

House Amendments to Senate Bill No. 2689

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

36 25-11-103. The following words and phrases as used in
37 Articles 1 and 3, unless a different meaning is plainly required
38 by the context, have the following meanings:

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

43 (b) "Actuarial cost" means the amount of funds
44 presently required to provide future benefits as determined by the
45 board based on applicable tables and formulas provided by the
46 actuary.

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

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

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

56 (f) "Average compensation" means the average of the
57 four (4) highest years of earned compensation reported for an
58 employee in a fiscal or calendar year period, or combination
59 thereof that do not overlap, or the last forty-eight (48)

60 consecutive months of earned compensation reported for an
61 employee. The four (4) years need not be successive or joined
62 years of service. In no case shall the average compensation so
63 determined be in excess of One Hundred Fifty Thousand Dollars
64 (\$150,000.00). In computing the average compensation, any amount
65 lawfully paid in a lump sum for personal leave or major medical
66 leave shall be included in the calculation to the extent that the
67 amount does not exceed an amount that is equal to thirty (30) days
68 of earned compensation and to the extent that it does not cause
69 the employees' earned compensation to exceed the maximum
70 reportable amount specified in Section 25-11-103(k); however, this
71 thirty-day limitation shall not prevent the inclusion in the
72 calculation of leave earned under federal regulations before July
73 1, 1976, and frozen as of that date as referred to in Section
74 25-3-99. Only the amount of lump-sum pay for personal leave due
75 and paid upon the death of a member attributable for up to one
76 hundred fifty (150) days shall be used in the deceased member's
77 average compensation calculation in determining the beneficiary's
78 benefits. In computing the average compensation, no amounts shall
79 be used that are in excess of the amount on which contributions
80 were required and paid, and no nontaxable amounts paid by the
81 employer for health or life insurance premiums for the employee
82 shall be used. If any member who is or has been granted any
83 increase in annual salary or compensation of more than eight
84 percent (8%) retires within twenty-four (24) months from the date
85 that the increase becomes effective, then the board shall exclude
86 that part of the increase in salary or compensation that exceeds
87 eight percent (8%) in calculating that member's average
88 compensation for retirement purposes. The board may enforce this
89 provision by rule or regulation. However, increases in
90 compensation in excess of eight percent (8%) per year granted
91 within twenty-four (24) months of the date of retirement may be
92 included in the calculation of average compensation if
93 satisfactory proof is presented to the board showing that the
94 increase in compensation was the result of an actual change in the

95 position held or services rendered, or that the compensation
96 increase was authorized by the State Personnel Board or was
97 increased as a result of statutory enactment, and the employer
98 furnishes an affidavit stating that the increase granted within
99 the last twenty-four (24) months was not contingent on a promise
100 or agreement of the employee to retire. Nothing in Section
101 25-3-31 shall affect the calculation of the average compensation
102 of any member for the purposes of this article. The average
103 compensation of any member who retires before July 1, 1992, shall
104 not exceed the annual salary of the Governor.

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

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

131 (i) "Creditable service" means "prior service,"
132 "retroactive service" and all lawfully credited unused leave not
133 exceeding the accrual rates and limitations provided in Section
134 25-3-91 et seq., as of the date of withdrawal from service plus
135 "membership service" for which credit is allowable as provided in
136 Section 25-11-109. Except to limit creditable service reported to
137 the system for the purpose of computing an employee's retirement
138 allowance or annuity or benefits provided in this article, nothing
139 in this paragraph shall limit or otherwise restrict the power of
140 the governing authority of a municipality or other political
141 subdivision of the state to adopt such vacation and sick leave
142 policies as it deems necessary.

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

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

163 regulations, who is also employed by another covered agency or
164 political subdivision shall have the earnings of that additional
165 employment reported to the Public Employees' Retirement System
166 regardless of whether the additional employment is sufficient in
167 itself to be a covered position. In addition, computation of
168 earned compensation shall be governed by the following:

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

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

177 (iii) In the case of members of the State
178 Legislature, all remuneration or amounts paid, except mileage
179 allowance, shall apply.

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

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

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

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

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

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

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

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

215 (p) "Medical board" means the board of physicians or
216 any governmental or nongovernmental disability determination
217 service designated by the board of trustees that is qualified to
218 make disability determinations as provided for in Section
219 25-11-119.

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

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

224 (s) "Position" means any office or any employment in
225 the state service, or two (2) or more of them, the duties of which
226 call for services to be rendered by one (1) person, including
227 positions jointly employed by federal and state agencies
228 administering federal and state funds. The employer shall
229 determine upon initial employment and during the course of
230 employment of an employee who does not meet the criteria for

231 coverage in the Public Employees' Retirement System based on the
232 position held, whether the employee is or becomes eligible for
233 coverage in the Public Employees' Retirement System based upon any
234 other employment in a covered agency or political subdivision. If
235 or when the employee meets the eligibility criteria for coverage
236 in the other position, then the employer must withhold
237 contributions and report wages from the noncovered position in
238 accordance with the provisions for reporting of earned
239 compensation. Failure to deduct and report those contributions
240 shall not relieve the employee or employer of liability thereof.
241 The board shall adopt such rules and regulations as necessary to
242 implement and enforce this provision.

243 (t) "Prior service" means:

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

251 (ii) For persons who became members of the system
252 on or after July 1, 2006, service rendered before February 1,
253 1953, for which credit is allowable under Sections 25-11-105 and
254 25-11-109, and which shall allow prior service for any person who
255 is now or becomes a member of the Public Employees' Retirement
256 System and who does contribute to the system for a minimum period
257 of ten (10) years.

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

261 (v) "Retirement allowance" means an annuity for life as
262 provided in this article, payable each year in twelve (12) equal
263 monthly installments beginning as of the date fixed by the board.
264 The retirement allowance shall be calculated in accordance with
265 Section 25-11-111. However, any spouse who received a spouse

266 retirement benefit in accordance with Section 25-11-111(d) before
267 March 31, 1971, and those benefits were terminated because of
268 eligibility for a social security benefit, may again receive his
269 spouse retirement benefit from and after making application with
270 the board of trustees to reinstate the spouse retirement benefit.

271 (w) "Retroactive service" means service rendered after
272 February 1, 1953, for which credit is allowable under Section
273 25-11-105(b) and Section 25-11-105(k).

274 (x) "System" means the Public Employees' Retirement
275 System of Mississippi established and described in Section
276 25-11-101.

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

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

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

304 (bb) The masculine pronoun, wherever used, includes the
305 feminine pronoun.

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

308 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

309 The membership of this retirement system shall be composed as
310 follows:

311 (a) (i) All persons who become employees in the state
312 service after January 31, 1953, and whose wages are subject to
313 payroll taxes and are lawfully reported on IRS Form W-2, except
314 those specifically excluded, or as to whom election is provided in
315 Articles 1 and 3, shall become members of the retirement system as
316 a condition of their employment.

317 (ii) From and after July 1, 2002, any individual
318 who is employed by a governmental entity to perform professional
319 services shall become a member of the system if the individual is
320 paid regular periodic compensation for those services that is
321 subject to payroll taxes, is provided all other employee benefits
322 and meets the membership criteria established by the regulations
323 adopted by the board of trustees that apply to all other members
324 of the system; however, any active member employed in such a
325 position on July 1, 2002, will continue to be an active member for
326 as long as they are employed in any such position.

