credit is allowable under Section
252 25-11-105(b) and Section 25-11-105(k).

253 (x) "System" means the Public Employees' Retirement
254 System of Mississippi established and described in Section
255 25-11-101.

256 (y) "State" means the State of Mississippi or any
257 political subdivision thereof or instrumentality of the state.

258 (z) "State service" means all offices and positions of
259 trust or employment in the employ of the state, or any political

260 subdivision or instrumentality of the state, that elect to
261 participate as provided by Section 25-11-105(f), including the
262 position of elected or fee officials of the counties and their
263 deputies and employees performing public services or any
264 department, independent agency, board or commission thereof, and
265 also includes all offices and positions of trust or employment in
266 the employ of joint state and federal agencies administering state
267 and federal funds and service rendered by employees of the public
268 schools. Effective July 1, 1973, all nonprofessional public
269 school employees, such as bus drivers, janitors, maids,
270 maintenance workers and cafeteria employees, shall have the option
271 to become members in accordance with Section 25-11-105(b), and
272 shall be eligible to receive credit for services before July 1,
273 1973, provided that the contributions and interest are paid by the
274 employee in accordance with that section; in addition, the county
275 or municipal separate school district may pay the employer
276 contribution and pro rata share of interest of the retroactive
277 service from available funds. From and after July 1, 1998,
278 retroactive service credit shall be purchased at the actuarial
279 cost in accordance with Section 25-11-105(b).

280 (aa) "Withdrawal from service" or "termination from
281 service" means complete severance of employment in the state
282 service of any member by resignation, dismissal or discharge.

283 (bb) The masculine pronoun, wherever used, includes the
284 feminine pronoun.

285 **SECTION 2.** Section 25-11-105, Mississippi Code of 1972, is
286 amended as follows:

287 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

288 The membership of this retirement system shall be composed as
289 follows:

290 (a) (i) All persons who become employees in the state
291 service after January 31, 1953, and whose wages are subject to
292 payroll taxes and are lawfully reported on IRS Form W-2, except

293 those specifically excluded, or as to whom election is provided in
294 Articles 1 and 3, shall become members of the retirement system as
295 a condition of their employment.

296 (ii) From and after July 1, 2002, any individual
297 who is employed by a governmental entity to perform professional
298 services shall become a member of the system if the individual is
299 paid regular periodic compensation for those services that is
300 subject to payroll taxes, is provided all other employee benefits
301 and meets the membership criteria established by the regulations
302 adopted by the board of trustees that apply to all other members
303 of the system; however, any active member employed in such a
304 position on July 1, 2002, will continue to be an active member for
305 as long as they are employed in any such position.

306 (b) All persons who become employees in the state
307 service after January 31, 1953, except those specifically excluded
308 or as to whom election is provided in Articles 1 and 3, unless
309 they file with the board before the lapse of sixty (60) days of
310 employment or sixty (60) days after the effective date of the
311 cited articles, whichever is later, on a form prescribed by the
312 board, a notice of election not to be covered by the membership of
313 the retirement system and a duly executed waiver of all present
314 and prospective benefits that would otherwise inure to them on
315 account of their participation in the system, shall become members
316 of the retirement system; however, no credit for prior service
317 will be granted to members who became members of the system before
318 July 1, 2006, until they have contributed to Article 3 of the
319 retirement system for a minimum period of at least four (4) years,
320 or to members who became members of the system on or after July 1,
321 2006, until they have contributed to Article 3 of the retirement
322 system for a minimum period of at least ten (10) years. Those
323 members shall receive credit for services performed before January
324 1, 1953, in employment now covered by Article 3, but no credit
325 shall be granted for retroactive services between January 1, 1953,

326 and the date of their entry into the retirement system, unless the
327 employee pays into the retirement system both the employer's and
328 the employee's contributions on wages paid him during the period
329 from January 31, 1953, to the date of his becoming a contributing
330 member, together with interest at the rate determined by the board
331 of trustees. Members reentering after withdrawal from service
332 shall qualify for prior service under the provisions of Section
333 25-11-117. From and after July 1, 1998, upon eligibility as noted
334 above, the member may receive credit for such retroactive service
335 provided:

336 (1) The member shall furnish proof satisfactory to
337 the board of trustees of certification of that service from the
338 covered employer where the services were performed; and

339 (2) The member shall pay to the retirement system
340 on the date he or she is eligible for that credit or at any time
341 thereafter before the date of retirement the actuarial cost for
342 each year of that creditable service. The provisions of this
343 subparagraph (2) shall be subject to the limitations of Section
344 415 of the Internal Revenue Code and regulations promulgated under
345 Section 415.

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

350 (c) All persons who become employees in the state
351 service after January 31, 1953, and who are eligible for
352 membership in any other retirement system shall become members of
353 this retirement system as a condition of their employment, unless
354 they elect at the time of their employment to become a member of
355 that other system.

356 (d) All persons who are employees in the state service
357 on January 31, 1953, and who are members of any nonfunded
358 retirement system operated by the State of Mississippi, or any of

359 its departments or agencies, shall become members of this system
360 with prior service credit unless, before February 1, 1953, they
361 file a written notice with the board of trustees that they do not
362 elect to become members.

363 (e) All persons who are employees in the state service
364 on January 31, 1953, and who under existing laws are members of
365 any fund operated for the retirement of employees by the State of
366 Mississippi, or any of its departments or agencies, shall not be
367 entitled to membership in this retirement system unless, before
368 February 1, 1953, any such person indicates by a notice filed with
369 the board, on a form prescribed by the board, his individual
370 election and choice to participate in this system, but no such
371 person shall receive prior service credit unless he becomes a
372 member on or before February 1, 1953.

373 (f) Each political subdivision of the state and each
374 instrumentality of the state or a political subdivision, or both,
375 is authorized to submit, for approval by the board of trustees, a
376 plan for extending the benefits of this article to employees of
377 any such political subdivision or instrumentality. Each such plan
378 or any amendment to the plan for extending benefits thereof shall
379 be approved by the board of trustees if it finds that the plan, or
380 the plan as amended, is in conformity with such requirements as
381 are provided in Articles 1 and 3; however, upon approval of the
382 plan or any such plan previously approved by the board of
383 trustees, the approved plan shall not be subject to cancellation
384 or termination by the political subdivision or instrumentality,
385 except that any community hospital serving a municipality that
386 joined the Public Employees' Retirement System as of November 1,
387 1956, to offer social security coverage for its employees and
388 subsequently extended retirement annuity coverage to its employees
389 as of December 1, 1965, may, upon documentation of extreme
390 financial hardship, have future retirement annuity coverage

391 cancelled or terminated at the discretion of the board of
392 trustees. No such plan shall be approved unless:

393 (1) It provides that all services that constitute
394 employment as defined in Section 25-11-5 and are performed in the
395 employ of the political subdivision or instrumentality, by any
396 employees thereof, shall be covered by the plan, with the
397 exception of municipal employees who are already covered by
398 existing retirement plans; however, those employees in this class
399 may elect to come under the provisions of this article;

400 (2) It specifies the source or sources from which
401 the funds necessary to make the payments required by paragraph (d)
402 of Section 25-11-123 and of paragraph (f)(5)B and C of this
403 section are expected to be derived and contains reasonable
404 assurance that those sources will be adequate for that purpose;

405 (3) It provides for such methods of administration
406 of the plan by the political subdivision or instrumentality as are
407 found by the board of trustees to be necessary for the proper and
408 efficient administration thereof;

409 (4) It provides that the political subdivision or
410 instrumentality will make such reports, in such form and
411 containing such information, as the board of trustees may from
412 time to time require;

413 (5) It authorizes the board of trustees to
414 terminate the plan in its entirety in the discretion of the board
415 if it finds that there has been a failure to comply substantially
416 with any provision contained in the plan, the termination to take
417 effect at the expiration of such notice and on such conditions as
418 may be provided by regulations of the board and as may be
419 consistent with applicable federal law.

420 A. The board of trustees shall not finally
421 refuse to approve a plan submitted under paragraph (f), and shall
422 not terminate an approved plan without reasonable notice and
423 opportunity for hearing to each political subdivision or

424 instrumentality affected by the board's decision. The board's
425 decision in any such case shall be final, conclusive and binding
426 unless an appeal is taken by the political subdivision or
427 instrumentality aggrieved by the decision to the Circuit Court of
428 Hinds County, Mississippi, in accordance with the provisions of
429 law with respect to civil causes by certiorari.

430 B. Each political subdivision or
431 instrumentality as to which a plan has been approved under this
432 section shall pay into the contribution fund, with respect to
433 wages (as defined in Section 25-11-5), at such time or times as
434 the board of trustees may by regulation prescribe, contributions
435 in the amounts and at the rates specified in the applicable
436 agreement entered into by the board.

437 C. Every political subdivision or
438 instrumentality required to make payments under paragraph (f)(5)B
439 of this section is authorized, in consideration of the employees'
440 retention in or entry upon employment after enactment of Articles
441 1 and 3, to impose upon its employees, as to services that are
442 covered by an approved plan, a contribution with respect to wages
443 (as defined in Section 25-11-5) not exceeding the amount provided
444 in Section 25-11-123(d) if those services constituted employment
445 within the meaning of Articles 1 and 3, and to deduct the amount
446 of the contribution from the wages as and when paid.

