

By: Senator(s) Doxey

To: Finance

SENATE BILL NO. 2696

1 AN ACT TO AMEND SECTION 25-11-103, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE THAT FOR PERSONS WHO BECOME MEMBERS OF THE PUBLIC
 3 EMPLOYEES' RETIREMENT SYSTEM ON OR AFTER JULY 1, 2006, THE TERM
 4 "AVERAGE COMPENSATION" SHALL MEAN THE AVERAGE ANNUAL EARNED
 5 COMPENSATION OF AN EMPLOYEE FOR ANY PERIOD OF FIVE SUCCESSIVE
 6 YEARS OF SERVICE AS AN EMPLOYEE DURING WHICH THE COMPENSATION WAS
 7 THE HIGHEST; TO AMEND SECTION 25-11-111, MISSISSIPPI CODE OF 1972,
 8 TO PROVIDE THAT PERSONS WHO BECOME MEMBERS OF THE PUBLIC
 9 EMPLOYEES' RETIREMENT SYSTEM ON OR AFTER JULY 1, 2006, MAY RETIRE
 10 AT AGE 60 IF THEY HAVE AT LEAST TEN YEARS OF CREDITABLE SERVICE OR
 11 AT ANY AGE IF THEY HAVE AT LEAST 30 YEARS OF CREDITABLE SERVICE;
 12 TO AMEND SECTIONS 25-11-105, 25-11-109, 25-11-113, 25-11-114,
 13 25-11-115, 25-11-117, 25-11-311 AND 25-11-315, MISSISSIPPI CODE OF
 14 1972, TO PROVIDE THAT FOR PERSONS WHO BECOME MEMBERS OF THE PUBLIC
 15 EMPLOYEES' RETIREMENT SYSTEM ON OR AFTER JULY 1, 2006, MUST HAVE
 16 AT LEAST TEN YEARS OF MEMBERSHIP SERVICE BEFORE VARIOUS BENEFITS
 17 ACCRUE AND BEFORE VARIOUS TYPES OF SERVICE MAY BE CLAIMED AS
 18 CREDITABLE SERVICE; AND FOR RELATED PURPOSES.

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

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

22 25-11-103. The following words and phrases as used in
 23 Articles 1 and 3, unless a different meaning is plainly required
 24 by the context, have the following meanings:

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

29 (b) "Actuarial cost" means the amount of funds
 30 presently required to provide future benefits as determined by the
 31 board based on applicable tables and formulas provided by the
 32 actuary.

33 (c) "Actuarial equivalent" means a benefit of equal
 34 value to the accumulated contributions, annuity or benefit, as the

35 case may be, when computed upon the basis of such mortality tables
36 as adopted by the board of trustees, and regular interest.

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

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

42 (f) "Average compensation" means

43 (i) For persons who became a member of the system
44 before July 1, 2006, the average of the four (4) highest years of
45 earned compensation reported for an employee in a fiscal or
46 calendar year period, or combination thereof that do not overlap,
47 or the last forty-eight (48) consecutive months of earned
48 compensation reported for an employee. The four (4) years need
49 not be successive or joined years of service.

50 (ii) For persons who became members of the system
51 on or after July 1, 2006, the average annual earned compensation
52 for any period of five (5) successive or joined years of service
53 as an employee during which the compensation was the highest. In
54 the case of interruption of employment, the period of five (5)
55 years shall be computed by joining employment periods immediately
56 preceding and succeeding the interruption.

57 In no case shall the average compensation so determined be in
58 excess of One Hundred Fifty Thousand Dollars (\$150,000.00). In
59 computing the average compensation, any amount lawfully paid in a
60 lump sum for personal leave or major medical leave shall be
61 included in the calculation to the extent that the amount does not
62 exceed an amount that is equal to thirty (30) days of earned
63 compensation and to the extent that it does not cause the
64 employees' earned compensation to exceed the maximum reportable
65 amount specified in Section 25-11-103(k); however, this thirty-day
66 limitation shall not prevent the inclusion in the calculation of
67 leave earned under federal regulations before July 1, 1976, and

68 frozen as of that date as referred to in Section 25-3-99. Only
69 the amount of lump-sum pay for personal leave due and paid upon
70 the death of a member attributable for up to one hundred fifty
71 (150) days shall be used in the deceased member's average
72 compensation calculation in determining the beneficiary's
73 benefits. In computing the average compensation, no amounts shall
74 be used that are in excess of the amount on which contributions
75 were required and paid, and no nontaxable amounts paid by the
76 employer for health or life insurance premiums for the employee
77 shall be used. If any member who is or has been granted any
78 increase in annual salary or compensation of more than eight
79 percent (8%) retires within twenty-four (24) months from the date
80 that the increase becomes effective, then the board shall exclude
81 that part of the increase in salary or compensation that exceeds
82 eight percent (8%) in calculating that member's average
83 compensation for retirement purposes. The board may enforce this
84 provision by rule or regulation. However, increases in
85 compensation in excess of eight percent (8%) per year granted
86 within twenty-four (24) months of the date of retirement may be
87 included in the calculation of average compensation if
88 satisfactory proof is presented to the board showing that the
89 increase in compensation was the result of an actual change in the
90 position held or services rendered, or that the compensation
91 increase was authorized by the State Personnel Board or was
92 increased as a result of statutory enactment, and the employer
93 furnishes an affidavit stating that the increase granted within
94 the last twenty-four (24) months was not contingent on a promise
95 or agreement of the employee to retire. Nothing in Section
96 25-3-31 shall affect the calculation of the average compensation
97 of any member for the purposes of this article. The average
98 compensation of any member who retires before July 1, 1992, shall
99 not exceed the annual salary of the Governor.

100 (g) "Beneficiary" means any person entitled to receive
101 a retirement allowance, an annuity or other benefit as provided by
102 Articles 1 and 3. The term "beneficiary" may also include an
103 organization, estate, trust or entity; however, a beneficiary
104 designated or entitled to receive monthly payments under an
105 optional settlement based on life contingency or pursuant to a
106 statutory monthly benefit may only be a natural person. In the
107 event of the death before retirement of any member who became a
108 member of the system before July 1, 2006, and whose spouse and/or
109 children are not entitled to a retirement allowance on the basis
110 that the member has less than four (4) years of service credit, or
111 who became a member of the system on or after July 1, 2006, and
112 whose spouse and/or children are not entitled to a retirement
113 allowance on the basis that the member has less than ten (10)
114 years of service credit, and/or has not been married for a minimum
115 of one (1) year or the spouse has waived his or her entitlement to
116 a retirement allowance under Section 25-11-114, the lawful spouse
117 of a member at the time of the death of the member shall be the
118 beneficiary of the member unless the member has designated another
119 beneficiary after the date of marriage in writing, and filed that
120 writing in the office of the executive director of the board of
121 trustees. No designation or change of beneficiary shall be made
122 in any other manner.

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

126 (i) "Creditable service" means "prior service,"
127 "retroactive service" and all lawfully credited unused leave not
128 exceeding the accrual rates and limitations provided in Section
129 25-3-91 et seq., as of the date of withdrawal from service plus
130 "membership service" for which credit is allowable as provided in
131 Section 25-11-109. Except to limit creditable service reported to
132 the system for the purpose of computing an employee's retirement

133 allowance or annuity or benefits provided in this article, nothing
134 in this paragraph shall limit or otherwise restrict the power of
135 the governing authority of a municipality or other political
136 subdivision of the state to adopt such vacation and sick leave
137 policies as it deems necessary.

138 (j) "Child" means either a natural child of the member,
139 a child that has been made a child of the member by applicable
140 court action before the death of the member, or a child under the
141 permanent care of the member at the time of the latter's death,
142 which permanent care status shall be determined by evidence
143 satisfactory to the board.

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

164 (i) In the case of constables, the net earnings
165 from their office after deduction of expenses shall apply, except

166 that in no case shall earned compensation be less than the total
167 direct payments made by the state or governmental subdivisions to
168 the official.

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

172 (iii) In the case of members of the State
173 Legislature, all remuneration or amounts paid, except mileage
174 allowance, shall apply.

175 (iv) The amount by which an eligible employee's
176 salary is reduced under a salary reduction agreement authorized
177 under Section 25-17-5 shall be included as earned compensation
178 under this paragraph, provided this inclusion does not conflict
179 with federal law, including federal regulations and federal
180 administrative interpretations under the federal law, pertaining
181 to the Federal Insurance Contributions Act or to Internal Revenue
182 Code Section 125 cafeteria plans.

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

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

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

194 (1) "Employee" means any person legally occupying a
195 position in the state service, and shall include the employees of
196 the retirement system created under this article.

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

200 (n) "Executive director" means the secretary to the
201 board of trustees, as provided in Section 25-11-15(9), and the
202 administrator of the Public Employees' Retirement System and all
203 systems under the management of the board of trustees. Wherever
204 the term "Executive Secretary of the Public Employees' Retirement
205 System" or "executive secretary" appears in this article or in any
206 other provision of law, it shall be construed to mean the
207 Executive Director of the Public Employees' Retirement System.

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

210 (p) "Medical board" means the board of physicians or
211 any governmental or nongovernmental disability determination
212 service designated by the board of trustees that is qualified to
213 make disability determinations as provided for in Section
214 25-11-119.

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

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

219 (s) "Position" means any office or any employment in
220 the state service, or two (2) or more of them, the duties of which
221 call for services to be rendered by one (1) person, including
222 positions jointly employed by federal and state agencies
223 administering federal and state funds. The employer shall
224 determine upon initial employment and during the course of
225 employment of an employee who does not meet the criteria for
226 coverage in the Public Employees' Retirement System based on the
227 position held, whether the employee is or becomes eligible for
228 coverage in the Public Employees' Retirement System based upon any
229 other employment in a covered agency or political subdivision. If

230 or when the employee meets the eligibility criteria for coverage
231 in the other position, then the employer must withhold
232 contributions and report wages from the noncovered position in
233 accordance with the provisions for reporting of earned
234 compensation. Failure to deduct and report those contributions
235 shall not relieve the employee or employer of liability thereof.
236 The board shall adopt such rules and regulations as necessary to
237 implement and enforce this provision.