327 (b) All persons who become employees in the state
328 service after January 31, 1953, except those specifically excluded
329 or as to whom election is provided in Articles 1 and 3, unless
330 they file with the board before the lapse of sixty (60) days of
331 employment or sixty (60) days after the effective date of the
332 cited articles, whichever is later, on a form prescribed by the
333 board, a notice of election not to be covered by the membership of
334 the retirement system and a duly executed waiver of all present
335 and prospective benefits that would otherwise inure to them on

336 account of their participation in the system, shall become members
337 of the retirement system; however, no credit for prior service
338 will be granted to members who became members of the system before
339 July 1, 2006, until they have contributed to Article 3 of the
340 retirement system for a minimum period of at least four (4) years,
341 or to members who became members of the system on or after July 1,
342 2006, until they have contributed to Article 3 of the retirement
343 system for a minimum period of at least ten (10) years. Those
344 members shall receive credit for services performed before January
345 1, 1953, in employment now covered by Article 3, but no credit
346 shall be granted for retroactive services between January 1, 1953,
347 and the date of their entry into the retirement system, unless the
348 employee pays into the retirement system both the employer's and
349 the employee's contributions on wages paid him during the period
350 from January 31, 1953, to the date of his becoming a contributing
351 member, together with interest at the rate determined by the board
352 of trustees. Members reentering after withdrawal from service
353 shall qualify for prior service under the provisions of Section
354 25-11-117. From and after July 1, 1998, upon eligibility as noted
355 above, the member may receive credit for such retroactive service
356 provided:

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

360 (2) The member shall pay to the retirement system
361 on the date he or she is eligible for that credit or at any time
362 thereafter before the date of retirement the actuarial cost for
363 each year of that creditable service. The provisions of this
364 subparagraph (2) shall be subject to the limitations of Section
365 415 of the Internal Revenue Code and regulations promulgated under
366 Section 415.

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

371 (c) All persons who become employees in the state
372 service after January 31, 1953, and who are eligible for
373 membership in any other retirement system shall become members of
374 this retirement system as a condition of their employment, unless
375 they elect at the time of their employment to become a member of
376 that other system.

377 (d) All persons who are employees in the state service
378 on January 31, 1953, and who are members of any nonfunded
379 retirement system operated by the State of Mississippi, or any of
380 its departments or agencies, shall become members of this system
381 with prior service credit unless, before February 1, 1953, they
382 file a written notice with the board of trustees that they do not
383 elect to become members.

384 (e) All persons who are employees in the state service
385 on January 31, 1953, and who under existing laws are members of
386 any fund operated for the retirement of employees by the State of
387 Mississippi, or any of its departments or agencies, shall not be
388 entitled to membership in this retirement system unless, before
389 February 1, 1953, any such person indicates by a notice filed with
390 the board, on a form prescribed by the board, his individual
391 election and choice to participate in this system, but no such
392 person shall receive prior service credit unless he becomes a
393 member on or before February 1, 1953.

394 (f) Each political subdivision of the state and each
395 instrumentality of the state or a political subdivision, or both,
396 is authorized to submit, for approval by the board of trustees, a
397 plan for extending the benefits of this article to employees of
398 any such political subdivision or instrumentality. Each such plan
399 or any amendment to the plan for extending benefits thereof shall
400 be approved by the board of trustees if it finds that the plan, or
401 the plan as amended, is in conformity with such requirements as
402 are provided in Articles 1 and 3; however, upon approval of the
403 plan or any such plan previously approved by the board of
404 trustees, the approved plan shall not be subject to cancellation
405 or termination by the political subdivision or instrumentality,

406 except that any community hospital serving a municipality that
407 joined the Public Employees' Retirement System as of November 1,
408 1956, to offer social security coverage for its employees and
409 subsequently extended retirement annuity coverage to its employees
410 as of December 1, 1965, may, upon documentation of extreme
411 financial hardship, have future retirement annuity coverage
412 cancelled or terminated at the discretion of the board of
413 trustees; and except that any community hospital serving a county
414 that joined the Public Employees' Retirement System as of June 1,
415 1965, to offer social security coverage for its employees and
416 subsequently extended retirement annuity coverage to its employees
417 as of January 1, 1975, may have future retirement annuity coverage
418 restricted to those hospital employees who joined the system and
419 became members of the system before July 1, 2006; and except that
420 any community hospital serving a county that joined the Public
421 Employees' Retirement System as of October 1, 1963, to offer
422 social security coverage for its employees and subsequently
423 extended retirement annuity coverage to its employees as of August
424 1, 1979, may have future retirement annuity coverage restricted to
425 those hospital employees who joined the system and became members
426 of the system before July 1, 2006. No such plan shall be approved
427 unless:

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

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

440 (3) It provides for such methods of administration
441 of the plan by the political subdivision or instrumentality as are
442 found by the board of trustees to be necessary for the proper and
443 efficient administration thereof;

444 (4) It provides that the political subdivision or
445 instrumentality will make such reports, in such form and
446 containing such information, as the board of trustees may from
447 time to time require;

448 (5) It authorizes the board of trustees to
449 terminate the plan in its entirety in the discretion of the board
450 if it finds that there has been a failure to comply substantially
451 with any provision contained in the plan, the termination to take
452 effect at the expiration of such notice and on such conditions as
453 may be provided by regulations of the board and as may be
454 consistent with applicable federal law.

455 A. The board of trustees shall not finally
456 refuse to approve a plan submitted under paragraph (f), and shall
457 not terminate an approved plan without reasonable notice and
458 opportunity for hearing to each political subdivision or
459 instrumentality affected by the board's decision. The board's
460 decision in any such case shall be final, conclusive and binding
461 unless an appeal is taken by the political subdivision or
462 instrumentality aggrieved by the decision to the Circuit Court of
463 Hinds County, Mississippi, in accordance with the provisions of
464 law with respect to civil causes by certiorari.

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

472 C. Every political subdivision or
473 instrumentality required to make payments under paragraph (f)(5)B
474 of this section is authorized, in consideration of the employees'

475 retention in or entry upon employment after enactment of Articles
476 1 and 3, to impose upon its employees, as to services that are
477 covered by an approved plan, a contribution with respect to wages
478 (as defined in Section 25-11-5) not exceeding the amount provided
479 in Section 25-11-123(d) if those services constituted employment
480 within the meaning of Articles 1 and 3, and to deduct the amount
481 of the contribution from the wages as and when paid.

482 Contributions so collected shall be paid into the contribution
483 fund as partial discharge of the liability of the political
484 subdivisions or instrumentalities under paragraph (f)(5)B of this
485 section. Failure to deduct the contribution shall not relieve the
486 employee or employer of liability for the contribution.

487 D. Any state agency, school, political
488 subdivision, instrumentality or any employer that is required to
489 submit contribution payments or wage reports under any section of
490 this chapter shall be assessed interest on delinquent payments or
491 wage reports as determined by the board of trustees in accordance
492 with rules and regulations adopted by the board and delinquent
493 payments, assessed interest and any other amount certified by the
494 board as owed by an employer, may be recovered by action in a
495 court of competent jurisdiction against the reporting agency
496 liable therefor or may, upon due certification of delinquency and
497 at the request of the board of trustees, be deducted from any
498 other monies payable to the reporting agency by any department or
499 agency of the state.

500 E. Each political subdivision of the state
501 and each instrumentality of the state or a political subdivision
502 or subdivisions that submit a plan for approval of the board, as
503 provided in this section, shall reimburse the board for coverage
504 into the expense account, its pro rata share of the total expense
505 of administering Articles 1 and 3 as provided by regulations of
506 the board.

507 (g) The board may, in its discretion, deny the right of
508 membership in this system to any class of employees whose
509 compensation is only partly paid by the state or who are occupying

510 positions on a part-time or intermittent basis. The board may, in
511 its discretion, make optional with employees in any such classes
512 their individual entrance into this system.