447 Contributions so collected shall be paid into the contribution
448 fund as partial discharge of the liability of the political
449 subdivisions or instrumentalities under paragraph (f)(5)B of this
450 section. Failure to deduct the contribution shall not relieve the
451 employee or employer of liability for the contribution.

452 D. Any state agency, school, political
453 subdivision, instrumentality or any employer that is required to
454 submit contribution payments or wage reports under any section of
455 this chapter shall be assessed interest on delinquent payments or
456 wage reports as determined by the board of trustees in accordance

457 with rules and regulations adopted by the board and delinquent
458 payments, assessed interest and any other amount certified by the
459 board as owed by an employer, may be recovered by action in a
460 court of competent jurisdiction against the reporting agency
461 liable therefor or may, upon due certification of delinquency and
462 at the request of the board of trustees, be deducted from any
463 other monies payable to the reporting agency by any department or
464 agency of the state.

465 E. Each political subdivision of the state
466 and each instrumentality of the state or a political subdivision
467 or subdivisions that submit a plan for approval of the board, as
468 provided in this section, shall reimburse the board for coverage
469 into the expense account, its pro rata share of the total expense
470 of administering Articles 1 and 3 as provided by regulations of
471 the board.

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

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

484 (i) If any member of this system changes his employment
485 to any agency of the state having an actuarially funded retirement
486 system, the board of trustees may authorize the transfer of the
487 member's creditable service and of the present value of the
488 member's employer's accumulation account and of the present value
489 of the member's accumulated membership contributions to that other

490 system, provided that the employee agrees to the transfer of his
491 accumulated membership contributions and provided that the other
492 system is authorized to receive and agrees to make the transfer.

493 If any member of any other actuarially funded system
494 maintained by an agency of the state changes his employment to an
495 agency covered by this system, the board of trustees may authorize
496 the receipt of the transfer of the member's creditable service and
497 of the present value of the member's employer's accumulation
498 account and of the present value of the member's accumulated
499 membership contributions from the other system, provided that the
500 employee agrees to the transfer of his accumulated membership
501 contributions to this system and provided that the other system is
502 authorized and agrees to make the transfer.

503 (j) Wherever state employment is referred to in this
504 section, it includes joint employment by state and federal
505 agencies of all kinds.

506 (k) Employees of a political subdivision or
507 instrumentality who were employed by the political subdivision or
508 instrumentality before an agreement between the entity and the
509 Public Employees' Retirement System to extend the benefits of this
510 article to its employees, and which agreement provides for the
511 establishment of retroactive service credit, and who have been
512 members of the retirement system who became members of the system
513 before July 1, 2006, and have remained contributors to the
514 retirement system for four (4) years, or who became members of the
515 system on or after July 1, 2006, and have remained contributors to
516 the retirement system for ten (10) years, may receive credit for
517 that retroactive service with the political subdivision or
518 instrumentality, provided that the employee and/or employer, as
519 provided under the terms of the modification of the joinder
520 agreement in allowing that coverage, pay into the retirement
521 system the employer's and employee's contributions on wages paid
522 the member during the previous employment, together with interest

523 or actuarial cost as determined by the board covering the period
524 from the date the service was rendered until the payment for the
525 credit for the service was made. Those wages shall be verified by
526 the Social Security Administration or employer payroll records.
527 Effective July 1, 1998, upon eligibility as noted above, a member
528 may receive credit for that retroactive service with the political
529 subdivision or instrumentality provided:

530 (1) The member shall furnish proof satisfactory to
531 the board of trustees of certification of those services from the
532 political subdivision or instrumentality where the services were
533 rendered or verification by the Social Security Administration;
534 and

535 (2) The member shall pay to the retirement system
536 on the date he or she is eligible for that credit or at any time
537 thereafter before the date of retirement the actuarial cost for
538 each year of that creditable service. The provisions of this
539 subparagraph (2) shall be subject to the limitations of Section
540 415 of the Internal Revenue Code and regulations promulgated under
541 Section 415.

542 Nothing contained in this paragraph (k) shall be construed to
543 limit the authority of the board to allow the correction of
544 reporting errors or omissions based on the payment of employee and
545 employer contributions plus applicable interest. Payment for that
546 time shall be made in increments of not less than one-quarter
547 (1/4) year of creditable service beginning with the most recent
548 service. Upon the payment of all or part of the required
549 contributions, plus interest or the actuarial cost as provided
550 above, the member shall receive credit for the period of
551 creditable service for which full payment has been made to the
552 retirement system.

553 (1) Through June 30, 1998, any state service eligible
554 for retroactive service credit, no part of which has ever been
555 reported, and requiring the payment of employee and employer

556 contributions plus interest, or, from and after July 1, 1998, any
557 state service eligible for retroactive service credit, no part of
558 which has ever been reported to the retirement system, and
559 requiring the payment of the actuarial cost for that creditable
560 service, may, at the member's option, be purchased in quarterly
561 increments as provided above at the time that its purchase is
562 otherwise allowed.

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

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

567 The following classes of employees and officers shall not
568 become members of this retirement system, any other provisions of
569 Articles 1 and 3 to the contrary notwithstanding:

570 (a) Patient or inmate help in state charitable, penal
571 or correctional institutions;

572 (b) Students of any state educational institution
573 employed by any agency of the state for temporary, part-time or
574 intermittent work;

575 (c) Participants of Comprehensive Employment and
576 Training Act of 1973 (CETA) being Public Law 93-203, who enroll on
577 or after July 1, 1979;

578 (d) From and after July 1, 2002, individuals who are
579 employed by a governmental entity to perform professional service
580 on less than a full-time basis who do not meet the criteria
581 established in I(a)(ii) of this section.

582 **III. TERMINATION OF MEMBERSHIP**

583 Membership in this system shall cease by a member withdrawing
584 his accumulated contributions, or by a member withdrawing from
585 active service with a retirement allowance, or by a member's
586 death.

587 **SECTION 3.** Section 25-11-109, Mississippi Code of 1972, is
588 amended as follows:

589 25-11-109. (1) Under such rules and regulations as the
590 board of trustees shall adopt, each person who becomes a member of
591 this retirement system, as provided in Section 25-11-105, on or
592 prior to July 1, 1953, or who became a member of the system before
593 July 1, 2006, and contributes to the system for a minimum period
594 of four (4) years, or who became a member of the system on or
595 after July 1, 2006, and contributes to the system for a minimum
596 period of ten (10) years, shall receive credit for all state
597 service rendered before February 1, 1953. To receive such credit,
598 such member shall file a detailed statement of all services as an
599 employee rendered by him in the state service before February 1,
600 1953. For any member who joined the system after July 1, 1953,
601 and before July 1, 2006, any creditable service for which the
602 member is not required to make contributions shall not be credited
603 to the member until the member has contributed to the system for a
604 minimum period of at least four (4) years. For any member who
605 joined the system on or after July 1, 2006, any creditable service
606 for which the member is not required to make contributions shall
607 not be credited to the member until the member has contributed to
608 the system for a minimum period of at least ten (10) years.

609 (2) In the computation of membership service or prior
610 service under the provisions of this article, the total months of
611 accumulative service during any fiscal year shall be calculated in
612 accordance with the schedule as follows: ten (10) or more months
613 of creditable service during any fiscal year shall constitute a
614 year of creditable service; seven (7) months to nine (9) months
615 inclusive, three-quarters (3/4) of a year of creditable service;
616 four (4) months to six (6) months inclusive, one-half-year of
617 creditable service; one (1) month to three (3) months inclusive,
618 one-quarter (1/4) of a year of creditable service. In no case
619 shall credit be allowed for any period of absence without
620 compensation except for disability while in receipt of a
621 disability retirement allowance, nor shall less than fifteen (15)

622 days of service in any month, or service less than the equivalent
623 of one-half (1/2) of the normal working load for the position and
624 less than one-half (1/2) of the normal compensation for the
625 position in any month, constitute a month of creditable service,
626 nor shall more than one (1) year of service be creditable for all
627 services rendered in any one (1) fiscal year; however, for a
628 school employee, substantial completion of the legal school term
629 when and where the service was rendered shall constitute a year of
630 service credit for both prior service and membership service. Any
631 state or local elected official shall be deemed a full-time
632 employee for the purpose of creditable service for prior service
633 or membership service. However, an appointed or elected official
634 compensated on a per diem basis only shall not be allowed
635 creditable service for terms of office.

636 In the computation of any retirement allowance or any annuity
637 or benefits provided in this article, any fractional period of
638 service of less than one (1) year shall be taken into account and
639 a proportionate amount of such retirement allowance, annuity or
640 benefit shall be granted for any such fractional period of
641 service.

642 In the computation of unused leave for creditable service
643 authorized in Section 25-11-103, the following shall govern:
644 twenty-one (21) days of unused leave shall constitute one (1)
645 month of creditable service and in no case shall credit be allowed
646 for any period of unused leave of less than fifteen (15) days.
647 The number of months of unused leave shall determine the number of
648 quarters or years of creditable service in accordance with the
649 above schedule for membership and prior service. In order for the
650 member to receive creditable service for the number of days of
651 unused leave, the system must receive certification from the
652 governing authority.

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

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

660 (b) For service on and after July 1, 1984, the member
661 shall receive credit for personal and major medical leave
662 beginning July 1, 1984, at the rates authorized in Sections
663 25-3-93 and 25-3-95, computed as a full-time employee.

664 (3) Subject to the above restrictions and to such other
665 rules and regulations as the board may adopt, the board shall
666 verify, as soon as practicable after the filing of such statements
667 of service, the services therein claimed.