238 (t) "Prior service" means:

239 (i) For persons who became members of the system
240 before July 1, 2006, service rendered before February 1, 1953, for
241 which credit is allowable under Sections 25-11-105 and 25-11-109,
242 and which shall allow prior service for any person who is now or
243 becomes a member of the Public Employees' Retirement System and
244 who does contribute to the system for a minimum period of four (4)
245 years.

246 (ii) For persons who became members of the system
247 on or after July 1, 2006, service rendered before February 1,
248 1953, for which credit is allowable under Sections 25-11-105 and
249 25-11-109, and which shall allow prior service for any person who
250 is now or becomes a member of the Public Employees' Retirement
251 System and who does contribute to the system for a minimum period
252 of ten (10) years.

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

256 (v) "Retirement allowance" means an annuity for life as
257 provided in this article, payable each year in twelve (12) equal
258 monthly installments beginning as of the date fixed by the board.
259 The retirement allowance shall be calculated in accordance with
260 Section 25-11-111. However, any spouse who received a spouse
261 retirement benefit in accordance with Section 25-11-111(d) before
262 March 31, 1971, and those benefits were terminated because of

263 eligibility for a social security benefit, may again receive his
264 spouse retirement benefit from and after making application with
265 the board of trustees to reinstate the spouse retirement benefit.

266 (w) "Retroactive service" means service rendered after
267 February 1, 1953, for which credit is allowable under Section
268 25-11-105(b) and Section 25-11-105(k).

269 (x) "System" means the Public Employees' Retirement
270 System of Mississippi established and described in Section
271 25-11-101.

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

274 (z) "State service" means all offices and positions of
275 trust or employment in the employ of the state, or any political
276 subdivision or instrumentality of the state, that elect to
277 participate as provided by Section 25-11-105(f), including the
278 position of elected or fee officials of the counties and their
279 deputies and employees performing public services or any
280 department, independent agency, board or commission thereof, and
281 also includes all offices and positions of trust or employment in
282 the employ of joint state and federal agencies administering state
283 and federal funds and service rendered by employees of the public
284 schools. Effective July 1, 1973, all nonprofessional public
285 school employees, such as bus drivers, janitors, maids,
286 maintenance workers and cafeteria employees, shall have the option
287 to become members in accordance with Section 25-11-105(b), and
288 shall be eligible to receive credit for services before July 1,
289 1973, provided that the contributions and interest are paid by the
290 employee in accordance with that section; in addition, the county
291 or municipal separate school district may pay the employer
292 contribution and pro rata share of interest of the retroactive
293 service from available funds. From and after July 1, 1998,
294 retroactive service credit shall be purchased at the actuarial
295 cost in accordance with Section 25-11-105(b).

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

299 (bb) The masculine pronoun, wherever used, includes the
300 feminine pronoun.

301 **SECTION 2.** Section 25-11-111, Mississippi Code of 1972, is
302 amended as follows:

303 25-11-111. (a) (1) Any member who became a member of the
304 system before July 1, 2006, upon withdrawal from service upon or
305 after attainment of the age of sixty (60) years who shall have
306 completed at least four (4) years of creditable service, or any
307 member who became a member of the system before July 1, 2006, upon
308 withdrawal from service regardless of age who shall have completed
309 at least twenty-five (25) years of creditable service, shall be
310 entitled to receive a retirement allowance which shall begin on
311 the first of the month following the date the member's application
312 for the allowance is received by the board, but in no event before
313 withdrawal from service.

314 (2) Any member who became a member of the system on or
315 after July 1, 2006, upon withdrawal from service upon or after
316 attainment of the age of sixty (60) years who shall have completed
317 at least ten (10) years of creditable service, or any member who
318 became a member of the system on or after July 1, 2006, upon
319 withdrawal from service regardless of age who shall have completed
320 at least thirty (30) years of creditable service, shall be
321 entitled to receive a retirement allowance which shall begin on
322 the first of the month following the date the member's application
323 for the allowance is received by the board, but in no event before
324 withdrawal from service.

325 (b) (1) Any member who became a member of the system before
326 July 1, 2006, whose withdrawal from service occurs prior to
327 attaining the age of sixty (60) years who shall have completed
328 four (4) or more years of creditable service and shall not have

329 received a refund of his accumulated contributions shall be
330 entitled to receive a retirement allowance, beginning upon his
331 attaining the age of sixty (60) years, of the amount earned and
332 accrued at the date of withdrawal from service.

333 (2) Any member who became a member of the system on or
334 after July 1, 2006, whose withdrawal from service occurs prior to
335 attaining the age of sixty (60) years who shall have completed ten
336 (10) or more years of creditable service and shall not have
337 received a refund of his accumulated contributions shall be
338 entitled to receive a retirement allowance, beginning upon his
339 attaining the age of sixty (60) years, of the amount earned and
340 accrued at the date of withdrawal from service.

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

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

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

358 (2) An employer's annuity which, together with the
359 member's annuity provided above, shall be equal to two percent
360 (2%) of the average compensation for each year of state service up
361 to and including twenty-five (25) years of membership service, and

362 two and one-half percent (2-1/2%) of the average compensation for
363 each year of state service exceeding twenty-five (25) years of
364 membership service * * *; and

365 * * *

366 (3) A prior service annuity equal to two percent (2%)
367 of the average compensation for each year of state service up to
368 and including twenty-five (25) years of prior service, and two and
369 one-half percent (2-1/2%) of the average compensation for each
370 year of state service exceeding twenty-five (25) years of prior
371 service for which the member is allowed credit. * * *

372 * * *

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

392 * * *

393 (e) No member, except members excluded by the Age
394 Discrimination in Employment Act Amendments of 1986 (Public Law

395 99-592), under either Article 1 or Article 3 in state service
396 shall be required to retire because of age.

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

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

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

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

417 (4) The board of trustees may provide rules and
418 regulations for the administration of waivers under this
419 subsection.

420 **SECTION 3.** Section 25-11-105, Mississippi Code of 1972, is
421 amended as follows:

422 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

423 The membership of this retirement system shall be composed as
424 follows:

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

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

431 (ii) From and after July 1, 2002, any individual
432 who is employed by a governmental entity to perform professional
433 services shall become a member of the system if the individual is
434 paid regular periodic compensation for those services that is
435 subject to payroll taxes, is provided all other employee benefits
436 and meets the membership criteria established by the regulations
437 adopted by the board of trustees that apply to all other members
438 of the system; however, any active member employed in such a
439 position on July 1, 2002, will continue to be an active member for
440 as long as they are employed in any such position.

441 (b) All persons who become employees in the state
442 service after January 31, 1953, except those specifically excluded
443 or as to whom election is provided in Articles 1 and 3, unless
444 they file with the board before the lapse of sixty (60) days of
445 employment or sixty (60) days after the effective date of the
446 cited articles, whichever is later, on a form prescribed by the
447 board, a notice of election not to be covered by the membership of
448 the retirement system and a duly executed waiver of all present
449 and prospective benefits that would otherwise inure to them on
450 account of their participation in the system, shall become members
451 of the retirement system; however, no credit for prior service
452 will be granted to members who became members of the system before
453 July 1, 2006, until they have contributed to Article 3 of the
454 retirement system for a minimum period of at least four (4) years,
455 or to members who became members of the system on or after July 1,
456 2006, until they have contributed to Article 3 of the retirement
457 system for a minimum period of at least ten (10) years. Those
458 members shall receive credit for services performed before January
459 1, 1953, in employment now covered by Article 3, but no credit
460 shall be granted for retroactive services between January 1, 1953,

461 and the date of their entry into the retirement system, unless the
462 employee pays into the retirement system both the employer's and
463 the employee's contributions on wages paid him during the period
464 from January 31, 1953, to the date of his becoming a contributing
465 member, together with interest at the rate determined by the board
466 of trustees. Members reentering after withdrawal from service
467 shall qualify for prior service under the provisions of Section
468 25-11-117. From and after July 1, 1998, upon eligibility as noted
469 above, the member may receive credit for such retroactive service
470 provided:

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

474 (2) The member shall pay to the retirement system
475 on the date he or she is eligible for that credit or at any time
476 thereafter before the date of retirement the actuarial cost for
477 each year of that creditable service. The provisions of this
478 subparagraph (2) shall be subject to the limitations of Section
479 415 of the Internal Revenue Code and regulations promulgated under
480 Section 415.

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

485 (c) All persons who become employees in the state
486 service after January 31, 1953, and who are eligible for
487 membership in any other retirement system shall become members of
488 this retirement system as a condition of their employment, unless
489 they elect at the time of their employment to become a member of
490 that other system.

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

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

498 (e) All persons who are employees in the state service
499 on January 31, 1953, and who under existing laws are members of
500 any fund operated for the retirement of employees by the State of
501 Mississippi, or any of its departments or agencies, shall not be
502 entitled to membership in this retirement system unless, before
503 February 1, 1953, any such person indicates by a notice filed with
504 the board, on a form prescribed by the board, his individual
505 election and choice to participate in this system, but no such
506 person shall receive prior service credit unless he becomes a
507 member on or before February 1, 1953.

508 (f) Each political subdivision of the state and each
509 instrumentality of the state or a political subdivision, or both,
510 is authorized to submit, for approval by the board of trustees, a
511 plan for extending the benefits of this article to employees of
512 any such political subdivision or instrumentality. Each such plan
513 or any amendment to the plan for extending benefits thereof shall
514 be approved by the board of trustees if it finds that the plan, or
515 the plan as amended, is in conformity with such requirements as
516 are provided in Articles 1 and 3; however, upon approval of the
517 plan or any such plan previously approved by the board of
518 trustees, the approved plan shall not be subject to cancellation
519 or termination by the political subdivision or instrumentality,
520 except that any community hospital serving a municipality that
521 joined the Public Employees' Retirement System as of November 1,
522 1956, to offer social security coverage for its employees and
523 subsequently extended retirement annuity coverage to its employees
524 as of December 1, 1965, may, upon documentation of extreme
525 financial hardship, have future retirement annuity coverage

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

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

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

540 (3) It provides for such methods of administration
541 of the plan by the political subdivision or instrumentality as are
542 found by the board of trustees to be necessary for the proper and
543 efficient administration thereof;

544 (4) It provides that the political subdivision or
545 instrumentality will make such reports, in such form and
546 containing such information, as the board of trustees may from
547 time to time require;

548 (5) It authorizes the board of trustees to
549 terminate the plan in its entirety in the discretion of the board
550 if it finds that there has been a failure to comply substantially
551 with any provision contained in the plan, the termination to take
552 effect at the expiration of such notice and on such conditions as
553 may be provided by regulations of the board and as may be
554 consistent with applicable federal law.