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

519 (i) If any member of this system changes his employment
520 to any agency of the state having an actuarially funded retirement
521 system, the board of trustees may authorize the transfer of the
522 member's creditable service and of the present value of the
523 member's employer's accumulation account and of the present value
524 of the member's accumulated membership contributions to that other
525 system, provided that the employee agrees to the transfer of his
526 accumulated membership contributions and provided that the other
527 system is authorized to receive and agrees to make the transfer.

528 If any member of any other actuarially funded system
529 maintained by an agency of the state changes his employment to an
530 agency covered by this system, the board of trustees may authorize
531 the receipt of the transfer of the member's creditable service and
532 of the present value of the member's employer's accumulation
533 account and of the present value of the member's accumulated
534 membership contributions from the other system, provided that the
535 employee agrees to the transfer of his accumulated membership
536 contributions to this system and provided that the other system is
537 authorized and agrees to make the transfer.

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

541 (k) Employees of a political subdivision or
542 instrumentality who were employed by the political subdivision or
543 instrumentality before an agreement between the entity and the
544 Public Employees' Retirement System to extend the benefits of this

545 article to its employees, and which agreement provides for the
546 establishment of retroactive service credit, and who have been
547 members of the retirement system who became members of the system
548 before July 1, 2006, and have remained contributors to the
549 retirement system for four (4) years, or who became members of the
550 system on or after July 1, 2006, and have remained contributors to
551 the retirement system for ten (10) years, may receive credit for
552 that retroactive service with the political subdivision or
553 instrumentality, provided that the employee and/or employer, as
554 provided under the terms of the modification of the joinder
555 agreement in allowing that coverage, pay into the retirement
556 system the employer's and employee's contributions on wages paid
557 the member during the previous employment, together with interest
558 or actuarial cost as determined by the board covering the period
559 from the date the service was rendered until the payment for the
560 credit for the service was made. Those wages shall be verified by
561 the Social Security Administration or employer payroll records.
562 Effective July 1, 1998, upon eligibility as noted above, a member
563 may receive credit for that retroactive service with the political
564 subdivision or instrumentality provided:

565 (1) The member shall furnish proof satisfactory to
566 the board of trustees of certification of those services from the
567 political subdivision or instrumentality where the services were
568 rendered or verification by the Social Security Administration;
569 and

570 (2) The member shall pay to the retirement system
571 on the date he or she is eligible for that credit or at any time
572 thereafter before the date of retirement the actuarial cost for
573 each year of that creditable service. The provisions of this
574 subparagraph (2) shall be subject to the limitations of Section
575 415 of the Internal Revenue Code and regulations promulgated under
576 Section 415.

577 Nothing contained in this paragraph (k) shall be construed to
578 limit the authority of the board to allow the correction of
579 reporting errors or omissions based on the payment of employee and

580 employer contributions plus applicable interest. Payment for that
581 time shall be made in increments of not less than one-quarter
582 (1/4) year of creditable service beginning with the most recent
583 service. Upon the payment of all or part of the required
584 contributions, plus interest or the actuarial cost as provided
585 above, the member shall receive credit for the period of
586 creditable service for which full payment has been made to the
587 retirement system.

588 (l) Through June 30, 1998, any state service eligible
589 for retroactive service credit, no part of which has ever been
590 reported, and requiring the payment of employee and employer
591 contributions plus interest, or, from and after July 1, 1998, any
592 state service eligible for retroactive service credit, no part of
593 which has ever been reported to the retirement system, and
594 requiring the payment of the actuarial cost for that creditable
595 service, may, at the member's option, be purchased in quarterly
596 increments as provided above at the time that its purchase is
597 otherwise allowed.

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

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

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

605 (a) Patient or inmate help in state charitable, penal
606 or correctional institutions;

607 (b) Students of any state educational institution
608 employed by any agency of the state for temporary, part-time or
609 intermittent work;

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

613 (d) From and after July 1, 2002, individuals who are
614 employed by a governmental entity to perform professional service

615 on less than a full-time basis who do not meet the criteria
616 established in I(a)(ii) of this section.

617 **III. TERMINATION OF MEMBERSHIP**

618 Membership in this system shall cease by a member withdrawing
619 his accumulated contributions, or by a member withdrawing from
620 active service with a retirement allowance, or by a member's
621 death.

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

624 25-11-109. (1) Under such rules and regulations as the
625 board of trustees shall adopt, each person who becomes a member of
626 this retirement system, as provided in Section 25-11-105, on or
627 prior to July 1, 1953, or who became a member of the system before
628 July 1, 2006, and contributes to the system for a minimum period
629 of four (4) years, or who became a member of the system on or
630 after July 1, 2006, and contributes to the system for a minimum
631 period of ten (10) years, shall receive credit for all state
632 service rendered before February 1, 1953. To receive such credit,
633 such member shall file a detailed statement of all services as an
634 employee rendered by him in the state service before February 1,
635 1953. For any member who joined the system after July 1, 1953,
636 and before July 1, 2006, any creditable service for which the
637 member is not required to make contributions shall not be credited
638 to the member until the member has contributed to the system for a
639 minimum period of at least four (4) years. For any member who
640 joined the system on or after July 1, 2006, any creditable service
641 for which the member is not required to make contributions shall
642 not be credited to the member until the member has contributed to
643 the system for a minimum period of at least ten (10) years.

644 (2) In the computation of membership service or prior
645 service under the provisions of this article, the total months of
646 accumulative service during any fiscal year shall be calculated in
647 accordance with the schedule as follows: ten (10) or more months
648 of creditable service during any fiscal year shall constitute a
649 year of creditable service; seven (7) months to nine (9) months

650 inclusive, three-quarters (3/4) of a year of creditable service;
651 four (4) months to six (6) months inclusive, one-half-year of
652 creditable service; one (1) month to three (3) months inclusive,
653 one-quarter (1/4) of a year of creditable service. In no case
654 shall credit be allowed for any period of absence without
655 compensation except for disability while in receipt of a
656 disability retirement allowance, nor shall less than fifteen (15)
657 days of service in any month, or service less than the equivalent
658 of one-half (1/2) of the normal working load for the position and
659 less than one-half (1/2) of the normal compensation for the
660 position in any month, constitute a month of creditable service,
661 nor shall more than one (1) year of service be creditable for all
662 services rendered in any one (1) fiscal year; however, for a
663 school employee, substantial completion of the legal school term
664 when and where the service was rendered shall constitute a year of
665 service credit for both prior service and membership service. Any
666 state or local elected official shall be deemed a full-time
667 employee for the purpose of creditable service for prior service
668 or membership service. However, an appointed or elected official
669 compensated on a per diem basis only shall not be allowed
670 creditable service for terms of office.

671 In the computation of any retirement allowance or any annuity
672 or benefits provided in this article, any fractional period of
673 service of less than one (1) year shall be taken into account and
674 a proportionate amount of such retirement allowance, annuity or
675 benefit shall be granted for any such fractional period of
676 service.

677 In the computation of unused leave for creditable service
678 authorized in Section 25-11-103, the following shall govern:
679 twenty-one (21) days of unused leave shall constitute one (1)
680 month of creditable service and in no case shall credit be allowed
681 for any period of unused leave of less than fifteen (15) days.
682 The number of months of unused leave shall determine the number of
683 quarters or years of creditable service in accordance with the
684 above schedule for membership and prior service. In order for the

685 member to receive creditable service for the number of days of
686 unused leave, the system must receive certification from the
687 governing authority.

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

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

695 (b) For service on and after July 1, 1984, the member
696 shall receive credit for personal and major medical leave
697 beginning July 1, 1984, at the rates authorized in Sections
698 25-3-93 and 25-3-95, computed as a full-time employee.