668 (4) Upon verification of the statement of prior service, the
669 board shall issue a prior service certificate certifying to each
670 member the length of prior service for which credit shall have
671 been allowed on the basis of his statement of service. So long as
672 membership continues, a prior service certificate shall be final
673 and conclusive for retirement purposes as to such service,
674 provided that any member may within five (5) years from the date
675 of issuance or modification of such certificate request the board
676 of trustees to modify or correct his prior service certificate.
677 Any modification or correction authorized shall only apply
678 prospectively.

679 When membership ceases, such prior service certificates shall
680 become void. Should the employee again become a member, he shall
681 enter the system as an employee not entitled to prior service
682 credit except as provided in Sections 25-11-105(I), 25-11-113 and
683 25-11-117.

684 (5) Creditable service at retirement, on which the
685 retirement allowance of a member shall be based, shall consist of

686 the membership service rendered by him since he last became a
687 member, and also, if he has a prior service certificate which is
688 in full force and effect, the amount of the service certified on
689 his prior service certificate.

690 (6) Any member who served on active duty in the Armed Forces
691 of the United States, who served in the Commissioned Corps of the
692 United States Public Health Service prior to 1972 or who served in
693 maritime service during periods of hostility in World War II,
694 shall be entitled to creditable service at no cost for his service
695 on active duty in the Armed Forces, in the Commissioned Corps of
696 the United States Public Health Service prior to 1972 or in such
697 maritime service, provided he entered state service after his
698 discharge from the Armed Forces or entered state service after he
699 completed such maritime service. The maximum period for such
700 creditable service for all military service as defined in this
701 subsection (6) shall not exceed four (4) years unless positive
702 proof can be furnished by such person that he was retained in the
703 Armed Forces during World War II or in maritime service during
704 World War II by causes beyond his control and without opportunity
705 of discharge. The member shall furnish proof satisfactory to the
706 board of trustees of certification of military service or maritime
707 service records showing dates of entrance into active duty service
708 and the date of discharge. From and after July 1, 1993, no
709 creditable service shall be granted for any military service or
710 maritime service to a member who qualifies for a retirement
711 allowance in another public retirement system administered by the
712 Board of Trustees of the Public Employees' Retirement System based
713 in whole or in part on such military or maritime service. In no
714 case shall the member receive creditable service if the member
715 received a dishonorable discharge from the Armed Forces of the
716 United States.

717 (7) (a) Any member of the Public Employees' Retirement
718 System whose membership service is interrupted as a result of

719 qualified military service within the meaning of Section 414(u)(5)
720 of the Internal Revenue Code, and who has received the maximum
721 service credit available under subsection (6) of this section,
722 shall receive creditable service for the period of qualified
723 military service that does not qualify as creditable service under
724 subsection (6) of this section upon reentering membership service
725 in an amount not to exceed five (5) years if:

726 (i) The member pays the contributions he would
727 have made to the retirement system if he had remained in
728 membership service for the period of qualified military service
729 based upon his salary at the time his membership service was
730 interrupted;

731 (ii) The member returns to membership service
732 within ninety (90) days of the end of his qualified military
733 service; and

734 (iii) The employer at the time the member's
735 service was interrupted and to which employment the member returns
736 pays the contributions it would have made into the retirement
737 system for such period based on the member's salary at the time
738 the service was interrupted.

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

744 (c) The member shall furnish proof satisfactory to the
745 board of trustees of certification of military service showing
746 dates of entrance into qualified service and the date of discharge
747 as well as proof that the member has returned to active employment
748 within the time specified.

749 (8) Any member of the Public Employees' Retirement System
750 who became a member of the system before July 1, 2006 and who has
751 at least four (4) years of membership service credit, or who

752 became a member of the system on or after July 1, 2006 and who has
753 at least ten (10) years of membership service credit, shall be
754 entitled to receive a maximum of five (5) years creditable service
755 for service rendered in another state as a public employee of such
756 other state, or a political subdivision, public education system
757 or other governmental instrumentality thereof, or service rendered
758 as a teacher in American overseas dependent schools conducted by
759 the Armed Forces of the United States for children of citizens of
760 the United States residing in areas outside the continental United
761 States, provided that:

762 (a) The member shall furnish proof satisfactory to the
763 board of trustees of certification of such services from the
764 state, public education system, political subdivision or
765 retirement system of the state where the services were performed
766 or the governing entity of the American overseas dependent school
767 where the services were performed; and

768 (b) The member is not receiving or will not be entitled
769 to receive from the public retirement system of the other state or
770 from any other retirement plan, including optional retirement
771 plans, sponsored by the employer, a retirement allowance including
772 such services; and

773 (c) The member shall pay to the retirement system on
774 the date he or she is eligible for credit for such out-of-state
775 service or at any time thereafter prior to date of retirement the
776 actuarial cost as determined by the actuary for each year of
777 out-of-state creditable service. The provisions of this
778 subsection are subject to the limitations of Section 415 of the
779 Internal Revenue Code and regulations promulgated thereunder.

780 (9) Any member of the Public Employees' Retirement System
781 who became a member of the system before July 1, 2006, and has at
782 least four (4) years of membership service credit, or who became a
783 member of the system on or after July 1, 2006, and has at least
784 ten (10) years of membership service credit, and who receives, or

785 has received, professional leave without compensation for
786 professional purposes directly related to the employment in state
787 service shall receive creditable service for the period of
788 professional leave without compensation provided:

789 (a) The professional leave is performed with a public
790 institution or public agency of this state, or another state or
791 federal agency;

792 (b) The employer approves the professional leave
793 showing the reason for granting the leave and makes a
794 determination that the professional leave will benefit the
795 employee and employer;

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

798 (d) The employee shall serve the employer on a
799 full-time basis for a period of time equivalent to the
800 professional leave period granted immediately following the
801 termination of the leave period;

802 (e) The contributing member shall pay to the retirement
803 system the actuarial cost as determined by the actuary for each
804 year of professional leave. The provisions of this subsection are
805 subject to the regulations of the Internal Revenue Code
806 limitations;

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

810 Any actively contributing member participating in the School
811 Administrator Sabbatical Program established in Section 37-9-77
812 shall qualify for continued participation under this subsection
813 (9).

814 (10) Any member of the Public Employees' Retirement System
815 who became a member of the system before July 1, 2006, and has at
816 least four (4) years of credited membership service, or who became
817 a member of the system on or after July 1, 2006, and has at least

818 ten (10) years of credited membership service shall be entitled to
819 receive a maximum of ten (10) years creditable service for:

820 (a) Any service rendered as an employee of any
821 political subdivision of this state, or any instrumentality
822 thereof, which does not participate in the Public Employees'
823 Retirement System; or

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

828 (c) Any service rendered as an employee of any
829 political subdivision of this state, or any instrumentality
830 thereof, for which coverage of the employee's position was or is
831 excluded; provided that the member pays into the retirement system
832 the actuarial cost as determined by the actuary for each year, or
833 portion thereof, of such service. Payment for such service may be
834 made in increments of one-quarter-year of creditable service.
835 After a member has made full payment to the retirement system for
836 all or any part of such service, the member shall receive
837 creditable service for the period of such service for which full
838 payment has been made to the retirement system.

839 **SECTION 4.** Section 25-11-111, Mississippi Code of 1972, is
840 amended as follows:

841 25-11-111. (a) (1) Any member who became a member of the
842 system before July 1, 2006, upon withdrawal from service upon or
843 after attainment of the age of sixty (60) years who shall have
844 completed at least four (4) years of creditable service, or any
845 member who became a member of the system before July 1, 2006, upon
846 withdrawal from service regardless of age who shall have completed
847 at least twenty-five (25) years of creditable service, shall be
848 entitled to receive a retirement allowance which shall begin on
849 the first of the month following the date the member's application

850 for the allowance is received by the board, but in no event before
851 withdrawal from service.

852 (2) Any member who became a member of the system on or
853 after July 1, 2006, upon withdrawal from service upon or after
854 attainment of the age of sixty (60) years who shall have completed
855 at least ten (10) years of creditable service, or any member who
856 became a member of the system on or after July 1, 2006, upon
857 withdrawal from service regardless of age who shall have completed
858 at least thirty (30) years of creditable service, shall be
859 entitled to receive a retirement allowance which shall begin on
860 the first of the month following the date the member's application
861 for the allowance is received by the board, but in no event before
862 withdrawal from service.

863 (b) (1) Any member who became a member of the system before
864 July 1, 2006, whose withdrawal from service occurs prior to
865 attaining the age of sixty (60) years who shall have completed
866 four (4) or more years of creditable service and shall not have
867 received a refund of his accumulated contributions shall be
868 entitled to receive a retirement allowance, beginning upon his
869 attaining the age of sixty (60) years, of the amount earned and
870 accrued at the date of withdrawal from service.

871 (2) Any member who became a member of the system on or
872 after July 1, 2006, whose withdrawal from service occurs prior to
873 attaining the age of sixty (60) years who shall have completed ten
874 (10) or more years of creditable service and shall not have
875 received a refund of his accumulated contributions shall be
876 entitled to receive a retirement allowance, beginning upon his
877 attaining the age of sixty (60) years, of the amount earned and
878 accrued at the date of withdrawal from service.