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

559 instrumentality affected by the board's decision. The board's
560 decision in any such case shall be final, conclusive and binding
561 unless an appeal is taken by the political subdivision or
562 instrumentality aggrieved by the decision to the Circuit Court of
563 Hinds County, Mississippi, in accordance with the provisions of
564 law with respect to civil causes by certiorari.

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

572 C. Every political subdivision or
573 instrumentality required to make payments under paragraph (f)(5)B
574 of this section is authorized, in consideration of the employees'
575 retention in or entry upon employment after enactment of Articles
576 1 and 3, to impose upon its employees, as to services that are
577 covered by an approved plan, a contribution with respect to wages
578 (as defined in Section 25-11-5) not exceeding the amount provided
579 in Section 25-11-123(d) if those services constituted employment
580 within the meaning of Articles 1 and 3, and to deduct the amount
581 of the contribution from the wages as and when paid.

582 Contributions so collected shall be paid into the contribution
583 fund as partial discharge of the liability of the political
584 subdivisions or instrumentalities under paragraph (f)(5)B of this
585 section. Failure to deduct the contribution shall not relieve the
586 employee or employer of liability for the contribution.

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

592 with rules and regulations adopted by the board and delinquent
593 payments, assessed interest and any other amount certified by the
594 board as owed by an employer, may be recovered by action in a
595 court of competent jurisdiction against the reporting agency
596 liable therefor or may, upon due certification of delinquency and
597 at the request of the board of trustees, be deducted from any
598 other monies payable to the reporting agency by any department or
599 agency of the state.

600 E. Each political subdivision of the state
601 and each instrumentality of the state or a political subdivision
602 or subdivisions that submit a plan for approval of the board, as
603 provided in this section, shall reimburse the board for coverage
604 into the expense account, its pro rata share of the total expense
605 of administering Articles 1 and 3 as provided by regulations of
606 the board.

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

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

619 (i) If any member of this system changes his employment
620 to any agency of the state having an actuarially funded retirement
621 system, the board of trustees may authorize the transfer of the
622 member's creditable service and of the present value of the
623 member's employer's accumulation account and of the present value
624 of the member's accumulated membership contributions to that other

625 system, provided that the employee agrees to the transfer of his
626 accumulated membership contributions and provided that the other
627 system is authorized to receive and agrees to make the transfer.

628 If any member of any other actuarially funded system
629 maintained by an agency of the state changes his employment to an
630 agency covered by this system, the board of trustees may authorize
631 the receipt of the transfer of the member's creditable service and
632 of the present value of the member's employer's accumulation
633 account and of the present value of the member's accumulated
634 membership contributions from the other system, provided that the
635 employee agrees to the transfer of his accumulated membership
636 contributions to this system and provided that the other system is
637 authorized and agrees to make the transfer.

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

641 (k) Employees of a political subdivision or
642 instrumentality who were employed by the political subdivision or
643 instrumentality before an agreement between the entity and the
644 Public Employees' Retirement System to extend the benefits of this
645 article to its employees, and which agreement provides for the
646 establishment of retroactive service credit, and who have been
647 members of the retirement system who became members of the system
648 before July 1, 2006, and have remained contributors to the
649 retirement system for four (4) years, or who became members of the
650 system on or after July 1, 2006, and have remained contributors to
651 the retirement system for ten (10) years, may receive credit for
652 that retroactive service with the political subdivision or
653 instrumentality, provided that the employee and/or employer, as
654 provided under the terms of the modification of the joinder
655 agreement in allowing that coverage, pay into the retirement
656 system the employer's and employee's contributions on wages paid
657 the member during the previous employment, together with interest

658 or actuarial cost as determined by the board covering the period
659 from the date the service was rendered until the payment for the
660 credit for the service was made. Those wages shall be verified by
661 the Social Security Administration or employer payroll records.
662 Effective July 1, 1998, upon eligibility as noted above, a member
663 may receive credit for that retroactive service with the political
664 subdivision or instrumentality provided:

665 (1) The member shall furnish proof satisfactory to
666 the board of trustees of certification of those services from the
667 political subdivision or instrumentality where the services were
668 rendered or verification by the Social Security Administration;
669 and

670 (2) The member shall pay to the retirement system
671 on the date he or she is eligible for that credit or at any time
672 thereafter before the date of retirement the actuarial cost for
673 each year of that creditable service. The provisions of this
674 subparagraph (2) shall be subject to the limitations of Section
675 415 of the Internal Revenue Code and regulations promulgated under
676 Section 415.

677 Nothing contained in this paragraph (k) shall be construed to
678 limit the authority of the board to allow the correction of
679 reporting errors or omissions based on the payment of employee and
680 employer contributions plus applicable interest. Payment for that
681 time shall be made in increments of not less than one-quarter
682 (1/4) year of creditable service beginning with the most recent
683 service. Upon the payment of all or part of the required
684 contributions, plus interest or the actuarial cost as provided
685 above, the member shall receive credit for the period of
686 creditable service for which full payment has been made to the
687 retirement system.

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

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

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

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

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

705 (a) Patient or inmate help in state charitable, penal
706 or correctional institutions;

707 (b) Students of any state educational institution
708 employed by any agency of the state for temporary, part-time or
709 intermittent work;

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

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

717 **III. TERMINATION OF MEMBERSHIP**

718 Membership in this system shall cease by a member withdrawing
719 his accumulated contributions, or by a member withdrawing from
720 active service with a retirement allowance, or by a member's
721 death.

722 **SECTION 4.** Section 25-11-109, Mississippi Code of 1972, is
723 amended as follows:

724 25-11-109. (1) Under such rules and regulations as the
725 board of trustees shall adopt, each person who becomes a member of
726 this retirement system, as provided in Section 25-11-105, on or
727 prior to July 1, 1953, or who became a member of the system before
728 July 1, 2006, and contributes to the system for a minimum period
729 of four (4) years, or who became a member of the system on or
730 after July 1, 2006, and contributes to the system for a minimum
731 period of ten (10) years, shall receive credit for all state
732 service rendered before February 1, 1953. To receive such credit,
733 such member shall file a detailed statement of all services as an
734 employee rendered by him in the state service before February 1,
735 1953. For any member who joined the system after July 1, 1953,
736 and before July 1, 2006, any creditable service for which the
737 member is not required to make contributions shall not be credited
738 to the member until the member has contributed to the system for a
739 minimum period of at least four (4) years. For any member who
740 joined the system on or after July 1, 2006, any creditable service
741 for which the member is not required to make contributions shall
742 not be credited to the member until the member has contributed to
743 the system for a minimum period of at least ten (10) years.

744 (2) In the computation of membership service or prior
745 service under the provisions of this article, the total months of
746 accumulative service during any fiscal year shall be calculated in
747 accordance with the schedule as follows: ten (10) or more months
748 of creditable service during any fiscal year shall constitute a
749 year of creditable service; seven (7) months to nine (9) months
750 inclusive, three-quarters (3/4) of a year of creditable service;
751 four (4) months to six (6) months inclusive, one-half-year of
752 creditable service; one (1) month to three (3) months inclusive,
753 one-quarter (1/4) of a year of creditable service. In no case
754 shall credit be allowed for any period of absence without
755 compensation except for disability while in receipt of a
756 disability retirement allowance, nor shall less than fifteen (15)

757 days of service in any month, or service less than the equivalent
758 of one-half (1/2) of the normal working load for the position and
759 less than one-half (1/2) of the normal compensation for the
760 position in any month, constitute a month of creditable service,
761 nor shall more than one (1) year of service be creditable for all
762 services rendered in any one (1) fiscal year; however, for a
763 school employee, substantial completion of the legal school term
764 when and where the service was rendered shall constitute a year of
765 service credit for both prior service and membership service. Any
766 state or local elected official shall be deemed a full-time
767 employee for the purpose of creditable service for prior service
768 or membership service. However, an appointed or elected official
769 compensated on a per diem basis only shall not be allowed
770 creditable service for terms of office.

771 In the computation of any retirement allowance or any annuity
772 or benefits provided in this article, any fractional period of
773 service of less than one (1) year shall be taken into account and
774 a proportionate amount of such retirement allowance, annuity or
775 benefit shall be granted for any such fractional period of
776 service.

777 In the computation of unused leave for creditable service
778 authorized in Section 25-11-103, the following shall govern:
779 twenty-one (21) days of unused leave shall constitute one (1)
780 month of creditable service and in no case shall credit be allowed
781 for any period of unused leave of less than fifteen (15) days.
782 The number of months of unused leave shall determine the number of
783 quarters or years of creditable service in accordance with the
784 above schedule for membership and prior service. In order for the
785 member to receive creditable service for the number of days of
786 unused leave, the system must receive certification from the
787 governing authority.

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

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

795 (b) For service on and after July 1, 1984, the member
796 shall receive credit for personal and major medical leave
797 beginning July 1, 1984, at the rates authorized in Sections
798 25-3-93 and 25-3-95, computed as a full-time employee.

799 (3) Subject to the above restrictions and to such other
800 rules and regulations as the board may adopt, the board shall
801 verify, as soon as practicable after the filing of such statements
802 of service, the services therein claimed.