699 (3) Subject to the above restrictions and to such other
700 rules and regulations as the board may adopt, the board shall
701 verify, as soon as practicable after the filing of such statements
702 of service, the services therein claimed.

703 (4) Upon verification of the statement of prior service, the
704 board shall issue a prior service certificate certifying to each
705 member the length of prior service for which credit shall have
706 been allowed on the basis of his statement of service. So long as
707 membership continues, a prior service certificate shall be final
708 and conclusive for retirement purposes as to such service,
709 provided that any member may within five (5) years from the date
710 of issuance or modification of such certificate request the board
711 of trustees to modify or correct his prior service certificate.
712 Any modification or correction authorized shall only apply
713 prospectively.

714 When membership ceases, such prior service certificates shall
715 become void. Should the employee again become a member, he shall
716 enter the system as an employee not entitled to prior service
717 credit except as provided in Sections 25-11-105(I), 25-11-113 and
718 25-11-117.

719 (5) Creditable service at retirement, on which the
720 retirement allowance of a member shall be based, shall consist of
721 the membership service rendered by him since he last became a
722 member, and also, if he has a prior service certificate which is
723 in full force and effect, the amount of the service certified on
724 his prior service certificate.

725 (6) Any member who served on active duty in the Armed Forces
726 of the United States, who served in the Commissioned Corps of the
727 United States Public Health Service prior to 1972 or who served in
728 maritime service during periods of hostility in World War II,
729 shall be entitled to creditable service at no cost for his service
730 on active duty in the Armed Forces, in the Commissioned Corps of
731 the United States Public Health Service prior to 1972 or in such
732 maritime service, provided he entered state service after his
733 discharge from the Armed Forces or entered state service after he
734 completed such maritime service. The maximum period for such
735 creditable service for all military service as defined in this
736 subsection (6) shall not exceed four (4) years unless positive
737 proof can be furnished by such person that he was retained in the
738 Armed Forces during World War II or in maritime service during
739 World War II by causes beyond his control and without opportunity
740 of discharge. The member shall furnish proof satisfactory to the
741 board of trustees of certification of military service or maritime
742 service records showing dates of entrance into active duty service
743 and the date of discharge. From and after July 1, 1993, no
744 creditable service shall be granted for any military service or
745 maritime service to a member who qualifies for a retirement
746 allowance in another public retirement system administered by the
747 Board of Trustees of the Public Employees' Retirement System based
748 in whole or in part on such military or maritime service. In no
749 case shall the member receive creditable service if the member
750 received a dishonorable discharge from the Armed Forces of the
751 United States.

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

754 qualified military service within the meaning of Section 414(u)(5)
755 of the Internal Revenue Code, and who has received the maximum
756 service credit available under subsection (6) of this section,
757 shall receive creditable service for the period of qualified
758 military service that does not qualify as creditable service under
759 subsection (6) of this section upon reentering membership service
760 in an amount not to exceed five (5) years if:

761 (i) The member pays the contributions he would
762 have made to the retirement system if he had remained in
763 membership service for the period of qualified military service
764 based upon his salary at the time his membership service was
765 interrupted;

766 (ii) The member returns to membership service
767 within ninety (90) days of the end of his qualified military
768 service; and

769 (iii) The employer at the time the member's
770 service was interrupted and to which employment the member returns
771 pays the contributions it would have made into the retirement
772 system for such period based on the member's salary at the time
773 the service was interrupted.

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

779 (c) The member shall furnish proof satisfactory to the
780 board of trustees of certification of military service showing
781 dates of entrance into qualified service and the date of discharge
782 as well as proof that the member has returned to active employment
783 within the time specified.

784 (8) Any member of the Public Employees' Retirement System
785 who became a member of the system before July 1, 2006, and who has
786 at least four (4) years of membership service credit, or who
787 became a member of the system on or after July 1, 2006, and who
788 has at least ten (10) years of membership service credit, shall be

789 entitled to receive a maximum of five (5) years creditable service
790 for service rendered in another state as a public employee of such
791 other state, or a political subdivision, public education system
792 or other governmental instrumentality thereof, or service rendered
793 as a teacher in American overseas dependent schools conducted by
794 the Armed Forces of the United States for children of citizens of
795 the United States residing in areas outside the continental United
796 States, provided that:

797 (a) The member shall furnish proof satisfactory to the
798 board of trustees of certification of such services from the
799 state, public education system, political subdivision or
800 retirement system of the state where the services were performed
801 or the governing entity of the American overseas dependent school
802 where the services were performed; and

803 (b) The member is not receiving or will not be entitled
804 to receive from the public retirement system of the other state or
805 from any other retirement plan, including optional retirement
806 plans, sponsored by the employer, a retirement allowance including
807 such services; and

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

815 (9) Any member of the Public Employees' Retirement System
816 who became a member of the system before July 1, 2006, and has at
817 least four (4) years of membership service credit, or who became a
818 member of the system on or after July 1, 2006, and has at least
819 ten (10) years of membership service credit, and who receives, or
820 has received, professional leave without compensation for
821 professional purposes directly related to the employment in state
822 service shall receive creditable service for the period of
823 professional leave without compensation provided:

824 (a) The professional leave is performed with a public
825 institution or public agency of this state, or another state or
826 federal agency;

827 (b) The employer approves the professional leave
828 showing the reason for granting the leave and makes a
829 determination that the professional leave will benefit the
830 employee and employer;

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

833 (d) The employee shall serve the employer on a
834 full-time basis for a period of time equivalent to the
835 professional leave period granted immediately following the
836 termination of the leave period;

837 (e) The contributing member shall pay to the retirement
838 system the actuarial cost as determined by the actuary for each
839 year of professional leave. The provisions of this subsection are
840 subject to the regulations of the Internal Revenue Code
841 limitations;

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

845 Any actively contributing member participating in the School
846 Administrator Sabbatical Program established in Section 37-9-77
847 shall qualify for continued participation under this subsection
848 (9).

849 (10) Any member of the Public Employees' Retirement System
850 who became a member of the system before July 1, 2006, and has at
851 least four (4) years of credited membership service, or who became
852 a member of the system on or after July 1, 2006, and has at least
853 ten (10) years of credited membership service shall be entitled to
854 receive a maximum of ten (10) years creditable service for:

855 (a) Any service rendered as an employee of any
856 political subdivision of this state, or any instrumentality
857 thereof, which does not participate in the Public Employees'
858 Retirement System; or

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

863 (c) Any service rendered as an employee of any
864 political subdivision of this state, or any instrumentality
865 thereof, for which coverage of the employee's position was or is
866 excluded; provided that the member pays into the retirement system
867 the actuarial cost as determined by the actuary for each year, or
868 portion thereof, of such service. Payment for such service may be
869 made in increments of one-quarter-year of creditable service.
870 After a member has made full payment to the retirement system for
871 all or any part of such service, the member shall receive
872 creditable service for the period of such service for which full
873 payment has been made to the retirement system.

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

876 25-11-111. (a) (1) Any member who became a member of the
877 system before July 1, 2006, upon withdrawal from service upon or
878 after attainment of the age of sixty (60) years who shall have
879 completed at least four (4) years of creditable service, or any
880 member who became a member of the system before July 1, 2006, upon
881 withdrawal from service regardless of age who shall have completed
882 at least twenty-five (25) years of creditable service, shall be
883 entitled to receive a retirement allowance which shall begin on
884 the first of the month following the date the member's application
885 for the allowance is received by the board, but in no event before
886 withdrawal from service.