879 (c) Any member in service who has qualified for retirement
880 benefits may select any optional method of settlement of
881 retirement benefits by notifying the Executive Director of the
882 Board of Trustees of the Public Employees' Retirement System in

883 writing, on a form prescribed by the board, of the option he has
884 selected and by naming the beneficiary of such option and
885 furnishing necessary proof of age. Such option, once selected,
886 may be changed at any time prior to actual retirement or death,
887 but upon the death or retirement of the member, the optional
888 settlement shall be placed in effect upon proper notification to
889 the executive director.

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

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

896 (2) An employer's annuity which, together with the
897 member's annuity provided above, shall be equal to two percent
898 (2%) of the average compensation for each year of state service up
899 to and including twenty-five (25) years of membership service, and
900 two and one-half percent (2-1/2%) of the average compensation for
901 each year of state service exceeding twenty-five (25) years of
902 membership service; and * * *

903 * * *

904 (3) A prior service annuity equal to two percent (2%)
905 of the average compensation for each year of state service up to
906 and including twenty-five (25) years of prior service, and two and
907 one-half percent (2-1/2%) of the average compensation for each
908 year of state service exceeding twenty-five (25) years of prior
909 service for which the member is allowed credit. * * *

910 * * *

911 (4) Any retired member or beneficiary thereof who was
912 eligible to receive a retirement allowance before July 1, 1991,
913 and who is still receiving a retirement allowance on July 1, 1992,
914 shall receive an increase in the annual retirement allowance of
915 the retired member equal to one-eighth of one percent (1/8 of 1%)

916 of the average compensation for each year of state service in
917 excess of twenty-five (25) years of membership service up to and
918 including thirty (30) years. The maximum increase shall be
919 five-eighths of one percent (5/8 of 1%). In no case shall a
920 member who has been retired prior to July 1, 1987, receive less
921 than Ten Dollars (\$10.00) per month for each year of creditable
922 service and proportionately for each quarter year thereof.
923 Persons retired on or after July 1, 1987, shall receive at least
924 Ten Dollars (\$10.00) per month for each year of service and
925 proportionately for each quarter year thereof reduced for the
926 option selected. However, such Ten Dollars (\$10.00) minimum per
927 month for each year of creditable service shall not apply to a
928 retirement allowance computed under Section 25-11-114 based on a
929 percentage of the member's average compensation.

930 * * *

931 (e) No member, except members excluded by the Age
932 Discrimination in Employment Act Amendments of 1986 (Public Law
933 99-592), under either Article 1 or Article 3 in state service
934 shall be required to retire because of age.

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

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

946 (2) Any waiver pursuant to this subsection shall apply
947 only to the person executing the waiver. A beneficiary shall be
948 entitled to benefits according to the option selected by the

949 member at the time of retirement. However, a beneficiary may, at
950 the option of the beneficiary, execute a waiver of benefits
951 pursuant to this subsection.

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

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

958 **SECTION 5.** Section 25-11-113, Mississippi Code of 1972, is
959 amended as follows:

960 25-11-113. (1) (a) Upon the application of a member or his
961 employer, any active member in state service who became a member
962 of the system before July 1, 2006, and who has at least four (4)
963 years of membership service credit, or any active member in state
964 service who became a member of the system on or after July 1,
965 2006, who has at least ten (10) years of membership service
966 credit, may be retired by the board of trustees on the first of
967 the month following the date of filing such application on a
968 disability retirement allowance, but in no event shall the
969 disability retirement allowance commence before termination of
970 state service, provided that the medical board, after an
971 evaluation of medical evidence that may or may not include an
972 actual physical examination by the medical board, shall certify
973 that the member is mentally or physically incapacitated for the
974 further performance of duty, that such incapacity is likely to be
975 permanent, and that the member should be retired; however, the
976 board of trustees may accept a disability medical determination
977 from the Social Security Administration in lieu of a certification
978 from the medical board. For the purposes of disability
979 determination, the medical board shall apply the following
980 definition of disability: the inability to perform the usual
981 duties of employment or the incapacity to perform such lesser

982 duties, if any, as the employer, in its discretion, may assign
983 without material reduction in compensation, or the incapacity to
984 perform the duties of any employment covered by the Public
985 Employees' Retirement System (Section 25-11-101 et seq.) that is
986 actually offered and is within the same general territorial work
987 area, without material reduction in compensation. The employer
988 shall be required to furnish the job description and duties of the
989 member. The employer shall further certify whether the employer
990 has offered the member other duties and has complied with the
991 applicable provisions of the Americans With Disabilities Act in
992 affording reasonable accommodations which would allow the employee
993 to continue employment.

994 (b) Any inactive member who became a member of the
995 system before July 1, 2006, with four (4) or more years of
996 membership service credit, or any inactive member who became a
997 member of the system on or after July 1, 2006, with ten (10) or
998 more years of membership service credit, who has withdrawn from
999 active state service, is not eligible for a disability retirement
1000 allowance unless the disability occurs within six (6) months of
1001 the termination of active service and unless satisfactory proof is
1002 presented to the board of trustees that the disability was the
1003 direct cause of withdrawal from state service.

1004 (c) Any member who is or becomes eligible for service
1005 retirement benefits under Section 25-11-111 while pursuing a
1006 disability retirement allowance under this section or Section
1007 25-11-114 may elect to receive a service retirement allowance
1008 pending a final determination on eligibility for a disability
1009 retirement allowance or withdrawal of the application for the
1010 disability retirement allowance. In such a case, an application
1011 for a disability retirement allowance must be on file with the
1012 system before the commencement of a service retirement allowance.
1013 If the application is approved, the option selected and
1014 beneficiary designated on the retirement application shall be used

1015 to determine the disability retirement allowance. If the
1016 application is not approved or if the application is withdrawn,
1017 the service retirement allowance shall continue to be paid in
1018 accordance with the option selected. No person may apply for a
1019 disability retirement allowance after the person begins to receive
1020 a service retirement allowance.

1021 (d) If the medical board certifies that the member is
1022 not mentally or physically incapacitated for the future
1023 performance of duty, the member may request, within sixty (60)
1024 days, a hearing before the hearing officer as provided in Section
1025 25-11-120. All hearings shall be held in accordance with rules
1026 and regulations adopted by the board to govern such hearings.
1027 Such hearing may be closed upon the request of the member.

1028 (e) The medical board may request additional medical
1029 evidence and/or other physicians to conduct an evaluation of the
1030 member's condition. If the medical board requests additional
1031 medical evidence and the member refuses the request, the
1032 application shall be considered void.

1033 (2) Allowance on disability retirement.

1034 (a) Upon retirement for disability, an eligible member
1035 shall receive a retirement allowance if he has attained the age of
1036 sixty (60) years.

1037 (b) Except as provided in paragraph (c) of this
1038 subsection (2), an eligible member who is retired for disability
1039 and who has not attained sixty (60) years of age shall receive a
1040 disability benefit as computed in Section 25-11-111(d)(1) through
1041 (d)(4) which shall consist of:

1042 (i) A member's annuity which shall be the
1043 actuarial equivalent of his accumulated contributions at the time
1044 of retirement; and

1045 (ii) An employer's annuity equal to the amount
1046 that would have been payable as a retirement allowance for both
1047 membership service and prior service had the member continued in

1048 service to the age of sixty (60) years, which shall apply to the
1049 allowance for disability retirement paid to retirees receiving
1050 such allowance upon and after April 12, 1977. This employer's
1051 annuity shall be computed on the basis of the average "earned
1052 compensation" as defined in Section 25-11-103.

1053 (c) For persons who become members after June 30, 1992,
1054 and for active members on June 30, 1992, who elect benefits under
1055 this paragraph (c) instead of those provided under paragraph (b)
1056 of this subsection (2), the disability allowance shall consist of
1057 two (2) parts: a temporary allowance and a deferred allowance.

1058 The temporary allowance shall equal the greater of (i) forty
1059 percent (40%) of average compensation at the time of disability,
1060 plus ten percent (10%) of average compensation for each of the
1061 first two (2) dependent children, as defined in Sections 25-11-103
1062 and 25-11-114, or (ii) the accrued benefit based on actual
1063 service. It shall be payable for a period of time based on the
1064 member's age at disability, as follows:

1065	Age at Disability	Duration
1066	60 and earlier	to age 65
1067	61	to age 66
1068	62	to age 66
1069	63	to age 67
1070	64	to age 67
1071	65	to age 68
1072	66	to age 68
1073	67	to age 69
1074	68	to age 70
1075	69 and over	one year

1076 The deferred allowance shall commence when the temporary
1077 allowance ceases and shall be payable for life. The deferred
1078 allowance shall equal the greater of (i) the allowance that would
1079 have been payable had the member continued in service to the
1080 termination age of the temporary allowance, but no more than forty

1081 percent (40%) of average compensation, or (ii) the accrued benefit
1082 based on actual service at the time of disability. The deferred
1083 allowance as determined at the time of disability shall be
1084 adjusted in accordance with Section 25-11-112 for the period
1085 during which the temporary annuity is payable. In no case shall a
1086 member receive less than Ten Dollars (\$10.00) per month for each
1087 year of service and proportionately for each quarter year thereof
1088 reduced for the option selected.

1089 (d) The member may elect to receive the actuarial
1090 equivalent of the disability retirement allowance in a reduced
1091 allowance payable throughout life under any of the provisions of
1092 the options provided under Section 25-11-115.