803 (4) Upon verification of the statement of prior service, the
804 board shall issue a prior service certificate certifying to each
805 member the length of prior service for which credit shall have
806 been allowed on the basis of his statement of service. So long as
807 membership continues, a prior service certificate shall be final
808 and conclusive for retirement purposes as to such service,
809 provided that any member may within five (5) years from the date
810 of issuance or modification of such certificate request the board
811 of trustees to modify or correct his prior service certificate.
812 Any modification or correction authorized shall only apply
813 prospectively.

814 When membership ceases, such prior service certificates shall
815 become void. Should the employee again become a member, he shall
816 enter the system as an employee not entitled to prior service
817 credit except as provided in Sections 25-11-105(I), 25-11-113 and
818 25-11-117.

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

821 the membership service rendered by him since he last became a
822 member, and also, if he has a prior service certificate which is
823 in full force and effect, the amount of the service certified on
824 his prior service certificate.

825 (6) Any member who served on active duty in the Armed Forces
826 of the United States, who served in the Commissioned Corps of the
827 United States Public Health Service prior to 1972 or who served in
828 maritime service during periods of hostility in World War II,
829 shall be entitled to creditable service at no cost for his service
830 on active duty in the Armed Forces, in the Commissioned Corps of
831 the United States Public Health Service prior to 1972 or in such
832 maritime service, provided he entered state service after his
833 discharge from the Armed Forces or entered state service after he
834 completed such maritime service. The maximum period for such
835 creditable service for all military service as defined in this
836 subsection (6) shall not exceed four (4) years unless positive
837 proof can be furnished by such person that he was retained in the
838 Armed Forces during World War II or in maritime service during
839 World War II by causes beyond his control and without opportunity
840 of discharge. The member shall furnish proof satisfactory to the
841 board of trustees of certification of military service or maritime
842 service records showing dates of entrance into active duty service
843 and the date of discharge. From and after July 1, 1993, no
844 creditable service shall be granted for any military service or
845 maritime service to a member who qualifies for a retirement
846 allowance in another public retirement system administered by the
847 Board of Trustees of the Public Employees' Retirement System based
848 in whole or in part on such military or maritime service. In no
849 case shall the member receive creditable service if the member
850 received a dishonorable discharge from the Armed Forces of the
851 United States.

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

854 qualified military service within the meaning of Section 414(u)(5)
855 of the Internal Revenue Code, and who has received the maximum
856 service credit available under subsection (6) of this section,
857 shall receive creditable service for the period of qualified
858 military service that does not qualify as creditable service under
859 subsection (6) of this section upon reentering membership service
860 in an amount not to exceed five (5) years if:

861 (i) The member pays the contributions he would
862 have made to the retirement system if he had remained in
863 membership service for the period of qualified military service
864 based upon his salary at the time his membership service was
865 interrupted;

866 (ii) The member returns to membership service
867 within ninety (90) days of the end of his qualified military
868 service; and

869 (iii) The employer at the time the member's
870 service was interrupted and to which employment the member returns
871 pays the contributions it would have made into the retirement
872 system for such period based on the member's salary at the time
873 the service was interrupted.

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

879 (c) The member shall furnish proof satisfactory to the
880 board of trustees of certification of military service showing
881 dates of entrance into qualified service and the date of discharge
882 as well as proof that the member has returned to active employment
883 within the time specified.

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

887 became a member of the system on or after July 1, 2006 and who has
888 at least ten (10) years of membership service credit, shall be
889 entitled to receive a maximum of five (5) years creditable service
890 for service rendered in another state as a public employee of such
891 other state, or a political subdivision, public education system
892 or other governmental instrumentality thereof, or service rendered
893 as a teacher in American overseas dependent schools conducted by
894 the Armed Forces of the United States for children of citizens of
895 the United States residing in areas outside the continental United
896 States, provided that:

897 (a) The member shall furnish proof satisfactory to the
898 board of trustees of certification of such services from the
899 state, public education system, political subdivision or
900 retirement system of the state where the services were performed
901 or the governing entity of the American overseas dependent school
902 where the services were performed; and

903 (b) The member is not receiving or will not be entitled
904 to receive from the public retirement system of the other state or
905 from any other retirement plan, including optional retirement
906 plans, sponsored by the employer, a retirement allowance including
907 such services; and

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

915 (9) Any member of the Public Employees' Retirement System
916 who became a member of the system before July 1, 2006, and has at
917 least four (4) years of membership service credit, or who became a
918 member of the system on or after July 1, 2006, and has at least
919 ten (10) years of membership service credit, and who receives, or

920 has received, professional leave without compensation for
921 professional purposes directly related to the employment in state
922 service shall receive creditable service for the period of
923 professional leave without compensation provided:

924 (a) The professional leave is performed with a public
925 institution or public agency of this state, or another state or
926 federal agency;

927 (b) The employer approves the professional leave
928 showing the reason for granting the leave and makes a
929 determination that the professional leave will benefit the
930 employee and employer;

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

933 (d) The employee shall serve the employer on a
934 full-time basis for a period of time equivalent to the
935 professional leave period granted immediately following the
936 termination of the leave period;

937 (e) The contributing member shall pay to the retirement
938 system the actuarial cost as determined by the actuary for each
939 year of professional leave. The provisions of this subsection are
940 subject to the regulations of the Internal Revenue Code
941 limitations;

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

945 Any actively contributing member participating in the School
946 Administrator Sabbatical Program established in Section 37-9-77
947 shall qualify for continued participation under this subsection
948 (9).

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

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

955 (a) Any service rendered as an employee of any
956 political subdivision of this state, or any instrumentality
957 thereof, which does not participate in the Public Employees'
958 Retirement System; or

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

963 (c) Any service rendered as an employee of any
964 political subdivision of this state, or any instrumentality
965 thereof, for which coverage of the employee's position was or is
966 excluded; provided that the member pays into the retirement system
967 the actuarial cost as determined by the actuary for each year, or
968 portion thereof, of such service. Payment for such service may be
969 made in increments of one-quarter-year of creditable service.
970 After a member has made full payment to the retirement system for
971 all or any part of such service, the member shall receive
972 creditable service for the period of such service for which full
973 payment has been made to the retirement system.

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

976 25-11-113. (1) (a) Upon the application of a member or his
977 employer, any active member in state service who became a member
978 of the system before July 1, 2006, and who has at least four (4)
979 years of membership service credit, or any active member in state
980 service who became a member of the system on or after July 1,
981 2006, who has at least ten (10) years of membership service
982 credit, may be retired by the board of trustees on the first of
983 the month following the date of filing such application on a
984 disability retirement allowance, but in no event shall the
985 disability retirement allowance commence before termination of

986 state service, provided that the medical board, after an
987 evaluation of medical evidence that may or may not include an
988 actual physical examination by the medical board, shall certify
989 that the member is mentally or physically incapacitated for the
990 further performance of duty, that such incapacity is likely to be
991 permanent, and that the member should be retired; however, the
992 board of trustees may accept a disability medical determination
993 from the Social Security Administration in lieu of a certification
994 from the medical board. For the purposes of disability
995 determination, the medical board shall apply the following
996 definition of disability: the inability to perform the usual
997 duties of employment or the incapacity to perform such lesser
998 duties, if any, as the employer, in its discretion, may assign
999 without material reduction in compensation, or the incapacity to
1000 perform the duties of any employment covered by the Public
1001 Employees' Retirement System (Section 25-11-101 et seq.) that is
1002 actually offered and is within the same general territorial work
1003 area, without material reduction in compensation. The employer
1004 shall be required to furnish the job description and duties of the
1005 member. The employer shall further certify whether the employer
1006 has offered the member other duties and has complied with the
1007 applicable provisions of the Americans With Disabilities Act in
1008 affording reasonable accommodations which would allow the employee
1009 to continue employment.

1010 (b) Any inactive member who became a member of the
1011 system before July 1, 2006, with four (4) or more years of
1012 membership service credit, or any inactive member who became a
1013 member of the system on or after July 1, 2006, with ten (10) or
1014 more years of membership service credit, who has withdrawn from
1015 active state service, is not eligible for a disability retirement
1016 allowance unless the disability occurs within six (6) months of
1017 the termination of active service and unless satisfactory proof is

1018 presented to the board of trustees that the disability was the
1019 direct cause of withdrawal from state service.

1020 (c) Any member who is or becomes eligible for service
1021 retirement benefits under Section 25-11-111 while pursuing a
1022 disability retirement allowance under this section or Section
1023 25-11-114 may elect to receive a service retirement allowance
1024 pending a final determination on eligibility for a disability
1025 retirement allowance or withdrawal of the application for the
1026 disability retirement allowance. In such a case, an application
1027 for a disability retirement allowance must be on file with the
1028 system before the commencement of a service retirement allowance.
1029 If the application is approved, the option selected and
1030 beneficiary designated on the retirement application shall be used
1031 to determine the disability retirement allowance. If the
1032 application is not approved or if the application is withdrawn,
1033 the service retirement allowance shall continue to be paid in
1034 accordance with the option selected. No person may apply for a
1035 disability retirement allowance after the person begins to receive
1036 a service retirement allowance.

1037 (d) If the medical board certifies that the member is
1038 not mentally or physically incapacitated for the future
1039 performance of duty, the member may request, within sixty (60)
1040 days, a hearing before the hearing officer as provided in Section
1041 25-11-120. All hearings shall be held in accordance with rules
1042 and regulations adopted by the board to govern such hearings.
1043 Such hearing may be closed upon the request of the member.

1044 (e) The medical board may request additional medical
1045 evidence and/or other physicians to conduct an evaluation of the
1046 member's condition. If the medical board requests additional
1047 medical evidence and the member refuses the request, the
1048 application shall be considered void.

1049 (2) Allowance on disability retirement.

1050 (a) Upon retirement for disability, an eligible member
1051 shall receive a retirement allowance if he has attained the age of
1052 sixty (60) years.