887 (2) Any member who became a member of the system on or
888 after July 1, 2006, upon withdrawal from service upon or after
889 attainment of the age of sixty (60) years who shall have completed
890 at least ten (10) years of creditable service, or any member who
891 became a member of the system on or after July 1, 2006, upon
892 withdrawal from service upon or after attaining the age of
893 fifty-five (55) years who shall have completed at least thirty

894 (30) years of creditable service, shall be entitled to receive a
895 retirement allowance which shall begin on the first of the month
896 following the date the member's application for the allowance is
897 received by the board, but in no event before withdrawal from
898 service.

899 (b) (1) Any member who became a member of the system before
900 July 1, 2006, whose withdrawal from service occurs prior to
901 attaining the age of sixty (60) years who shall have completed
902 four (4) or more years of creditable service and shall not have
903 received a refund of his accumulated contributions, shall be
904 entitled to receive a retirement allowance, beginning upon his
905 attaining the age of sixty (60) years, of the amount earned and
906 accrued at the date of withdrawal from service.

907 (2) Any member who became a member of the system on or
908 after July 1, 2006, whose withdrawal from service occurs prior to
909 attaining the age of sixty (60) years who shall have completed ten
910 (10) or more years of creditable service and shall not have
911 received a refund of his accumulated contributions, shall be
912 entitled to receive a retirement allowance, beginning upon his
913 attaining the age of sixty (60) years, of the amount earned and
914 accrued at the date of withdrawal from service.

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

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

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

932 (2) An employer's annuity which, together with the
933 member's annuity provided above, shall be equal to two percent
934 (2%) of the average compensation for each year of state service up
935 to and including twenty-five (25) years of membership service, and
936 two and one-half percent (2-1/2%) of the average compensation for
937 each year of state service exceeding twenty-five (25) years of
938 membership service * * *; and

939 * * *

940 (3) A prior service annuity equal to two percent (2%)
941 of the average compensation for each year of state service up to
942 and including twenty-five (25) years of prior service, and two and
943 one-half percent (2-1/2%) of the average compensation for each
944 year of state service exceeding twenty-five (25) years of prior
945 service for which the member is allowed credit. * * *

946 * * *

947 (4) Any retired member or beneficiary thereof who was
948 eligible to receive a retirement allowance before July 1, 1991,
949 and who is still receiving a retirement allowance on July 1, 1992,
950 shall receive an increase in the annual retirement allowance of
951 the retired member equal to one-eighth of one percent (1/8 of 1%)
952 of the average compensation for each year of state service in
953 excess of twenty-five (25) years of membership service up to and
954 including thirty (30) years. The maximum increase shall be
955 five-eighths of one percent (5/8 of 1%). In no case shall a
956 member who has been retired prior to July 1, 1987, receive less
957 than Ten Dollars (\$10.00) per month for each year of creditable
958 service and proportionately for each quarter year thereof.
959 Persons retired on or after July 1, 1987, shall receive at least
960 Ten Dollars (\$10.00) per month for each year of service and
961 proportionately for each quarter year thereof reduced for the
962 option selected. However, such Ten Dollars (\$10.00) minimum per

963 month for each year of creditable service shall not apply to a
964 retirement allowance computed under Section 25-11-114 based on a
965 percentage of the member's average compensation.

966 * * *

967 (e) No member, except members excluded by the Age
968 Discrimination in Employment Act Amendments of 1986 (Public Law
969 99-592), under either Article 1 or Article 3 in state service
970 shall be required to retire because of age.

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

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

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

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

991 (4) The board of trustees may provide rules and
992 regulations for the administration of waivers under this
993 subsection.

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

996 25-11-113. (1) (a) Upon the application of a member or his
997 employer, any active member in state service who became a member

998 of the system before July 1, 2006, and who has at least four (4)
999 years of membership service credit, or any active member in state
1000 service who became a member of the system on or after July 1,
1001 2006, who has at least ten (10) years of membership service
1002 credit, may be retired by the board of trustees on the first of
1003 the month following the date of filing such application on a
1004 disability retirement allowance, but in no event shall the
1005 disability retirement allowance commence before termination of
1006 state service, provided that the medical board, after an
1007 evaluation of medical evidence that may or may not include an
1008 actual physical examination by the medical board, shall certify
1009 that the member is mentally or physically incapacitated for the
1010 further performance of duty, that such incapacity is likely to be
1011 permanent, and that the member should be retired; however, the
1012 board of trustees may accept a disability medical determination
1013 from the Social Security Administration in lieu of a certification
1014 from the medical board. In making a determination as to whether a
1015 member is eligible for a disability retirement allowance, a
1016 finding of disability by the Social Security Administration will
1017 create a rebuttable presumption of disability; however, the
1018 presumption may only be overcome by clear and convincing evidence.
1019 For the purposes of disability determination, the medical board
1020 shall apply the following definition of disability: the inability
1021 to perform the usual duties of employment or the incapacity to
1022 perform such lesser duties, if any, as the employer, in its
1023 discretion, may assign without material reduction in compensation,
1024 or the incapacity to perform the duties of any employment covered
1025 by the Public Employees' Retirement System (Section 25-11-101 et
1026 seq.) that is actually offered and is within the same general
1027 territorial work area, without material reduction in compensation.
1028 The employer shall be required to furnish the job description and
1029 duties of the member. The employer shall further certify whether
1030 the employer has offered the member other duties and has complied
1031 with the applicable provisions of the Americans With Disabilities

1032 Act in affording reasonable accommodations which would allow the
1033 employee to continue employment.

1034 (b) Any inactive member who became a member of the
1035 system before July 1, 2006, with four (4) or more years of
1036 membership service credit, or any inactive member who became a
1037 member of the system on or after July 1, 2006, with ten (10) or
1038 more years of membership service credit, who has withdrawn from
1039 active state service, is not eligible for a disability retirement
1040 allowance unless the disability occurs within six (6) months of
1041 the termination of active service and unless satisfactory proof is
1042 presented to the board of trustees that the disability was the
1043 direct cause of withdrawal from state service.

1044 (c) Any member who is or becomes eligible for service
1045 retirement benefits under Section 25-11-111 while pursuing a
1046 disability retirement allowance under this section or Section
1047 25-11-114 may elect to receive a service retirement allowance
1048 pending a final determination on eligibility for a disability
1049 retirement allowance or withdrawal of the application for the
1050 disability retirement allowance. In such a case, an application
1051 for a disability retirement allowance must be on file with the
1052 system before the commencement of a service retirement allowance.
1053 If the application is approved, the option selected and
1054 beneficiary designated on the retirement application shall be used
1055 to determine the disability retirement allowance. If the
1056 application is not approved or if the application is withdrawn,
1057 the service retirement allowance shall continue to be paid in
1058 accordance with the option selected. No person may apply for a
1059 disability retirement allowance after the person begins to receive
1060 a service retirement allowance.

1061 (d) If the medical board certifies that the member is
1062 not mentally or physically incapacitated for the future
1063 performance of duty, the member may request, within sixty (60)
1064 days, a hearing before the hearing officer as provided in Section
1065 25-11-120. All hearings shall be held in accordance with rules

1066 and regulations adopted by the board to govern such hearings.
1067 Such hearing may be closed upon the request of the member.

1068 (e) The medical board may request additional medical
1069 evidence and/or other physicians to conduct an evaluation of the
1070 member's condition. If the medical board requests additional
1071 medical evidence and the member refuses the request, the
1072 application shall be considered void.

1073 (2) Allowance on disability retirement.

1074 (a) Upon retirement for disability, an eligible member
1075 shall receive a retirement allowance if he has attained the age of
1076 sixty (60) years.