1093 (e) Should a disability retiree who has not selected an
1094 option under Section 25-11-115 die before being repaid in
1095 disability benefits the sum of his total contributions, then his
1096 named beneficiary shall receive the difference in cash, which
1097 shall apply to all deceased disability retirees from and after
1098 January 1, 1953.

1099 (3) Reexamination of retirees retired on account of
1100 disability. Except as otherwise provided in this section, once
1101 each year during the first five (5) years following retirement of
1102 a member on a disability retirement allowance, and once in every
1103 period of three (3) years thereafter, the board of trustees may,
1104 and upon his application shall, require any disability retiree who
1105 has not yet attained the age of sixty (60) years or the
1106 termination age of the temporary allowance under paragraph (2)(c)
1107 of this section to undergo a medical examination, such examination
1108 to be made at the place of residence of the retiree or other place
1109 mutually agreed upon by a physician or physicians designated by
1110 the board. The board, however, in its discretion, may authorize
1111 the medical board to establish reexamination schedules appropriate
1112 to the medical condition of individual disability retirees.
1113 Should any disability retiree who has not yet attained the age of

1114 sixty (60) years or the termination age of the temporary allowance
1115 under paragraph (2)(c) of this section refuse to submit to any
1116 medical examination provided herein, his allowance may be
1117 discontinued until his withdrawal of such refusal; and should his
1118 refusal continue for one (1) year, all his rights to a disability
1119 benefit shall be revoked by the board of trustees.

1120 (4) If the medical board reports and certifies to the board
1121 of trustees, after a comparable job analysis or other similar
1122 study, that such disability retiree is engaged in, or is able to
1123 engage in, a gainful occupation paying more than the difference
1124 between his disability allowance, exclusive of cost of living
1125 adjustments, and the average compensation, and if the board of
1126 trustees concurs in such report, the disability benefit shall be
1127 reduced to an amount which, together with the amount earnable by
1128 him, shall equal the amount of his average compensation. If his
1129 earning capacity be later changed, the amount of the benefit may
1130 be further modified, provided that the revised benefit shall not
1131 exceed the amount originally granted. A retiree receiving a
1132 disability benefit who is restored to active service at a salary
1133 less than the average compensation shall not become a member of
1134 the retirement system.

1135 (5) Should a disability retiree under the age of sixty (60)
1136 years or the termination age of the temporary allowance under
1137 paragraph (2)(c) of this section be restored to active service at
1138 a compensation not less than his average compensation, his
1139 disability benefit shall cease, he shall again become a member of
1140 the retirement system, and contributions shall be withheld and
1141 reported. Any such prior service certificate, on the basis of
1142 which his service was computed at the time of retirement, shall be
1143 restored to full force and effect. In addition, upon his
1144 subsequent retirement he shall be credited with all creditable
1145 service as a member, but the total retirement allowance paid to
1146 the retired member in his previous retirement shall be deducted

1147 from his retirement reserve and taken into consideration in
1148 recalculating the retirement allowance under a new option
1149 selected.

1150 (6) If following reexamination in accordance with the
1151 provisions contained in this section, the medical board determines
1152 that a retiree retired on account of disability is physically and
1153 mentally able to return to the employment from which he is
1154 retired, the board of trustees, upon certification of such
1155 findings from the medical board, shall, after a reasonable period
1156 of time, terminate the disability allowance, whether or not the
1157 retiree is reemployed or seeks such reemployment. In addition, if
1158 the board of trustees determines that the retiree is no longer
1159 sustaining a loss of income as established by documented evidence
1160 of the retiree's earned income, the eligibility for a disability
1161 allowance shall terminate and the allowance terminated within a
1162 reasonable period of time. In the event the retirement allowance
1163 is terminated under the provisions of this section, the retiree
1164 may subsequently qualify for a retirement allowance under Section
1165 25-11-111 based on actual years of service credit plus credit for
1166 the period during which a disability allowance was paid.

1167 (7) Any current member as of June 30, 1992, who retires on a
1168 disability retirement allowance after June 30, 1992, and who has
1169 not elected to receive benefits under paragraph (2)(c) of this
1170 section, shall relinquish all rights under the Age Discrimination
1171 in Employment Act of 1967, as amended, with regard to the benefits
1172 payable under this section.

1173 **SECTION 6.** Section 25-11-114, Mississippi Code of 1972, is
1174 amended as follows:

1175 25-11-114. (1) The applicable benefits provided in
1176 subsections (2) and (3) of this section shall be paid to eligible
1177 beneficiaries of any member who became a member of the system
1178 before July 1, 2006, and has completed four (4) or more years of
1179 creditable service, or who became a member of the system on or

1180 after July 1, 2006, and has completed ten (10) or more years of
1181 creditable service, and who dies before retirement and who has not
1182 filed a Pre-Retirement Optional Retirement Form as provided in
1183 Section 25-11-111.

1184 (2) (a) The member's surviving spouse who has been married
1185 to the member for not less than one (1) year immediately preceding
1186 his death shall receive an annuity computed in accordance with
1187 paragraph (d) of this subsection (2) as if the member:

1188 (i) Had retired on the date of his death with
1189 entitlement to an annuity provided for in Section 25-11-111,
1190 notwithstanding that he might not have attained age sixty (60) or
1191 acquired the years of creditable service necessary for retirement
1192 regardless of age;

1193 (ii) Had nominated his spouse as beneficiary; and

1194 (b) If, at the time of the member's death, there are no
1195 dependent children, and the surviving spouse, who otherwise would
1196 receive the annuity under this subsection (2), has filed with the
1197 system a signed written waiver of his or her rights to the annuity
1198 and that waiver was in effect at the time of the member's death, a
1199 lump sum distribution of the deceased member's accumulated
1200 contributions shall be refunded in accordance with Section
1201 25-11-117.

1202 (c) The spouse annuity shall begin on the first day of
1203 the month following the date of the member's death, but in case of
1204 late filing, retroactive payments will be made for a period of not
1205 more than one (1) year.

1206 (d) The spouse annuity shall be payable for life and
1207 shall be the greater of twenty percent (20%) of the deceased
1208 member's average compensation as defined in Section 25-11-103 at
1209 the time of death or Fifty Dollars (\$50.00) monthly. Surviving
1210 spouses of deceased members who previously received spouse
1211 retirement benefits under this paragraph (d) from and after July
1212 1, 1992, and whose benefits were terminated before July 1, 2004,

1213 because of remarriage, may again receive the retirement benefits
1214 authorized under this paragraph (d) by making application with the
1215 board to reinstate those benefits. Any reinstatement of the
1216 benefits shall be prospective only and shall begin after the first
1217 of the month following the date of the application for
1218 reinstatement, but no earlier than July 1, 2004.

1219 (e) However, the spouse may elect by an irrevocable
1220 agreement on a form prescribed by the board of trustees to receive
1221 a monthly allowance as computed under either paragraph (d) or this
1222 paragraph. The irrevocable agreement shall constitute a waiver by
1223 the spouse to any current and future monthly allowance under the
1224 paragraph not elected, and the waiver shall be a complete and full
1225 discharge of all obligations of the retirement system under that
1226 paragraph.

1227 Any member who has completed the requisite minimum number of
1228 years of membership service to qualify for a retirement allowance
1229 at age sixty (60) and who dies before retirement and leaves a
1230 spouse who has been married to the member for not less than one
1231 (1) year immediately preceding his death and has not exercised any
1232 other option shall be deemed to have exercised Option 2 under
1233 Section 25-11-115 for the benefit of his spouse, which spouse
1234 shall be paid Option 2 settlement benefits under this article
1235 beginning on the first of the month following the date of death,
1236 but in case of late filing, retroactive payments will be made for
1237 a period of not more than one (1) year. The method of calculating
1238 the retirement benefits shall be on the same basis as provided in
1239 Section 25-11-111(d). However, if the member dies before being
1240 qualified for full unreduced benefits, then the benefits shall be
1241 reduced by three percent (3%) per year for the lesser of either
1242 the years of service or age required for full unreduced benefits
1243 in Section 25-11-111(d).

1244 (3) (a) Subject to the maximum limitation provided in this
1245 paragraph, the member's dependent children each shall receive an

1246 annuity of the greater of ten percent (10%) of the member's
1247 average compensation as defined in Section 25-11-103 at the time
1248 of the death of the member or Fifty Dollars (\$50.00) monthly;
1249 however, if there are more than three (3) dependent children, each
1250 dependent child shall receive an equal share of a total annuity
1251 equal to thirty percent (30%) of the member's average
1252 compensation, provided that the total annuity shall not be less
1253 than One Hundred Fifty Dollars (\$150.00) per month for all
1254 children.

1255 (b) A child shall be considered to be a dependent child
1256 until marriage, or the attainment of age nineteen (19), whichever
1257 comes first; however, this age limitation shall be extended beyond
1258 age nineteen (19), but in no event beyond the attainment of age
1259 twenty-three (23), as long as the child is a student regularly
1260 pursuing a full-time course of resident study or training in an
1261 accredited high school, trade school, technical or vocational
1262 institute, junior or community college, college, university or
1263 comparable recognized educational institution duly licensed by a
1264 state. A student child whose birthday falls during the school
1265 year (September 1 through June 30) is considered not to reach age
1266 twenty-three (23) until the July 1 following the actual
1267 twenty-third birthday. A full-time course of resident study or
1268 training means a day or evening noncorrespondence course that
1269 includes school attendance at the rate of at least thirty-six (36)
1270 weeks per academic year or other applicable period with a subject
1271 load sufficient, if successfully completed, to attain the
1272 educational or training objective within the period generally
1273 accepted as minimum for completion, by a full-time day student, of
1274 the academic or training program concerned. Any child who is
1275 physically or mentally incompetent, as adjudged by either a
1276 Mississippi court of competent jurisdiction or by the board, shall
1277 receive benefits for as long as the incompetency exists.