1053 (b) Except as provided in paragraph (c) of this
1054 subsection (2), an eligible member who is retired for disability
1055 and who has not attained sixty (60) years of age shall receive a
1056 disability benefit as computed in Section 25-11-111(d)(1) through
1057 (d)(4) which shall consist of:

1058 (i) A member's annuity which shall be the
1059 actuarial equivalent of his accumulated contributions at the time
1060 of retirement; and

1061 (ii) An employer's annuity equal to the amount
1062 that would have been payable as a retirement allowance for both
1063 membership service and prior service had the member continued in
1064 service to the age of sixty (60) years, which shall apply to the
1065 allowance for disability retirement paid to retirees receiving
1066 such allowance upon and after April 12, 1977. This employer's
1067 annuity shall be computed on the basis of the average "earned
1068 compensation" as defined in Section 25-11-103.

1069 (c) For persons who become members after June 30, 1992,
1070 and for active members on June 30, 1992, who elect benefits under
1071 this paragraph (c) instead of those provided under paragraph (b)
1072 of this subsection (2), the disability allowance shall consist of
1073 two (2) parts: a temporary allowance and a deferred allowance.

1074 The temporary allowance shall equal the greater of (i) forty
1075 percent (40%) of average compensation at the time of disability,
1076 plus ten percent (10%) of average compensation for each of the
1077 first two (2) dependent children, as defined in Sections 25-11-103
1078 and 25-11-114, or (ii) the accrued benefit based on actual
1079 service. It shall be payable for a period of time based on the
1080 member's age at disability, as follows:

1081	Age at Disability	Duration
1082	60 and earlier	to age 65

1083	61	to age 66
1084	62	to age 66
1085	63	to age 67
1086	64	to age 67
1087	65	to age 68
1088	66	to age 68
1089	67	to age 69
1090	68	to age 70
1091	69 and over	one year

1092 The deferred allowance shall commence when the temporary
1093 allowance ceases and shall be payable for life. The deferred
1094 allowance shall equal the greater of (i) the allowance that would
1095 have been payable had the member continued in service to the
1096 termination age of the temporary allowance, but no more than forty
1097 percent (40%) of average compensation, or (ii) the accrued benefit
1098 based on actual service at the time of disability. The deferred
1099 allowance as determined at the time of disability shall be
1100 adjusted in accordance with Section 25-11-112 for the period
1101 during which the temporary annuity is payable. In no case shall a
1102 member receive less than Ten Dollars (\$10.00) per month for each
1103 year of service and proportionately for each quarter year thereof
1104 reduced for the option selected.

1105 (d) The member may elect to receive the actuarial
1106 equivalent of the disability retirement allowance in a reduced
1107 allowance payable throughout life under any of the provisions of
1108 the options provided under Section 25-11-115.

1109 (e) Should a disability retiree who has not selected an
1110 option under Section 25-11-115 die before being repaid in
1111 disability benefits the sum of his total contributions, then his
1112 named beneficiary shall receive the difference in cash, which
1113 shall apply to all deceased disability retirees from and after
1114 January 1, 1953.

1115 (3) Reexamination of retirees retired on account of
1116 disability. Except as otherwise provided in this section, once
1117 each year during the first five (5) years following retirement of
1118 a member on a disability retirement allowance, and once in every
1119 period of three (3) years thereafter, the board of trustees may,
1120 and upon his application shall, require any disability retiree who
1121 has not yet attained the age of sixty (60) years or the
1122 termination age of the temporary allowance under paragraph (2)(c)
1123 of this section to undergo a medical examination, such examination
1124 to be made at the place of residence of the retiree or other place
1125 mutually agreed upon by a physician or physicians designated by
1126 the board. The board, however, in its discretion, may authorize
1127 the medical board to establish reexamination schedules appropriate
1128 to the medical condition of individual disability retirees.
1129 Should any disability retiree who has not yet attained the age of
1130 sixty (60) years or the termination age of the temporary allowance
1131 under paragraph (2)(c) of this section refuse to submit to any
1132 medical examination provided herein, his allowance may be
1133 discontinued until his withdrawal of such refusal; and should his
1134 refusal continue for one (1) year, all his rights to a disability
1135 benefit shall be revoked by the board of trustees.

1136 (4) If the medical board reports and certifies to the board
1137 of trustees, after a comparable job analysis or other similar
1138 study, that such disability retiree is engaged in, or is able to
1139 engage in, a gainful occupation paying more than the difference
1140 between his disability allowance, exclusive of cost of living
1141 adjustments, and the average compensation, and if the board of
1142 trustees concurs in such report, the disability benefit shall be
1143 reduced to an amount which, together with the amount earnable by
1144 him, shall equal the amount of his average compensation. If his
1145 earning capacity be later changed, the amount of the benefit may
1146 be further modified, provided that the revised benefit shall not
1147 exceed the amount originally granted. A retiree receiving a

1148 disability benefit who is restored to active service at a salary
1149 less than the average compensation shall not become a member of
1150 the retirement system.

1151 (5) Should a disability retiree under the age of sixty (60)
1152 years or the termination age of the temporary allowance under
1153 paragraph (2)(c) of this section be restored to active service at
1154 a compensation not less than his average compensation, his
1155 disability benefit shall cease, he shall again become a member of
1156 the retirement system, and contributions shall be withheld and
1157 reported. Any such prior service certificate, on the basis of
1158 which his service was computed at the time of retirement, shall be
1159 restored to full force and effect. In addition, upon his
1160 subsequent retirement he shall be credited with all creditable
1161 service as a member, but the total retirement allowance paid to
1162 the retired member in his previous retirement shall be deducted
1163 from his retirement reserve and taken into consideration in
1164 recalculating the retirement allowance under a new option
1165 selected.

1166 (6) If following reexamination in accordance with the
1167 provisions contained in this section, the medical board determines
1168 that a retiree retired on account of disability is physically and
1169 mentally able to return to the employment from which he is
1170 retired, the board of trustees, upon certification of such
1171 findings from the medical board, shall, after a reasonable period
1172 of time, terminate the disability allowance, whether or not the
1173 retiree is reemployed or seeks such reemployment. In addition, if
1174 the board of trustees determines that the retiree is no longer
1175 sustaining a loss of income as established by documented evidence
1176 of the retiree's earned income, the eligibility for a disability
1177 allowance shall terminate and the allowance terminated within a
1178 reasonable period of time. In the event the retirement allowance
1179 is terminated under the provisions of this section, the retiree
1180 may subsequently qualify for a retirement allowance under Section

1181 25-11-111 based on actual years of service credit plus credit for
1182 the period during which a disability allowance was paid.

1183 (7) Any current member as of June 30, 1992, who retires on a
1184 disability retirement allowance after June 30, 1992, and who has
1185 not elected to receive benefits under paragraph (2)(c) of this
1186 section, shall relinquish all rights under the Age Discrimination
1187 in Employment Act of 1967, as amended, with regard to the benefits
1188 payable under this section.

1189 **SECTION 6.** Section 25-11-114, Mississippi Code of 1972, is
1190 amended as follows:

1191 25-11-114. (1) The applicable benefits provided in
1192 subsections (2) and (3) of this section shall be paid to eligible
1193 beneficiaries of any member who became a member of the system
1194 before July 1, 2006, and has completed four (4) or more years of
1195 creditable service, or who became a member of the system on or
1196 after July 1, 2006, and has completed ten (10) or more years of
1197 creditable service, and who dies before retirement and who has not
1198 filed a Pre-Retirement Optional Retirement Form as provided in
1199 Section 25-11-111.

1200 (2) (a) The member's surviving spouse who has been married
1201 to the member for not less than one (1) year immediately preceding
1202 his death shall receive an annuity computed in accordance with
1203 paragraph (d) of this subsection (2) as if the member:

1204 (i) Had retired on the date of his death with
1205 entitlement to an annuity provided for in Section 25-11-111,
1206 notwithstanding that he might not have attained age sixty (60) or
1207 acquired the years of creditable service necessary for retirement
1208 regardless of age;

1209 (ii) Had nominated his spouse as beneficiary; and

1210 (b) If, at the time of the member's death, there are no
1211 dependent children, and the surviving spouse, who otherwise would
1212 receive the annuity under this subsection (2), has filed with the
1213 system a signed written waiver of his or her rights to the annuity

1214 and that waiver was in effect at the time of the member's death, a
1215 lump-sum distribution of the deceased member's accumulated
1216 contributions shall be refunded in accordance with Section
1217 25-11-117.

1218 (c) The spouse annuity shall begin on the first day of
1219 the month following the date of the member's death, but in case of
1220 late filing, retroactive payments will be made for a period of not
1221 more than one (1) year.

1222 (d) The spouse annuity shall be payable for life and
1223 shall be the greater of twenty percent (20%) of the deceased
1224 member's average compensation as defined in Section 25-11-103 at
1225 the time of death or Fifty Dollars (\$50.00) monthly. Surviving
1226 spouses of deceased members who previously received spouse
1227 retirement benefits under this paragraph (d) from and after July
1228 1, 1992, and whose benefits were terminated before July 1, 2004,
1229 because of remarriage, may again receive the retirement benefits
1230 authorized under this paragraph (d) by making application with the
1231 board to reinstate those benefits. Any reinstatement of the
1232 benefits shall be prospective only and shall begin after the first
1233 of the month following the date of the application for
1234 reinstatement, but no earlier than July 1, 2004.

1235 (e) However, the spouse may elect by an irrevocable
1236 agreement on a form prescribed by the board of trustees to receive
1237 a monthly allowance as computed under either paragraph (d) or this
1238 paragraph. The irrevocable agreement shall constitute a waiver by
1239 the spouse to any current and future monthly allowance under the
1240 paragraph not elected, and the waiver shall be a complete and full
1241 discharge of all obligations of the retirement system under that
1242 paragraph.