1077 (b) Except as provided in paragraph (c) of this
1078 subsection (2), an eligible member who is retired for disability
1079 and who has not attained sixty (60) years of age shall receive a
1080 disability benefit as computed in Section 25-11-111(d)(1) through
1081 (d)(4) which shall consist of:

1082 (i) A member's annuity which shall be the
1083 actuarial equivalent of his accumulated contributions at the time
1084 of retirement; and

1085 (ii) An employer's annuity equal to the amount
1086 that would have been payable as a retirement allowance for both
1087 membership service and prior service had the member continued in
1088 service to the age of sixty (60) years, which shall apply to the
1089 allowance for disability retirement paid to retirees receiving
1090 such allowance upon and after April 12, 1977. This employer's
1091 annuity shall be computed on the basis of the average "earned
1092 compensation" as defined in Section 25-11-103.

1093 (c) For persons who become members after June 30, 1992,
1094 and for active members on June 30, 1992, who elect benefits under
1095 this paragraph (c) instead of those provided under paragraph (b)
1096 of this subsection (2), the disability allowance shall consist of
1097 two (2) parts: a temporary allowance and a deferred allowance.

1098 The temporary allowance shall equal the greater of (i) forty
1099 percent (40%) of average compensation at the time of disability,
1100 plus ten percent (10%) of average compensation for each of the

1101 first two (2) dependent children, as defined in Sections 25-11-103
1102 and 25-11-114, or (ii) the accrued benefit based on actual
1103 service. It shall be payable for a period of time based on the
1104 member's age at disability, as follows:

1105	Age at Disability	Duration
1106	60 and earlier	to age 65
1107	61	to age 66
1108	62	to age 66
1109	63	to age 67
1110	64	to age 67
1111	65	to age 68
1112	66	to age 68
1113	67	to age 69
1114	68	to age 70
1115	69 and over	one year

1116 The deferred allowance shall commence when the temporary
1117 allowance ceases and shall be payable for life. The deferred
1118 allowance shall equal the greater of (i) the allowance that would
1119 have been payable had the member continued in service to the
1120 termination age of the temporary allowance, but no more than forty
1121 percent (40%) of average compensation, or (ii) the accrued benefit
1122 based on actual service at the time of disability. The deferred
1123 allowance as determined at the time of disability shall be
1124 adjusted in accordance with Section 25-11-112 for the period
1125 during which the temporary annuity is payable. In no case shall a
1126 member receive less than Ten Dollars (\$10.00) per month for each
1127 year of service and proportionately for each quarter year thereof
1128 reduced for the option selected.

1129 (d) The member may elect to receive the actuarial
1130 equivalent of the disability retirement allowance in a reduced
1131 allowance payable throughout life under any of the provisions of
1132 the options provided under Section 25-11-115.

1133 (e) Should a disability retiree who has not selected an
1134 option under Section 25-11-115 die before being repaid in
1135 disability benefits the sum of his total contributions, then his

1136 named beneficiary shall receive the difference in cash, which
1137 shall apply to all deceased disability retirees from and after
1138 January 1, 1953.

1139 (3) Reexamination of retirees retired on account of
1140 disability. Except as otherwise provided in this section, once
1141 each year during the first five (5) years following retirement of
1142 a member on a disability retirement allowance, and once in every
1143 period of three (3) years thereafter, the board of trustees may,
1144 and upon his application shall, require any disability retiree who
1145 has not yet attained the age of sixty (60) years or the
1146 termination age of the temporary allowance under paragraph (2)(c)
1147 of this section to undergo a medical examination, such examination
1148 to be made at the place of residence of the retiree or other place
1149 mutually agreed upon by a physician or physicians designated by
1150 the board. The board, however, in its discretion, may authorize
1151 the medical board to establish reexamination schedules appropriate
1152 to the medical condition of individual disability retirees.
1153 Should any disability retiree who has not yet attained the age of
1154 sixty (60) years or the termination age of the temporary allowance
1155 under paragraph (2)(c) of this section refuse to submit to any
1156 medical examination provided herein, his allowance may be
1157 discontinued until his withdrawal of such refusal; and should his
1158 refusal continue for one (1) year, all his rights to a disability
1159 benefit shall be revoked by the board of trustees.

1160 (4) If the medical board reports and certifies to the board
1161 of trustees, after a comparable job analysis or other similar
1162 study, that such disability retiree is engaged in, or is able to
1163 engage in, a gainful occupation paying more than the difference
1164 between his disability allowance, exclusive of cost of living
1165 adjustments, and the average compensation, and if the board of
1166 trustees concurs in such report, the disability benefit shall be
1167 reduced to an amount which, together with the amount earnable by
1168 him, shall equal the amount of his average compensation. If his
1169 earning capacity be later changed, the amount of the benefit may
1170 be further modified, provided that the revised benefit shall not

1171 exceed the amount originally granted. A retiree receiving a
1172 disability benefit who is restored to active service at a salary
1173 less than the average compensation shall not become a member of
1174 the retirement system.

1175 (5) Should a disability retiree under the age of sixty (60)
1176 years or the termination age of the temporary allowance under
1177 paragraph (2)(c) of this section be restored to active service at
1178 a compensation not less than his average compensation, his
1179 disability benefit shall cease, he shall again become a member of
1180 the retirement system, and contributions shall be withheld and
1181 reported. Any such prior service certificate, on the basis of
1182 which his service was computed at the time of retirement, shall be
1183 restored to full force and effect. In addition, upon his
1184 subsequent retirement he shall be credited with all creditable
1185 service as a member, but the total retirement allowance paid to
1186 the retired member in his previous retirement shall be deducted
1187 from his retirement reserve and taken into consideration in
1188 recalculating the retirement allowance under a new option
1189 selected.

1190 (6) If following reexamination in accordance with the
1191 provisions contained in this section, the medical board determines
1192 that a retiree retired on account of disability is physically and
1193 mentally able to return to the employment from which he is
1194 retired, the board of trustees, upon certification of such
1195 findings from the medical board, shall, after a reasonable period
1196 of time, terminate the disability allowance, whether or not the
1197 retiree is reemployed or seeks such reemployment. In addition, if
1198 the board of trustees determines that the retiree is no longer
1199 sustaining a loss of income as established by documented evidence
1200 of the retiree's earned income, the eligibility for a disability
1201 allowance shall terminate and the allowance terminated within a
1202 reasonable period of time. In the event the retirement allowance
1203 is terminated under the provisions of this section, the retiree
1204 may subsequently qualify for a retirement allowance under Section

1205 25-11-111 based on actual years of service credit plus credit for
1206 the period during which a disability allowance was paid.

1207 (7) Any current member as of June 30, 1992, who retires on a
1208 disability retirement allowance after June 30, 1992, and who has
1209 not elected to receive benefits under paragraph (2)(c) of this
1210 section, shall relinquish all rights under the Age Discrimination
1211 in Employment Act of 1967, as amended, with regard to the benefits
1212 payable under this section.

1213 **SECTION 6.** Section 25-11-114, Mississippi Code of 1972, is
1214 amended as follows:

1215 25-11-114. (1) The applicable benefits provided in
1216 subsections (2) and (3) of this section shall be paid to eligible
1217 beneficiaries of any member who became a member of the system
1218 before July 1, 2006, and has completed four (4) or more years of
1219 creditable service, or who became a member of the system on or
1220 after July 1, 2006, and has completed ten (10) or more years of
1221 creditable service, and who dies before retirement and who has not
1222 filed a Pre-Retirement Optional Retirement Form as provided in
1223 Section 25-11-111.