1278 (c) If there are more than three (3) dependent
1279 children, upon a child's ceasing to be a dependent child, his
1280 annuity shall terminate and there shall be a redetermination of
1281 the amounts payable to any remaining dependent children.

1282 (d) Annuities payable under this subsection (3) shall
1283 begin the first day of the month following the date of the
1284 member's death or in case of late filing, retroactive payments
1285 will be made for a period of not more than one (1) year. Those
1286 benefits may be paid to a surviving parent or the lawful custodian
1287 of a dependent child for the use and benefit of the child without
1288 the necessity of appointment as guardian.

1289 (4) (a) Death benefits in the line of duty. Regardless of
1290 the number of years of the member's creditable service, the spouse
1291 and/or the dependent children of an active member who is killed in
1292 the line of performance of duty or dies as a direct result of an
1293 accident occurring in the line of performance of duty shall
1294 qualify, on approval of the board, for a retirement allowance on
1295 the first of the month following the date of death, but in the
1296 case of late filing, retroactive payments will be made for a
1297 period of not more than one (1) year. The spouse shall receive a
1298 retirement allowance for life equal to one-half (1/2) of the
1299 average compensation as defined in Section 25-11-103. In addition
1300 to the retirement allowance for the spouse, or if there is no
1301 surviving spouse, the member's dependent child shall receive a
1302 retirement allowance in the amount of one-fourth (1/4) of the
1303 member's average compensation as defined in Section 25-11-103;
1304 however, if there are two (2) or more dependent children, each
1305 dependent child shall receive an equal share of a total annuity
1306 equal to one-half (1/2) of the member's average compensation. If
1307 there are more than two (2) dependent children, upon a child's
1308 ceasing to be a dependent child, his annuity shall terminate and
1309 there shall be a redetermination of the amounts payable to any
1310 remaining dependent children. Those benefits shall cease to be

1311 paid for the support and maintenance of each child upon the child
1312 attaining the age of nineteen (19) years; however, the spouse
1313 shall continue to be eligible for the aforesaid retirement
1314 allowance. Those benefits may be paid to a surviving parent or
1315 lawful custodian of the children for the use and benefit of the
1316 children without the necessity of appointment as guardian. Any
1317 spouse who received spouse retirement benefits under this
1318 paragraph (a) from and after April 4, 1984, and whose benefits
1319 were terminated before July 1, 2004, because of remarriage, may
1320 again receive the retirement benefits authorized under this
1321 paragraph (a) by making application with the board to reinstate
1322 those benefits. Any reinstatement of the benefits shall be
1323 prospective only and shall begin after the first of the month
1324 following the date of the application for reinstatement, but not
1325 earlier than July 1, 2004.

1326 (b) A child shall be considered to be a dependent child
1327 until marriage, or the attainment of age nineteen (19), whichever
1328 comes first; however, this age limitation shall be extended beyond
1329 age nineteen (19), but in no event beyond the attainment of age
1330 twenty-three (23), as long as the child is a student regularly
1331 pursuing a full-time course of resident study or training in an
1332 accredited high school, trade school, technical or vocational
1333 institute, junior or community college, college, university or
1334 comparable recognized educational institution duly licensed by a
1335 state. A student child whose birthday falls during the school
1336 year (September 1 through June 30) is considered not to reach age
1337 twenty-three (23) until the July 1 following the actual
1338 twenty-third birthday. A full-time course of resident study or
1339 training means a day or evening noncorrespondence course that
1340 includes school attendance at the rate of at least thirty-six (36)
1341 weeks per academic year or other applicable period with a subject
1342 load sufficient, if successfully completed, to attain the
1343 educational or training objective within the period generally

1344 accepted as minimum for completion, by a full-time day student, of
1345 the academic or training program concerned. Any child who is
1346 physically or mentally incompetent, as adjudged by either a
1347 Mississippi court of competent jurisdiction or by the board, shall
1348 receive benefits for as long as the incompetency exists.

1349 (5) If all the annuities provided for in this section
1350 payable on account of the death of a member terminate before there
1351 has been paid an aggregate amount equal to the member's
1352 accumulated contributions standing to the member's credit in the
1353 annuity savings account at the time of the member's death, the
1354 difference between the accumulated contributions and the aggregate
1355 amount of annuity payments shall be paid to the person that the
1356 member has nominated by written designation duly executed and
1357 filed with the board. If there is no designated beneficiary
1358 surviving at termination of benefits, the difference shall be
1359 payable pursuant to Section 25-11-117.1(1).

1360 (6) Regardless of the number of years of creditable service
1361 upon the application of a member or employer, any active member
1362 who becomes disabled as a direct result of an accident or
1363 traumatic event resulting in a physical injury occurring in the
1364 line of performance of duty, provided that the medical board or
1365 other designated governmental agency after a medical examination
1366 certifies that the member is mentally or physically incapacitated
1367 for the further performance of duty and the incapacity is likely
1368 to be permanent, may be retired by the board of trustees on the
1369 first of the month following the date of filing the application
1370 but in no event shall the retirement allowance begin before the
1371 termination of state service. The retirement allowance shall
1372 equal the allowance on disability retirement as provided in
1373 Section 25-11-113 but shall not be less than fifty percent (50%)
1374 of average compensation.

1375 Permanent and total disability resulting from a
1376 cardiovascular, pulmonary or musculo-skeletal condition that was

1377 not a direct result of a traumatic event occurring in the
1378 performance of duty shall be deemed an ordinary disability. A
1379 mental disability based exclusively on employment duties occurring
1380 on an ongoing basis shall be deemed an ordinary disability.

1381 (7) If the deceased or disabled member became a member of
1382 the system before July 1, 2006, and has less than four (4) years
1383 of creditable service, or became a member of the system on or
1384 after July 1, 2006, and has less than ten (10) years of creditable
1385 service, the average compensation as defined in Section 25-11-103
1386 shall be the average of all annual earned compensation in state
1387 service for the purposes of benefits provided in this section.

1388 (8) In case of death or total and permanent disability under
1389 subsection (4) or subsection (6) of this section and before the
1390 board shall consider any application for a retirement allowance,
1391 the employer must certify to the board that the member's death or
1392 disability was a direct result of an accident or a traumatic event
1393 occurring during and as a result of the performance of the regular
1394 and assigned duties of the employee and that the death or
1395 disability was not the result of the willful negligence of the
1396 employee.

1397 (9) The application for the retirement allowance must be
1398 filed within one (1) year after death of an active member who is
1399 killed in the line of performance of duty or dies as a direct
1400 result of an accident occurring in the line of performance of duty
1401 or traumatic event; but the board of trustees may consider an
1402 application for disability filed after the one-year period if it
1403 can be factually demonstrated to the satisfaction of the board of
1404 trustees that the disability is due to the accident and that the
1405 filing was not accomplished within the one-year period due to a
1406 delayed manifestation of the disability or to circumstances beyond
1407 the control of the member. However, in case of late filing,
1408 retroactive payments will be made for a period of not more than
1409 one (1) year only.

1410 (10) Notwithstanding any other section of this article and
1411 in lieu of any payments to a designated beneficiary for a refund
1412 of contributions under Section 25-11-117, the spouse and/or
1413 children shall be eligible for the benefits payable under this
1414 section, and the spouse may elect, for both the spouse and/or
1415 children, to receive benefits in accordance with either
1416 subsections (2) and (3) or subsection (4) of this section;
1417 otherwise, the contributions to the credit of the deceased member
1418 shall be refunded in accordance with Section 25-11-117.

1419 (11) If the member has previously received benefits from the
1420 system to which he was not entitled and has not repaid in full all
1421 amounts payable by him to the system, the annuity amounts
1422 otherwise provided by this section shall be withheld and used to
1423 effect repayment until the total of the withholdings repays in
1424 full all amounts payable by him to the system.