1243 Any member who has completed the requisite minimum number of
1244 years of membership service to qualify for a retirement allowance
1245 at age sixty (60) and who dies before retirement and leaves a
1246 spouse who has been married to the member for not less than one

1247 (1) year immediately preceding his death and has not exercised any
1248 other option shall be deemed to have exercised Option 2 under
1249 Section 25-11-115 for the benefit of his spouse, which spouse
1250 shall be paid Option 2 settlement benefits under this article
1251 beginning on the first of the month following the date of death,
1252 but in case of late filing, retroactive payments will be made for
1253 a period of not more than one (1) year. The method of calculating
1254 the retirement benefits shall be on the same basis as provided in
1255 Section 25-11-111(d). However, if the member dies before being
1256 qualified for full unreduced benefits, then the benefits shall be
1257 reduced by three percent (3%) per year for the lesser of either
1258 the years of service or age required for full unreduced benefits
1259 in Section 25-11-111(d).

1260 (3) (a) Subject to the maximum limitation provided in this
1261 paragraph, the member's dependent children each shall receive an
1262 annuity of the greater of ten percent (10%) of the member's
1263 average compensation as defined in Section 25-11-103 at the time
1264 of the death of the member or Fifty Dollars (\$50.00) monthly;
1265 however, if there are more than three (3) dependent children, each
1266 dependent child shall receive an equal share of a total annuity
1267 equal to thirty percent (30%) of the member's average
1268 compensation, provided that the total annuity shall not be less
1269 than One Hundred Fifty Dollars (\$150.00) per month for all
1270 children.

1271 (b) A child shall be considered to be a dependent child
1272 until marriage, or the attainment of age nineteen (19), whichever
1273 comes first; however, this age limitation shall be extended beyond
1274 age nineteen (19), but in no event beyond the attainment of age
1275 twenty-three (23), as long as the child is a student regularly
1276 pursuing a full-time course of resident study or training in an
1277 accredited high school, trade school, technical or vocational
1278 institute, junior or community college, college, university or
1279 comparable recognized educational institution duly licensed by a

1280 state. A student child whose birthday falls during the school
1281 year (September 1 through June 30) is considered not to reach age
1282 twenty-three (23) until the July 1 following the actual
1283 twenty-third birthday. A full-time course of resident study or
1284 training means a day or evening noncorrespondence course that
1285 includes school attendance at the rate of at least thirty-six (36)
1286 weeks per academic year or other applicable period with a subject
1287 load sufficient, if successfully completed, to attain the
1288 educational or training objective within the period generally
1289 accepted as minimum for completion, by a full-time day student, of
1290 the academic or training program concerned. Any child who is
1291 physically or mentally incompetent, as adjudged by either a
1292 Mississippi court of competent jurisdiction or by the board, shall
1293 receive benefits for as long as the incompetency exists.

1294 (c) If there are more than three (3) dependent
1295 children, upon a child's ceasing to be a dependent child, his
1296 annuity shall terminate and there shall be a redetermination of
1297 the amounts payable to any remaining dependent children.

1298 (d) Annuities payable under this subsection (3) shall
1299 begin the first day of the month following the date of the
1300 member's death or in case of late filing, retroactive payments
1301 will be made for a period of not more than one (1) year. Those
1302 benefits may be paid to a surviving parent or the lawful custodian
1303 of a dependent child for the use and benefit of the child without
1304 the necessity of appointment as guardian.

1305 (4) (a) Death benefits in the line of duty. Regardless of
1306 the number of years of the member's creditable service, the spouse
1307 and/or the dependent children of an active member who is killed in
1308 the line of performance of duty or dies as a direct result of an
1309 accident occurring in the line of performance of duty shall
1310 qualify, on approval of the board, for a retirement allowance on
1311 the first of the month following the date of death, but in the
1312 case of late filing, retroactive payments will be made for a

1313 period of not more than one (1) year. The spouse shall receive a
1314 retirement allowance for life equal to one-half (1/2) of the
1315 average compensation as defined in Section 25-11-103. In addition
1316 to the retirement allowance for the spouse, or if there is no
1317 surviving spouse, the member's dependent child shall receive a
1318 retirement allowance in the amount of one-fourth (1/4) of the
1319 member's average compensation as defined in Section 25-11-103;
1320 however, if there are two (2) or more dependent children, each
1321 dependent child shall receive an equal share of a total annuity
1322 equal to one-half (1/2) of the member's average compensation. If
1323 there are more than two (2) dependent children, upon a child's
1324 ceasing to be a dependent child, his annuity shall terminate and
1325 there shall be a redetermination of the amounts payable to any
1326 remaining dependent children. Those benefits shall cease to be
1327 paid for the support and maintenance of each child upon the child
1328 attaining the age of nineteen (19) years; however, the spouse
1329 shall continue to be eligible for the aforesaid retirement
1330 allowance. Those benefits may be paid to a surviving parent or
1331 lawful custodian of the children for the use and benefit of the
1332 children without the necessity of appointment as guardian. Any
1333 spouse who received spouse retirement benefits under this
1334 paragraph (a) from and after April 4, 1984, and whose benefits
1335 were terminated before July 1, 2004, because of remarriage, may
1336 again receive the retirement benefits authorized under this
1337 paragraph (a) by making application with the board to reinstate
1338 those benefits. Any reinstatement of the benefits shall be
1339 prospective only and shall begin after the first of the month
1340 following the date of the application for reinstatement, but not
1341 earlier than July 1, 2004.

1342 (b) A child shall be considered to be a dependent child
1343 until marriage, or the attainment of age nineteen (19), whichever
1344 comes first; however, this age limitation shall be extended beyond
1345 age nineteen (19), but in no event beyond the attainment of age

1346 twenty-three (23), as long as the child is a student regularly
1347 pursuing a full-time course of resident study or training in an
1348 accredited high school, trade school, technical or vocational
1349 institute, junior or community college, college, university or
1350 comparable recognized educational institution duly licensed by a
1351 state. A student child whose birthday falls during the school
1352 year (September 1 through June 30) is considered not to reach age
1353 twenty-three (23) until the July 1 following the actual
1354 twenty-third birthday. A full-time course of resident study or
1355 training means a day or evening noncorrespondence course that
1356 includes school attendance at the rate of at least thirty-six (36)
1357 weeks per academic year or other applicable period with a subject
1358 load sufficient, if successfully completed, to attain the
1359 educational or training objective within the period generally
1360 accepted as minimum for completion, by a full-time day student, of
1361 the academic or training program concerned. Any child who is
1362 physically or mentally incompetent, as adjudged by either a
1363 Mississippi court of competent jurisdiction or by the board, shall
1364 receive benefits for as long as the incompetency exists.

1365 (5) If all the annuities provided for in this section
1366 payable on account of the death of a member terminate before there
1367 has been paid an aggregate amount equal to the member's
1368 accumulated contributions standing to the member's credit in the
1369 annuity savings account at the time of the member's death, the
1370 difference between the accumulated contributions and the aggregate
1371 amount of annuity payments shall be paid to the person that the
1372 member has nominated by written designation duly executed and
1373 filed with the board. If there is no designated beneficiary
1374 surviving at termination of benefits, the difference shall be
1375 payable pursuant to Section 25-11-117.1(1).

1376 (6) Regardless of the number of years of creditable service
1377 upon the application of a member or employer, any active member
1378 who becomes disabled as a direct result of an accident or

1379 traumatic event resulting in a physical injury occurring in the
1380 line of performance of duty, provided that the medical board or
1381 other designated governmental agency after a medical examination
1382 certifies that the member is mentally or physically incapacitated
1383 for the further performance of duty and the incapacity is likely
1384 to be permanent, may be retired by the board of trustees on the
1385 first of the month following the date of filing the application
1386 but in no event shall the retirement allowance begin before the
1387 termination of state service. The retirement allowance shall
1388 equal the allowance on disability retirement as provided in
1389 Section 25-11-113 but shall not be less than fifty percent (50%)
1390 of average compensation.

1391 Permanent and total disability resulting from a
1392 cardiovascular, pulmonary or musculo-skeletal condition that was
1393 not a direct result of a traumatic event occurring in the
1394 performance of duty shall be deemed an ordinary disability. A
1395 mental disability based exclusively on employment duties occurring
1396 on an ongoing basis shall be deemed an ordinary disability.

1397 (7) If the deceased or disabled member became a member of
1398 the system before July 1, 2006, and has less than four (4) years
1399 of creditable service, or became a member of the system on or
1400 after July 1, 2006, and has less than ten (10) years of creditable
1401 service, the average compensation as defined in Section 25-11-103
1402 shall be the average of all annual earned compensation in state
1403 service for the purposes of benefits provided in this section.

1404 (8) In case of death or total and permanent disability under
1405 subsection (4) or subsection (6) of this section and before the
1406 board shall consider any application for a retirement allowance,
1407 the employer must certify to the board that the member's death or
1408 disability was a direct result of an accident or a traumatic event
1409 occurring during and as a result of the performance of the regular
1410 and assigned duties of the employee and that the death or

1411 disability was not the result of the willful negligence of the
1412 employee.

1413 (9) The application for the retirement allowance must be
1414 filed within one (1) year after death of an active member who is
1415 killed in the line of performance of duty or dies as a direct
1416 result of an accident occurring in the line of performance of duty
1417 or traumatic event; but the board of trustees may consider an
1418 application for disability filed after the one-year period if it
1419 can be factually demonstrated to the satisfaction of the board of
1420 trustees that the disability is due to the accident and that the
1421 filing was not accomplished within the one-year period due to a
1422 delayed manifestation of the disability or to circumstances beyond
1423 the control of the member. However, in case of late filing,
1424 retroactive payments will be made for a period of not more than
1425 one (1) year only.

1426 (10) Notwithstanding any other section of this article and
1427 in lieu of any payments to a designated beneficiary for a refund
1428 of contributions under Section 25-11-117, the spouse and/or
1429 children shall be eligible for the benefits payable under this
1430 section, and the spouse may elect, for both the spouse and/or
1431 children, to receive benefits in accordance with either
1432 subsections (2) and (3) or subsection (4) of this section;
1433 otherwise, the contributions to the credit of the deceased member
1434 shall be refunded in accordance with Section 25-11-117.

1435 (11) If the member has previously received benefits from the
1436 system to which he was not entitled and has not repaid in full all
1437 amounts payable by him to the system, the annuity amounts
1438 otherwise provided by this section shall be withheld and used to
1439 effect repayment until the total of the withholdings repays in
1440 full all amounts payable by him to the system.