1224 (2) (a) The member's surviving spouse who has been married
1225 to the member for not less than one (1) year immediately preceding
1226 his death shall receive an annuity computed in accordance with
1227 paragraph (d) of this subsection (2) as if the member:

1228 (i) Had retired on the date of his death with
1229 entitlement to an annuity provided for in Section 25-11-111,
1230 notwithstanding that he might not have attained age sixty (60), if
1231 he became a member of the system before July 1, 2006,
1232 notwithstanding that he might not have acquired twenty-five (25)
1233 years of creditable service, or if he became a member of the
1234 system on or after July 1, 2006, notwithstanding that he might not
1235 have attained the age of fifty-five (55) years and acquired thirty
1236 (30) years of creditable service;

1237 (ii) Had nominated his spouse as beneficiary; and

1238 (b) If, at the time of the member's death, there are no
1239 dependent children, and the surviving spouse, who otherwise would

1240 receive the annuity under this subsection (2), has filed with the
1241 system a signed written waiver of his or her rights to the annuity
1242 and that waiver was in effect at the time of the member's death, a
1243 lump sum distribution of the deceased member's accumulated
1244 contributions shall be refunded in accordance with Section
1245 25-11-117.

1246 (c) The spouse annuity shall begin on the first day of
1247 the month following the date of the member's death, but in case of
1248 late filing, retroactive payments will be made for a period of not
1249 more than one (1) year.

1250 (d) The spouse annuity shall be payable for life and
1251 shall be the greater of twenty percent (20%) of the deceased
1252 member's average compensation as defined in Section 25-11-103 at
1253 the time of death or Fifty Dollars (\$50.00) monthly. Surviving
1254 spouses of deceased members who previously received spouse
1255 retirement benefits under this paragraph (d) from and after July
1256 1, 1992, and whose benefits were terminated before July 1, 2004,
1257 because of remarriage, may again receive the retirement benefits
1258 authorized under this paragraph (d) by making application with the
1259 board to reinstate those benefits. Any reinstatement of the
1260 benefits shall be prospective only and shall begin after the first
1261 of the month following the date of the application for
1262 reinstatement, but no earlier than July 1, 2004.

1263 (e) However, the spouse may elect by an irrevocable
1264 agreement on a form prescribed by the board of trustees to receive
1265 a monthly allowance as computed under either paragraph (d) or this
1266 paragraph. The irrevocable agreement shall constitute a waiver by
1267 the spouse to any current and future monthly allowance under the
1268 paragraph not elected, and the waiver shall be a complete and full
1269 discharge of all obligations of the retirement system under that
1270 paragraph.

1271 Any member who has completed the requisite minimum number of
1272 years of membership service to qualify for a retirement allowance
1273 at age sixty (60) and who dies before retirement and leaves a
1274 spouse who has been married to the member for not less than one

1275 (1) year immediately preceding his death and has not exercised any
1276 other option shall be deemed to have exercised Option 2 under
1277 Section 25-11-115 for the benefit of his spouse, which spouse
1278 shall be paid Option 2 settlement benefits under this article
1279 beginning on the first of the month following the date of death,
1280 but in case of late filing, retroactive payments will be made for
1281 a period of not more than one (1) year. The method of calculating
1282 the retirement benefits shall be on the same basis as provided in
1283 Section 25-11-111(d). However, if the member dies before being
1284 qualified for full unreduced benefits, then the benefits shall be
1285 reduced by three percent (3%) per year for the lesser of either
1286 the years of service or age required for full unreduced benefits
1287 in Section 25-11-111(d).

1288 (3) (a) Subject to the maximum limitation provided in this
1289 paragraph, the member's dependent children each shall receive an
1290 annuity of the greater of ten percent (10%) of the member's
1291 average compensation as defined in Section 25-11-103 at the time
1292 of the death of the member or Fifty Dollars (\$50.00) monthly;
1293 however, if there are more than three (3) dependent children, each
1294 dependent child shall receive an equal share of a total annuity
1295 equal to thirty percent (30%) of the member's average
1296 compensation, provided that the total annuity shall not be less
1297 than One Hundred Fifty Dollars (\$150.00) per month for all
1298 children.

1299 (b) A child shall be considered to be a dependent child
1300 until marriage, or the attainment of age nineteen (19), whichever
1301 comes first; however, this age limitation shall be extended beyond
1302 age nineteen (19), but in no event beyond the attainment of age
1303 twenty-three (23), as long as the child is a student regularly
1304 pursuing a full-time course of resident study or training in an
1305 accredited high school, trade school, technical or vocational
1306 institute, junior or community college, college, university or
1307 comparable recognized educational institution duly licensed by a
1308 state. A student child whose birthday falls during the school
1309 year (September 1 through June 30) is considered not to reach age

1310 twenty-three (23) until the July 1 following the actual
1311 twenty-third birthday. A full-time course of resident study or
1312 training means a day or evening noncorrespondence course that
1313 includes school attendance at the rate of at least thirty-six (36)
1314 weeks per academic year or other applicable period with a subject
1315 load sufficient, if successfully completed, to attain the
1316 educational or training objective within the period generally
1317 accepted as minimum for completion, by a full-time day student, of
1318 the academic or training program concerned. Any child who is
1319 physically or mentally incompetent, as adjudged by either a
1320 Mississippi court of competent jurisdiction or by the board, shall
1321 receive benefits for as long as the incompetency exists.

1322 (c) If there are more than three (3) dependent
1323 children, upon a child's ceasing to be a dependent child, his
1324 annuity shall terminate and there shall be a redetermination of
1325 the amounts payable to any remaining dependent children.

1326 (d) Annuities payable under this subsection (3) shall
1327 begin the first day of the month following the date of the
1328 member's death or in case of late filing, retroactive payments
1329 will be made for a period of not more than one (1) year. Those
1330 benefits may be paid to a surviving parent or the lawful custodian
1331 of a dependent child for the use and benefit of the child without
1332 the necessity of appointment as guardian.

1333 (4) (a) Death benefits in the line of duty. Regardless of
1334 the number of years of the member's creditable service, the spouse
1335 and/or the dependent children of an active member who is killed in
1336 the line of performance of duty or dies as a direct result of an
1337 accident occurring in the line of performance of duty shall
1338 qualify, on approval of the board, for a retirement allowance on
1339 the first of the month following the date of death, but in the
1340 case of late filing, retroactive payments will be made for a
1341 period of not more than one (1) year. The spouse shall receive a
1342 retirement allowance for life equal to one-half (1/2) of the
1343 average compensation as defined in Section 25-11-103. In addition
1344 to the retirement allowance for the spouse, or if there is no

1345 surviving spouse, the member's dependent child shall receive a
1346 retirement allowance in the amount of one-fourth (1/4) of the
1347 member's average compensation as defined in Section 25-11-103;
1348 however, if there are two (2) or more dependent children, each
1349 dependent child shall receive an equal share of a total annuity
1350 equal to one-half (1/2) of the member's average compensation. If
1351 there are more than two (2) dependent children, upon a child's
1352 ceasing to be a dependent child, his annuity shall terminate and
1353 there shall be a redetermination of the amounts payable to any
1354 remaining dependent children. Those benefits shall cease to be
1355 paid for the support and maintenance of each child upon the child
1356 attaining the age of nineteen (19) years; however, the spouse
1357 shall continue to be eligible for the aforesaid retirement
1358 allowance. Those benefits may be paid to a surviving parent or
1359 lawful custodian of the children for the use and benefit of the
1360 children without the necessity of appointment as guardian. Any
1361 spouse who received spouse retirement benefits under this
1362 paragraph (a) from and after April 4, 1984, and whose benefits
1363 were terminated before July 1, 2004, because of remarriage, may
1364 again receive the retirement benefits authorized under this
1365 paragraph (a) by making application with the board to reinstate
1366 those benefits. Any reinstatement of the benefits shall be
1367 prospective only and shall begin after the first of the month
1368 following the date of the application for reinstatement, but not
1369 earlier than July 1, 2004.