1425 **SECTION 7.** Section 25-11-115, Mississippi Code of 1972, is
1426 amended as follows:

1427 25-11-115. (1) Upon application for superannuation or
1428 disability retirement, any member may elect to receive his benefit
1429 in a retirement allowance payable throughout life with no further
1430 payments to anyone at his death, except that in the event his
1431 total retirement payments under this article do not equal his
1432 total contributions under this article, his named beneficiary
1433 shall receive the difference in cash at his death. Or he may
1434 elect upon retirement, or upon becoming eligible for retirement,
1435 to receive the actuarial equivalent subject to the provisions of
1436 subsection (3) of this section of his retirement allowance in a
1437 reduced retirement allowance payable throughout life with the
1438 provision that:

1439 **Option 1.** If he dies before he has received in annuity
1440 payment the value of the member's annuity savings account as it
1441 was at the time of his retirement, the balance shall be paid to

1442 his legal representative or to such person as he shall nominate by
1443 written designation duly acknowledged and filed with the board; or

1444 **Option 2.** Upon his death, his reduced retirement allowance
1445 shall be continued throughout the life of, and paid to, such
1446 person as he has nominated by written designation duly
1447 acknowledged and filed with the board of trustees at the time of
1448 his retirement;

1449 **Option 3.** Upon his death, one-half (1/2) of his reduced
1450 retirement allowance shall be continued throughout the life of,
1451 and paid to, such person as he shall have nominated by written
1452 designation duly acknowledged and filed with the board of trustees
1453 at the time of his retirement, and the other one-half (1/2) of his
1454 reduced retirement allowance to some other designated beneficiary;

1455 **Option 4-A.** Upon his death, one-half (1/2) of his reduced
1456 retirement allowance, or such other specified amount, shall be
1457 continued throughout the life of, and paid to, such person as he
1458 shall have nominated by written designation duly acknowledged and
1459 filed with the board of trustees at the time of his retirement; or

1460 **Option 4-B.** A reduced retirement allowance shall be
1461 continued throughout the life of the retirant, but with the
1462 further guarantee of payments to the named beneficiary,
1463 beneficiaries or to the estate for a specified number of years
1464 certain. If the retired member or the last designated beneficiary
1465 receiving annuity payments dies prior to receiving all guaranteed
1466 payments due, the actuarial equivalent of the remaining payments
1467 shall be paid pursuant to Section 25-11-117.1(1);

1468 **Option 4-C.** Such retirement allowance otherwise payable may
1469 be converted into a retirement allowance of equivalent actuarial
1470 value in such an amount that, with the member's benefit under
1471 Title II of the federal Social Security Act, the member will
1472 receive, so far as possible, approximately the same amount
1473 annually before and after the earliest age at which the member
1474 becomes eligible to receive a social security benefit. This

1475 option shall not be available to retirees whose retirement is
1476 effective on or after July 1, 2004.

1477 **Option 6.** Any member who became a member of the system
1478 before July 1, 2006, and who has at least twenty-eight (28) years
1479 of creditable service at the time of retirement or who is at least
1480 sixty-three (63) years of age and eligible to retire, or any
1481 member who became a member of the system on or after July 1, 2006,
1482 and who has at least thirty-three (33) years of creditable service
1483 at the time of retirement or who is at least sixty-three (63)
1484 years of age and eligible to retire, may select the maximum
1485 retirement benefit or an optional benefit as provided in this
1486 subsection together with a partial lump-sum distribution. The
1487 amount of the lump-sum distribution under this option shall be
1488 equal to the maximum monthly benefit multiplied by twelve (12),
1489 twenty-four (24) or thirty-six (36) as selected by the member.
1490 The maximum retirement benefit shall be actuarially reduced to
1491 reflect the amount of the lump-sum distribution selected and
1492 further reduced for any other optional benefit selected. The
1493 annuity and lump-sum distribution shall be computed to result in
1494 no actuarial loss to the system. The lump-sum distribution shall
1495 be made as a single payment payable at the time the first monthly
1496 annuity payment is paid to the retiree. The amount of the
1497 lump-sum distribution shall be deducted from the member's annuity
1498 savings account in computing what contributions remain at the
1499 death of the retiree and/or a beneficiary. The lump-sum
1500 distribution option may be elected only once by a member upon
1501 initial retirement, and may not be elected by a retiree, by
1502 members applying for a disability retirement annuity, by survivors
1503 or by a member selecting Option 4-C.

1504 (2) No change in the option selected shall be permitted
1505 after the member's death or after the member has received his
1506 first retirement check except as provided in subsections (3) and
1507 (4) of this section and in Section 25-11-127. Members who are

1508 pursuing a disability retirement allowance and simultaneously or
1509 subsequently elect to begin to receive a service retirement
1510 allowance while continuing to pursue a disability retirement
1511 allowance, shall not be eligible to select Option 4-C or Option 6
1512 and those options may not be selected at a later time if the
1513 application for a disability retirement allowance is voided or
1514 denied. However, any retired member who is receiving a retirement
1515 allowance under Option 2 or Option 4-A upon July 1, 1992, and
1516 whose designated beneficiary predeceased him or whose marriage to
1517 a spouse who is his designated beneficiary is terminated by
1518 divorce or other dissolution, upon written notification to the
1519 retirement system of the death of the designated beneficiary or of
1520 the termination of his marriage to his designated beneficiary, the
1521 retirement allowance payable to the member after receipt of such
1522 notification by the retirement system shall be equal to the
1523 retirement allowance which would have been payable had the member
1524 not elected the option. In addition, any retired member who is
1525 receiving the maximum retirement allowance for life, a retirement
1526 allowance under Option 1 or who is receiving a retirement
1527 allowance under Option 2 or Option 4-A on July 1, 1992, may elect
1528 to provide survivor benefits under Option 2 or Option 4-A to a
1529 spouse who was not previously the member's beneficiary and whom
1530 the member married before July 1, 1992.

1531 (3) Any retired member who is receiving a reduced retirement
1532 allowance under Option 2 or Option 4-A whose designated
1533 beneficiary predeceases him, or whose marriage to a spouse who is
1534 his designated beneficiary is terminated by divorce or other
1535 dissolution, may elect to cancel his reduced retirement allowance
1536 and receive the maximum retirement allowance for life in an amount
1537 equal to the amount that would have been payable if the member had
1538 not elected Option 2 or Option 4-A. Such election must be made in
1539 writing to the office of the executive director of the system on a
1540 form prescribed by the board. Any such election shall be

1541 effective the first of the month following the date the election
1542 is received by the system.

1543 (4) Any retired member who is receiving the maximum
1544 retirement allowance for life, or a retirement allowance under
1545 Option 1, and who marries after his retirement may elect to cancel
1546 his maximum retirement allowance and receive a reduced retirement
1547 allowance under Option 2 or Option 4-A to provide continuing
1548 lifetime benefits to his spouse. Such election must be made in
1549 writing to the office of the executive director of the system on a
1550 form prescribed by the board not earlier than the date of the
1551 marriage. Any such election shall be effective the first of the
1552 month following the date the election is received by the system.

1553 (5) In the event the election of an optional benefit is made
1554 after the member has attained the age of sixty-five (65) years,
1555 the actuarial equivalent factor shall be used to compute the
1556 reduced retirement allowance as if the election had been made on
1557 his sixty-fifth birthday; however, from and after January 1, 2003,
1558 if there is an election of Option 6 after the member has attained
1559 the age of sixty-five (65) years, the actuarial equivalent factor
1560 based on the retiree's age at the time of retirement shall be used
1561 to compute the reduced maximum monthly retirement allowance.
1562 However, if a retiree marries or remarries after retirement and
1563 elects either Option 2 or Option 4-A as provided in subsection (2)
1564 or (4) of this section, the actuarial equivalent factor used to
1565 compute the reduced retirement allowance shall be the factor for
1566 the age of the retiree and his or her beneficiary at the time such
1567 election for recalculation of benefits is made.

1568 (6) Notwithstanding any provision of Section 25-11-1 et
1569 seq., no payments may be made for a retirement allowance on a
1570 monthly basis for a period of time in excess of that allowed by
1571 federal law.

1572 (7) If a retirant and his eligible beneficiary, if any, both
1573 die before they have received in annuity payments a total amount

1574 equal to the accumulated contributions standing to the retirant's
1575 credit in the annuity savings account at the time of his
1576 retirement, the difference between the accumulated contributions
1577 and the total amount of annuities received by them shall be paid
1578 to such persons as the retirant has nominated by written
1579 designation duly executed and filed in the office of the executive
1580 director. If no designated person survives the retirant and his
1581 beneficiary, the difference, if any, shall be paid pursuant to
1582 Section 25-11-117.1(1).

1583 (8) Any retired member who retired on Option 2(5) or 4-A(5)
1584 prior to July 1, 1992, who is still receiving a retirement
1585 allowance on July 1, 1994, shall receive an increase in the annual
1586 retirement allowance effective July 1, 1994, equal to the amount
1587 they would have received under Option 2 or Option 4-A without a
1588 reduction for Option 5 based on the ages at retirement of the
1589 retiree and beneficiary and option factors in effect on July 1,
1590 1992. Such increase shall be prospective only.

1591 **SECTION 8.** Section 25-11-117, Mississippi Code of 1972, is
1592 amended as follows:

1593 25-11-117. (1) A member may be paid a refund of the amount
1594 of accumulated contributions to the credit of the member in the
1595 annuity savings account, provided that the member has withdrawn
1596 from state service and has not returned to state service on the
1597 date the refund of the accumulated contributions would be paid.
1598 That refund of the contributions to the credit of the member in
1599 the annuity savings account shall be paid within ninety (90) days
1600 from receipt in the office of the retirement system of the
1601 properly completed form requesting the payment. In the event of
1602 death before retirement of any member whose spouse and/or children
1603 are not entitled to a retirement allowance, the accumulated
1604 contributions to the credit of the deceased member in the annuity
1605 savings account shall be paid to the designated beneficiary on
1606 file in writing in the office of the executive director of the

1607 board of trustees within ninety (90) days from receipt of a
1608 properly completed form requesting the payment. If there is no
1609 such designated beneficiary on file for the deceased member in the
1610 office of the system, upon the filing of a proper request with the
1611 board, the contributions to the credit of the deceased member in
1612 the annuity savings account shall be refunded pursuant to Section
1613 25-11-117.1(1). The payment of the refund shall discharge all
1614 obligations of the retirement system to the member on account of
1615 any creditable service rendered by the member prior to the receipt
1616 of the refund. By the acceptance of the refund, the member shall
1617 waive and relinquish all accrued rights in the system.