1441 **SECTION 7.** Section 25-11-115, Mississippi Code of 1972, is
1442 amended as follows:

1443 25-11-115. (1) Upon application for superannuation or
1444 disability retirement, any member may elect to receive his benefit
1445 in a retirement allowance payable throughout life with no further
1446 payments to anyone at his death, except that in the event his
1447 total retirement payments under this article do not equal his
1448 total contributions under this article, his named beneficiary
1449 shall receive the difference in cash at his death. Or he may
1450 elect upon retirement, or upon becoming eligible for retirement,
1451 to receive the actuarial equivalent subject to the provisions of
1452 subsection (3) of this section of his retirement allowance in a
1453 reduced retirement allowance payable throughout life with the
1454 provision that:

1455 **Option 1.** If he dies before he has received in annuity
1456 payment the value of the member's annuity savings account as it
1457 was at the time of his retirement, the balance shall be paid to
1458 his legal representative or to such person as he shall nominate by
1459 written designation duly acknowledged and filed with the board; or

1460 **Option 2.** Upon his death, his reduced retirement allowance
1461 shall be continued throughout the life of, and paid to, such
1462 person as he has nominated by written designation duly
1463 acknowledged and filed with the board of trustees at the time of
1464 his retirement;

1465 **Option 3.** Upon his death, one-half (1/2) of his reduced
1466 retirement allowance shall be continued throughout the life of,
1467 and paid to, such person as he shall have nominated by written
1468 designation duly acknowledged and filed with the board of trustees
1469 at the time of his retirement, and the other one-half (1/2) of his
1470 reduced retirement allowance to some other designated beneficiary;

1471 **Option 4-A.** Upon his death, one-half (1/2) of his reduced
1472 retirement allowance, or such other specified amount, shall be
1473 continued throughout the life of, and paid to, such person as he
1474 shall have nominated by written designation duly acknowledged and
1475 filed with the board of trustees at the time of his retirement; or

1476 **Option 4-B.** A reduced retirement allowance shall be
1477 continued throughout the life of the retirant, but with the
1478 further guarantee of payments to the named beneficiary,
1479 beneficiaries or to the estate for a specified number of years
1480 certain. If the retired member or the last designated beneficiary
1481 receiving annuity payments dies prior to receiving all guaranteed
1482 payments due, the actuarial equivalent of the remaining payments
1483 shall be paid pursuant to Section 25-11-117.1(1);

1484 **Option 4-C.** Such retirement allowance otherwise payable may
1485 be converted into a retirement allowance of equivalent actuarial
1486 value in such an amount that, with the member's benefit under
1487 Title II of the federal Social Security Act, the member will
1488 receive, so far as possible, approximately the same amount
1489 annually before and after the earliest age at which the member
1490 becomes eligible to receive a social security benefit. This
1491 option shall not be available to retirees whose retirement is
1492 effective on or after July 1, 2004.

1493 **Option 6.** Any member who became a member of the system
1494 before July 1, 2006, and who has at least twenty-eight (28) years
1495 of creditable service at the time of retirement or who is at least
1496 sixty-three (63) years of age and eligible to retire, or any
1497 member who became a member of the system on or after July 1, 2006,
1498 and who has at least thirty-three (33) years of creditable service
1499 at the time of retirement or who is at least sixty-three (63)
1500 years of age and eligible to retire, may select the maximum
1501 retirement benefit or an optional benefit as provided in this
1502 subsection together with a partial lump-sum distribution. The
1503 amount of the lump-sum distribution under this option shall be
1504 equal to the maximum monthly benefit multiplied by twelve (12),
1505 twenty-four (24) or thirty-six (36) as selected by the member.
1506 The maximum retirement benefit shall be actuarially reduced to
1507 reflect the amount of the lump-sum distribution selected and
1508 further reduced for any other optional benefit selected. The

1509 annuity and lump-sum distribution shall be computed to result in
1510 no actuarial loss to the system. The lump-sum distribution shall
1511 be made as a single payment payable at the time the first monthly
1512 annuity payment is paid to the retiree. The amount of the
1513 lump-sum distribution shall be deducted from the member's annuity
1514 savings account in computing what contributions remain at the
1515 death of the retiree and/or a beneficiary. The lump-sum
1516 distribution option may be elected only once by a member upon
1517 initial retirement, and may not be elected by a retiree, by
1518 members applying for a disability retirement annuity, by survivors
1519 or by a member selecting Option 4-C.

1520 (2) No change in the option selected shall be permitted
1521 after the member's death or after the member has received his
1522 first retirement check except as provided in subsections (3) and
1523 (4) of this section and in Section 25-11-127. Members who are
1524 pursuing a disability retirement allowance and simultaneously or
1525 subsequently elect to begin to receive a service retirement
1526 allowance while continuing to pursue a disability retirement
1527 allowance, shall not be eligible to select Option 4-C or Option 6
1528 and those options may not be selected at a later time if the
1529 application for a disability retirement allowance is voided or
1530 denied. However, any retired member who is receiving a retirement
1531 allowance under Option 2 or Option 4-A upon July 1, 1992, and
1532 whose designated beneficiary predeceased him or whose marriage to
1533 a spouse who is his designated beneficiary is terminated by
1534 divorce or other dissolution, upon written notification to the
1535 retirement system of the death of the designated beneficiary or of
1536 the termination of his marriage to his designated beneficiary, the
1537 retirement allowance payable to the member after receipt of such
1538 notification by the retirement system shall be equal to the
1539 retirement allowance which would have been payable had the member
1540 not elected the option. In addition, any retired member who is
1541 receiving the maximum retirement allowance for life, a retirement

1542 allowance under Option 1 or who is receiving a retirement
1543 allowance under Option 2 or Option 4-A on July 1, 1992, may elect
1544 to provide survivor benefits under Option 2 or Option 4-A to a
1545 spouse who was not previously the member's beneficiary and whom
1546 the member married before July 1, 1992.

1547 (3) Any retired member who is receiving a reduced retirement
1548 allowance under Option 2 or Option 4-A whose designated
1549 beneficiary predeceases him, or whose marriage to a spouse who is
1550 his designated beneficiary is terminated by divorce or other
1551 dissolution, may elect to cancel his reduced retirement allowance
1552 and receive the maximum retirement allowance for life in an amount
1553 equal to the amount that would have been payable if the member had
1554 not elected Option 2 or Option 4-A. Such election must be made in
1555 writing to the office of the executive director of the system on a
1556 form prescribed by the board. Any such election shall be
1557 effective the first of the month following the date the election
1558 is received by the system.

1559 (4) Any retired member who is receiving the maximum
1560 retirement allowance for life, or a retirement allowance under
1561 Option 1, and who marries after his retirement may elect to cancel
1562 his maximum retirement allowance and receive a reduced retirement
1563 allowance under Option 2 or Option 4-A to provide continuing
1564 lifetime benefits to his spouse. Such election must be made in
1565 writing to the office of the executive director of the system on a
1566 form prescribed by the board not earlier than the date of the
1567 marriage. Any such election shall be effective the first of the
1568 month following the date the election is received by the system.

1569 (5) In the event the election of an optional benefit is made
1570 after the member has attained the age of sixty-five (65) years,
1571 the actuarial equivalent factor shall be used to compute the
1572 reduced retirement allowance as if the election had been made on
1573 his sixty-fifth birthday; however, from and after January 1, 2003,
1574 if there is an election of Option 6 after the member has attained

1575 the age of sixty-five (65) years, the actuarial equivalent factor
1576 based on the retiree's age at the time of retirement shall be used
1577 to compute the reduced maximum monthly retirement allowance.
1578 However, if a retiree marries or remarries after retirement and
1579 elects either Option 2 or Option 4-A as provided in subsection (2)
1580 or (4) of this section, the actuarial equivalent factor used to
1581 compute the reduced retirement allowance shall be the factor for
1582 the age of the retiree and his or her beneficiary at the time such
1583 election for recalculation of benefits is made.

1584 (6) Notwithstanding any provision of Section 25-11-1 et
1585 seq., no payments may be made for a retirement allowance on a
1586 monthly basis for a period of time in excess of that allowed by
1587 federal law.

1588 (7) If a retirant and his eligible beneficiary, if any, both
1589 die before they have received in annuity payments a total amount
1590 equal to the accumulated contributions standing to the retirant's
1591 credit in the annuity savings account at the time of his
1592 retirement, the difference between the accumulated contributions
1593 and the total amount of annuities received by them shall be paid
1594 to such persons as the retirant has nominated by written
1595 designation duly executed and filed in the office of the executive
1596 director. If no designated person survives the retirant and his
1597 beneficiary, the difference, if any, shall be paid pursuant to
1598 Section 25-11-117.1(1).

1599 (8) Any retired member who retired on Option 2(5) or 4-A(5)
1600 prior to July 1, 1992, who is still receiving a retirement
1601 allowance on July 1, 1994, shall receive an increase in the annual
1602 retirement allowance effective July 1, 1994, equal to the amount
1603 they would have received under Option 2 or Option 4-A without a
1604 reduction for Option 5 based on the ages at retirement of the
1605 retiree and beneficiary and option factors in effect on July 1,
1606 1992. Such increase shall be prospective only.

1607 **SECTION 8.** Section 25-11-117, Mississippi Code of 1972, is
1608 amended as follows:

1609 25-11-117. (1) A member may be paid a refund of the amount
1610 of accumulated contributions to the credit of the member in the
1611 annuity savings account, provided that the member has withdrawn
1612 from state service and has not returned to state service on the
1613 date the refund of the accumulated contributions would be paid.
1614 That refund of the contributions to the credit of the member in
1615 the annuity savings account shall be paid within ninety (90) days
1616 from receipt in the office of the retirement system of the
1617 properly completed form requesting the payment. In the event of
1618 death before retirement of any member whose spouse and/or children
1619 are not entitled to a retirement allowance, the accumulated
1620 contributions to the credit of the deceased member in the annuity
1621 savings account shall be paid to the designated beneficiary on
1622 file in writing in the office of the executive director of the
1623 board of trustees within ninety (90) days from receipt of a
1624 properly completed form requesting the payment. If there is no
1625 such designated beneficiary on file for the deceased member in the
1626 office of the system, upon the filing of a proper request with the
1627 board, the contributions to the credit of the deceased member in
1628 the annuity savings account shall be refunded pursuant to Section
1629 25-11-117.1(1). The payment of the refund shall discharge all
1630 obligations of the retirement system to the member on account of
1631 any creditable service rendered by the member prior to the receipt
1632 of the refund. By the acceptance of the refund, the member shall
1633 waive and relinquish all accrued rights in the system.

1634 (2) Under the Unemployment Compensation Amendments of 1992
1635 (Public Law 102-318 (UCA)), a member or the spouse of a member who
1636 is an eligible beneficiary entitled to a refund under this section
1637 may elect, on a form prescribed by the board under rules and
1638 regulations established by the board, to have an eligible rollover
1639 distribution of accumulated contributions payable under this

1640 section paid directly to an eligible retirement plan, as defined
1641 under applicable federal law, or an individual retirement account.
1642 If the member or the spouse of a member who is an eligible
1643 beneficiary makes that election and specifies the eligible
1644 retirement plan or individual retirement account to which the
1645 distribution is to be paid, the distribution will be made in the
1646 form of a direct trustee-to-trustee transfer to the specified
1647 eligible retirement plan. Flexible rollovers under this
1648 subsection shall not be considered assignments under Section
1649 25-11-129.

1650 (3) (a) If any person who became a member of the system
1651 before July 1, 2006, has received a refund reenters the state
1652 service and again becomes a member of the system, the member may
1653 repay all or part of the amounts previously received as a refund,
1654 together with regular interest covering the period from the date
1655 of refund to the date of repayment; however, the amounts that are
1656 repaid by the member and the creditable service related thereto
1657 shall not be used in any benefit calculation or determination
1658 until the member has remained a contributor to the system for a
1659 period of at least four (4) years after the member's reentry into
1660 state service. Repayment for that time shall be made in
1661 increments of not less than one-quarter (1/4) year of creditable
1662 service beginning with the most recent service for which refund
1663 has been made. Upon the repayment of all or part of that refund
1664 and interest, the member shall again receive credit for the period
1665 of creditable service for which full repayment has been made to
1666 the system.

1667 (b) If any person who became a member of the system on
1668 or after July 1, 2006, has received a refund reenters the state
1669 service and again becomes a member of the system, the member may
1670 repay all or part of the amounts previously received as a refund,
1671 together with regular interest covering the period from the date
1672 of refund to the date of repayment; however, the amounts that are

1673 repaid by the member and the creditable service related thereto
1674 shall not be used in any benefit calculation or determination
1675 until the member has remained a contributor to the system for a
1676 period of at least ten (10) years after the member's reentry into
1677 state service. Repayment for that time shall be made in
1678 increments of not less than one-quarter (1/4) year of creditable
1679 service beginning with the most recent service for which refund
1680 has been made. Upon the repayment of all or part of that refund
1681 and interest, the member shall again receive credit for the period
1682 of creditable service for which full repayment has been made to
1683 the system.

1684 (4) (a) In order to provide a source of income to members
1685 who have applied for disability benefits under Section 25-11-113
1686 or 25-11-114, the board may provide, at the employee's election, a
1687 temporary benefit to be paid from the member's accumulated
1688 contributions, if any, without forfeiting the right to pursue
1689 disability benefits, provided that the member has exhausted all
1690 personal and medical leave and has terminated his or her
1691 employment. The board may prescribe rules and regulations for
1692 carrying out the provisions of this subsection (4).

1693 (b) If a member who has elected to receive temporary
1694 benefits under this subsection later applies for a refund of his
1695 or her accumulated contributions, all amounts paid under this
1696 subsection shall be deducted from the accumulated contributions
1697 and the balance will be paid to the member. If a member who has
1698 elected to receive temporary benefits under this subsection is
1699 later approved for a disability retirement allowance, and a
1700 service retirement allowance or survivor benefits are paid on the
1701 account, the board shall adjust the benefits in such a manner that
1702 no more than the actuarial equivalent of the benefits to which the
1703 member or beneficiary was or is entitled shall be paid.

1704 (c) The board may study, develop and propose a
1705 disability benefit structure, including short and long term

1706 disability benefits, provided that it is the actuarial equivalent
1707 of the benefits currently provided in Section 25-11-113 or
1708 25-11-114.

1709 **SECTION 9.** Section 25-11-311, Mississippi Code of 1972, is
1710 amended as follows:

1711 25-11-311. (1) A member may be paid a refund of the amount
1712 of accumulated contributions to the credit of the member in the
1713 annuity savings account, provided the member has withdrawn from
1714 state service and further provided the member has not returned to
1715 state service on the date the refund of the accumulated
1716 contributions would be paid. Such refund of the contributions to
1717 the credit of the member in the annuity savings account shall be
1718 paid within ninety (90) days from receipt in the office of the
1719 retirement system of the properly completed form requesting such
1720 payment. In the event of death prior to retirement of any member
1721 whose spouse and/or children are not entitled to a retirement
1722 allowance, the accumulated contributions to the credit of the
1723 deceased member in the annuity savings account shall be paid to
1724 the designated beneficiary on file in writing in the office of
1725 executive secretary of the board of trustees within ninety (90)
1726 days from receipt of a properly completed form requesting such
1727 payment. If there is no such designated beneficiary on file for
1728 such deceased member in the office of the system, upon the filing
1729 of a proper request with the board, the contributions to the
1730 credit of the deceased member in the annuity savings account shall
1731 be refunded pursuant to Section 25-11-311.1(1). The payment of
1732 the refund shall discharge all obligations of the retirement
1733 system to the member on account of any creditable service rendered
1734 by the member prior to the receipt of the refund. By the
1735 acceptance of the refund, the member shall waive and relinquish
1736 all accrued rights in the plan.

1737 (2) Pursuant to the Unemployment Compensation Amendments of
1738 1992 (Public Law 102-318 (UCA)), a member or eligible beneficiary

1739 making application for a refund under this section may elect, on a
1740 form prescribed by the board under rules and regulations
1741 established by the board, to have an eligible rollover
1742 distribution of accumulated contributions payable under this
1743 section paid directly to an eligible retirement plan, as defined
1744 under applicable federal law, or an individual retirement account.
1745 If the member or eligible beneficiary makes such election and
1746 specifies the eligible retirement plan or individual retirement
1747 account to which such distribution is to be paid, the distribution
1748 will be made in the form of a direct trustee-to-trustee transfer
1749 to the specified eligible retirement plan. Flexible rollovers
1750 under this subsection shall not be considered assignments under
1751 Section 25-11-129.

1752 (3) If any person who has received a refund is reelected to
1753 the Legislature or as President of the Senate and again becomes a
1754 member of the plan, the member may repay all or part of the
1755 amounts previously received as a refund, together with regular
1756 interest covering the period from the date of refund to the date
1757 of repayment. * * * The amounts that are repaid by the member
1758 before July 1, 2006, and the creditable service related thereto
1759 shall not be used in any benefit calculation or determination
1760 until the member has remained a contributor to the system for a
1761 period of at least four (4) years subsequent to such member's
1762 reentry into state service. The amounts that are repaid by the
1763 member on or after July 1, 2006, and the creditable service
1764 related thereto shall not be used in any benefit calculation or
1765 determination until the member has remained a contributor to the
1766 system for a period of at least ten (10) years subsequent to such
1767 member's reentry into state service. Repayment for such time
1768 shall be made in increments of not less than one-quarter (1/4)
1769 year of creditable service beginning with the most recent service
1770 for which refund has been made. Upon the repayment of all or part
1771 of such refund and interest, the member shall again receive credit

1772 for the period of creditable service for which full repayment has
1773 been made to the system.

1774 **SECTION 10.** Section 25-11-315, Mississippi Code of 1972, is
1775 amended as follows:

1776 25-11-315. (1) Any member of the State Legislature or the
1777 President of the Senate who becomes a member of the plan on July
1778 1, 1989, shall be eligible for prior service as a member of the
1779 State Legislature or as President of the Senate. Each member
1780 shall submit to the board a verification of prior service as a
1781 member of the State Legislature or as President of the Senate.
1782 Upon receipt of such prior service statement, the board shall
1783 issue a prior service certificate certifying to each member the
1784 length of prior service for which credit has been allowed on the
1785 basis of the statement of service. Additional prior service
1786 regulations in force shall be those found in Section 25-11-101 et
1787 seq.

1788 (2) Any member of the State Legislature or the President of
1789 the Senate who becomes a member of this plan after July 1, 1989,
1790 and before July 1, 2006, shall not be allowed prior service unless
1791 the member serves as a member of the State Legislature or as
1792 President of the Senate for a minimum of four (4) years and
1793 contributes to the plan for a minimum period of four (4) years.

1794 (3) Any member of the State Legislature or the President of
1795 the Senate who becomes a member of this plan on or after July 1,
1796 2006, shall not be allowed prior service unless the member serves
1797 as a member of the State Legislature or as President of the Senate
1798 for a minimum of ten (10) years and contributes to the plan for a
1799 minimum period of ten (10) years.

1800 **SECTION 11.** For purposes of Sections 25-11-103, 25-11-105,
1801 25-11-109, 25-11-111, 25-11-113, 25-11-114, 25-11-115 and
1802 25-11-117, if a member of the system withdrew from state service
1803 and received a refund of the amount of the accumulated
1804 contributions to the credit of the member in the annuity savings

1805 account before July 1, 2006, and the person reenters state service
1806 and becomes a member of the system again on or after July 1, 2006,
1807 and repays all or part of the amount received as a refund and
1808 interest in order to receive creditable service for service
1809 rendered before July 1, 2006, the member shall be considered to
1810 have become a member of the system on or after July 1, 2006.

1811 **SECTION 12.** This act shall take effect and be in force from
1812 and after July 1, 2006.