1618 (2) Under the Unemployment Compensation Amendments of 1992
1619 (Public Law 102-318 (UCA)), a member or the spouse of a member who
1620 is an eligible beneficiary entitled to a refund under this section
1621 may elect, on a form prescribed by the board under rules and
1622 regulations established by the board, to have an eligible rollover
1623 distribution of accumulated contributions payable under this
1624 section paid directly to an eligible retirement plan, as defined
1625 under applicable federal law, or an individual retirement account.
1626 If the member or the spouse of a member who is an eligible
1627 beneficiary makes that election and specifies the eligible
1628 retirement plan or individual retirement account to which the
1629 distribution is to be paid, the distribution will be made in the
1630 form of a direct trustee-to-trustee transfer to the specified
1631 eligible retirement plan. Flexible rollovers under this
1632 subsection shall not be considered assignments under Section
1633 25-11-129.

1634 (3) (a) If any person who became a member of the system
1635 before July 1, 2006, has received a refund reenters the state
1636 service and again becomes a member of the system, the member may
1637 repay all or part of the amounts previously received as a refund,
1638 together with regular interest covering the period from the date
1639 of refund to the date of repayment; however, the amounts that are

1640 repaid by the member and the creditable service related thereto
1641 shall not be used in any benefit calculation or determination
1642 until the member has remained a contributor to the system for a
1643 period of at least four (4) years after the member's reentry into
1644 state service. Repayment for that time shall be made in
1645 increments of not less than one-quarter (1/4) year of creditable
1646 service beginning with the most recent service for which refund
1647 has been made. Upon the repayment of all or part of that refund
1648 and interest, the member shall again receive credit for the period
1649 of creditable service for which full repayment has been made to
1650 the system.

1651 (b) If any person who became a member of the system on
1652 or after July 1, 2006, has received a refund reenters the state
1653 service and again becomes a member of the system, the member may
1654 repay all or part of the amounts previously received as a refund,
1655 together with regular interest covering the period from the date
1656 of refund to the date of repayment; however, the amounts that are
1657 repaid by the member and the creditable service related thereto
1658 shall not be used in any benefit calculation or determination
1659 until the member has remained a contributor to the system for a
1660 period of at least ten (10) years after the member's reentry into
1661 state service. Repayment for that time shall be made in
1662 increments of not less than one-quarter (1/4) year of creditable
1663 service beginning with the most recent service for which refund
1664 has been made. Upon the repayment of all or part of that refund
1665 and interest, the member shall again receive credit for the period
1666 of creditable service for which full repayment has been made to
1667 the system.

1668 (4) (a) In order to provide a source of income to members
1669 who have applied for disability benefits under Section 25-11-113
1670 or 25-11-114, the board may provide, at the employee's election, a
1671 temporary benefit to be paid from the member's accumulated
1672 contributions, if any, without forfeiting the right to pursue

1673 disability benefits, provided that the member has exhausted all
1674 personal and medical leave and has terminated his or her
1675 employment. The board may prescribe rules and regulations for
1676 carrying out the provisions of this subsection (4).

1677 (b) If a member who has elected to receive temporary
1678 benefits under this subsection later applies for a refund of his
1679 or her accumulated contributions, all amounts paid under this
1680 subsection shall be deducted from the accumulated contributions
1681 and the balance will be paid to the member. If a member who has
1682 elected to receive temporary benefits under this subsection is
1683 later approved for a disability retirement allowance, and a
1684 service retirement allowance or survivor benefits are paid on the
1685 account, the board shall adjust the benefits in such a manner that
1686 no more than the actuarial equivalent of the benefits to which the
1687 member or beneficiary was or is entitled shall be paid.

1688 (c) The board may study, develop and propose a
1689 disability benefit structure, including short and long term
1690 disability benefits, provided that it is the actuarial equivalent
1691 of the benefits currently provided in Section 25-11-113 or
1692 25-11-114.

1693 **SECTION 9.** Section 25-11-311, Mississippi Code of 1972, is
1694 amended as follows:

1695 25-11-311. (1) A member may be paid a refund of the amount
1696 of accumulated contributions to the credit of the member in the
1697 annuity savings account, provided the member has withdrawn from
1698 state service and further provided the member has not returned to
1699 state service on the date the refund of the accumulated
1700 contributions would be paid. Such refund of the contributions to
1701 the credit of the member in the annuity savings account shall be
1702 paid within ninety (90) days from receipt in the office of the
1703 retirement system of the properly completed form requesting such
1704 payment. In the event of death prior to retirement of any member
1705 whose spouse and/or children are not entitled to a retirement

1706 allowance, the accumulated contributions to the credit of the
1707 deceased member in the annuity savings account shall be paid to
1708 the designated beneficiary on file in writing in the office of
1709 executive secretary of the board of trustees within ninety (90)
1710 days from receipt of a properly completed form requesting such
1711 payment. If there is no such designated beneficiary on file for
1712 such deceased member in the office of the system, upon the filing
1713 of a proper request with the board, the contributions to the
1714 credit of the deceased member in the annuity savings account shall
1715 be refunded pursuant to Section 25-11-311.1(1). The payment of
1716 the refund shall discharge all obligations of the retirement
1717 system to the member on account of any creditable service rendered
1718 by the member prior to the receipt of the refund. By the
1719 acceptance of the refund, the member shall waive and relinquish
1720 all accrued rights in the plan.

1721 (2) Pursuant to the Unemployment Compensation Amendments of
1722 1992 (Public Law 102-318 (UCA)), a member or eligible beneficiary
1723 making application for a refund under this section may elect, on a
1724 form prescribed by the board under rules and regulations
1725 established by the board, to have an eligible rollover
1726 distribution of accumulated contributions payable under this
1727 section paid directly to an eligible retirement plan, as defined
1728 under applicable federal law, or an individual retirement account.
1729 If the member or eligible beneficiary makes such election and
1730 specifies the eligible retirement plan or individual retirement
1731 account to which such distribution is to be paid, the distribution
1732 will be made in the form of a direct trustee-to-trustee transfer
1733 to the specified eligible retirement plan. Flexible rollovers
1734 under this subsection shall not be considered assignments under
1735 Section 25-11-129.

1736 (3) If any person who has received a refund is reelected to
1737 the Legislature or as President of the Senate and again becomes a
1738 member of the plan, the member may repay all or part of the

1739 amounts previously received as a refund, together with regular
1740 interest covering the period from the date of refund to the date
1741 of repayment * * *. The amounts that are repaid by the member
1742 before July 1, 2006, and the creditable service related thereto
1743 shall not be used in any benefit calculation or determination
1744 until the member has remained a contributor to the system for a
1745 period of at least four (4) years subsequent to such member's
1746 reentry into state service. The amounts that are repaid by the
1747 member on or after July 1, 2006, and the creditable service
1748 related thereto shall not be used in any benefit calculation or
1749 determination until the member has remained a contributor to the
1750 system for a period of at least ten (10) years subsequent to such
1751 member's reentry into state service. Repayment for such time
1752 shall be made in increments of not less than one-quarter (1/4)
1753 year of creditable service beginning with the most recent service
1754 for which refund has been made. Upon the repayment of all or part
1755 of such refund and interest, the member shall again receive credit
1756 for the period of creditable service for which full repayment has
1757 been made to the system.

1758 **SECTION 10.** Section 25-11-315, Mississippi Code of 1972, is
1759 amended as follows:

1760 25-11-315. (1) Any member of the State Legislature or the
1761 President of the Senate who becomes a member of the plan on July
1762 1, 1989, shall be eligible for prior service as a member of the
1763 State Legislature or as President of the Senate. Each member
1764 shall submit to the board a verification of prior service as a
1765 member of the State Legislature or as President of the Senate.
1766 Upon receipt of such prior service statement, the board shall
1767 issue a prior service certificate certifying to each member the
1768 length of prior service for which credit has been allowed on the
1769 basis of the statement of service. Additional prior service
1770 regulations in force shall be those found in Section 25-11-101 et
1771 seq.

1772 (2) (a) Any member of the State Legislature or the
1773 President of the Senate who becomes a member of this plan after
1774 July 1, 1989, and before July 1, 2006, shall not be allowed prior
1775 service unless the member serves as a member of the State
1776 Legislature or as President of the Senate for a minimum of four
1777 (4) years and contributes to the plan for a minimum period of four
1778 (4) years.

1779 (b) Any member of the State Legislature or the
1780 President of the Senate who becomes a member of this plan on or
1781 after July 1, 2006, shall not be allowed prior service unless the
1782 member serves as a member of the State Legislature or as President
1783 of the Senate for a minimum of ten (10) years and contributes to
1784 the plan for a minimum period of ten (10) years.

1785 **SECTION 11.** For purposes of Sections 25-11-103, 25-11-105,
1786 25-11-109, 25-11-111, 25-11-113, 25-11-114, 25-11-115 and
1787 25-11-117, if a member of the system withdrew from state service
1788 and received a refund of the amount of the accumulated
1789 contributions to the credit of the member in the annuity savings
1790 account before July 1, 2006, and the person reenters state service
1791 and becomes a member of the system again on or after July 1, 2006,
1792 and repays all or part of the amount received as a refund and
1793 interest in order to receive creditable service for service
1794 rendered before July 1, 2006, the member shall be considered to
1795 have become a member of the system on or after July 1, 2006.

1796 **SECTION 12.** This act shall take effect and be in force from
1797 and after July 1, 2006.