1370 (b) A child shall be considered to be a dependent child
1371 until marriage, or the attainment of age nineteen (19), whichever
1372 comes first; however, this age limitation shall be extended beyond
1373 age nineteen (19), but in no event beyond the attainment of age
1374 twenty-three (23), as long as the child is a student regularly
1375 pursuing a full-time course of resident study or training in an
1376 accredited high school, trade school, technical or vocational
1377 institute, junior or community college, college, university or
1378 comparable recognized educational institution duly licensed by a
1379 state. A student child whose birthday falls during the school

1380 year (September 1 through June 30) is considered not to reach age
1381 twenty-three (23) until the July 1 following the actual
1382 twenty-third birthday. A full-time course of resident study or
1383 training means a day or evening noncorrespondence course that
1384 includes school attendance at the rate of at least thirty-six (36)
1385 weeks per academic year or other applicable period with a subject
1386 load sufficient, if successfully completed, to attain the
1387 educational or training objective within the period generally
1388 accepted as minimum for completion, by a full-time day student, of
1389 the academic or training program concerned. Any child who is
1390 physically or mentally incompetent, as adjudged by either a
1391 Mississippi court of competent jurisdiction or by the board, shall
1392 receive benefits for as long as the incompetency exists.

1393 (5) If all the annuities provided for in this section
1394 payable on account of the death of a member terminate before there
1395 has been paid an aggregate amount equal to the member's
1396 accumulated contributions standing to the member's credit in the
1397 annuity savings account at the time of the member's death, the
1398 difference between the accumulated contributions and the aggregate
1399 amount of annuity payments shall be paid to the person that the
1400 member has nominated by written designation duly executed and
1401 filed with the board. If there is no designated beneficiary
1402 surviving at termination of benefits, the difference shall be
1403 payable pursuant to Section 25-11-117.1(1).

1404 (6) Regardless of the number of years of creditable service
1405 upon the application of a member or employer, any active member
1406 who becomes disabled as a direct result of an accident or
1407 traumatic event resulting in a physical injury occurring in the
1408 line of performance of duty, provided that the medical board or
1409 other designated governmental agency after a medical examination
1410 certifies that the member is mentally or physically incapacitated
1411 for the further performance of duty and the incapacity is likely
1412 to be permanent, may be retired by the board of trustees on the
1413 first of the month following the date of filing the application
1414 but in no event shall the retirement allowance begin before the

1415 termination of state service. The retirement allowance shall
1416 equal the allowance on disability retirement as provided in
1417 Section 25-11-113 but shall not be less than fifty percent (50%)
1418 of average compensation.

1419 Permanent and total disability resulting from a
1420 cardiovascular, pulmonary or musculo-skeletal condition that was
1421 not a direct result of a traumatic event occurring in the
1422 performance of duty shall be deemed an ordinary disability. A
1423 mental disability based exclusively on employment duties occurring
1424 on an ongoing basis shall be deemed an ordinary disability.

1425 (7) If the deceased or disabled member became a member of
1426 the system before July 1, 2006, and has less than four (4) years
1427 of creditable service, or became a member of the system on or
1428 after July 1, 2006, and has less than ten (10) years of creditable
1429 service, the average compensation as defined in Section 25-11-103
1430 shall be the average of all annual earned compensation in state
1431 service for the purposes of benefits provided in this section.

1432 (8) In case of death or total and permanent disability under
1433 subsection (4) or subsection (6) of this section and before the
1434 board shall consider any application for a retirement allowance,
1435 the employer must certify to the board that the member's death or
1436 disability was a direct result of an accident or a traumatic event
1437 occurring during and as a result of the performance of the regular
1438 and assigned duties of the employee and that the death or
1439 disability was not the result of the willful negligence of the
1440 employee.

1441 (9) The application for the retirement allowance must be
1442 filed within one (1) year after death of an active member who is
1443 killed in the line of performance of duty or dies as a direct
1444 result of an accident occurring in the line of performance of duty
1445 or traumatic event; but the board of trustees may consider an
1446 application for disability filed after the one-year period if it
1447 can be factually demonstrated to the satisfaction of the board of
1448 trustees that the disability is due to the accident and that the
1449 filing was not accomplished within the one-year period due to a

1450 delayed manifestation of the disability or to circumstances beyond
1451 the control of the member. However, in case of late filing,
1452 retroactive payments will be made for a period of not more than
1453 one (1) year only.

1454 (10) Notwithstanding any other section of this article and
1455 in lieu of any payments to a designated beneficiary for a refund
1456 of contributions under Section 25-11-117, the spouse and/or
1457 children shall be eligible for the benefits payable under this
1458 section, and the spouse may elect, for both the spouse and/or
1459 children, to receive benefits in accordance with either
1460 subsections (2) and (3) or subsection (4) of this section;
1461 otherwise, the contributions to the credit of the deceased member
1462 shall be refunded in accordance with Section 25-11-117.

1463 (11) If the member has previously received benefits from the
1464 system to which he was not entitled and has not repaid in full all
1465 amounts payable by him to the system, the annuity amounts
1466 otherwise provided by this section shall be withheld and used to
1467 effect repayment until the total of the withholdings repays in
1468 full all amounts payable by him to the system.

1469 **SECTION 7.** Section 25-11-115, Mississippi Code of 1972, is
1470 amended as follows:

1471 25-11-115. (1) Upon application for superannuation or
1472 disability retirement, any member may elect to receive his benefit
1473 in a retirement allowance payable throughout life with no further
1474 payments to anyone at his death, except that in the event his
1475 total retirement payments under this article do not equal his
1476 total contributions under this article, his named beneficiary
1477 shall receive the difference in cash at his death. Or he may
1478 elect upon retirement, or upon becoming eligible for retirement,
1479 to receive the actuarial equivalent subject to the provisions of
1480 subsection (3) of this section of his retirement allowance in a
1481 reduced retirement allowance payable throughout life with the
1482 provision that:

1483 **Option 1.** If he dies before he has received in annuity
1484 payment the value of the member's annuity savings account as it

1485 was at the time of his retirement, the balance shall be paid to
1486 his legal representative or to such person as he shall nominate by
1487 written designation duly acknowledged and filed with the board; or

1488 **Option 2.** Upon his death, his reduced retirement allowance
1489 shall be continued throughout the life of, and paid to, such
1490 person as he has nominated by written designation duly
1491 acknowledged and filed with the board of trustees at the time of
1492 his retirement;

1493 **Option 3.** Upon his death, one-half (1/2) of his reduced
1494 retirement allowance shall be continued throughout the life of,
1495 and paid to, such person as he shall have nominated by written
1496 designation duly acknowledged and filed with the board of trustees
1497 at the time of his retirement, and the other one-half (1/2) of his
1498 reduced retirement allowance to some other designated beneficiary;

1499 **Option 4-A.** Upon his death, one-half (1/2) of his reduced
1500 retirement allowance, or such other specified amount, shall be
1501 continued throughout the life of, and paid to, such person as he
1502 shall have nominated by written designation duly acknowledged and
1503 filed with the board of trustees at the time of his retirement; or

1504 **Option 4-B.** A reduced retirement allowance shall be
1505 continued throughout the life of the retirant, but with the
1506 further guarantee of payments to the named beneficiary,
1507 beneficiaries or to the estate for a specified number of years
1508 certain. If the retired member or the last designated beneficiary
1509 receiving annuity payments dies prior to receiving all guaranteed
1510 payments due, the actuarial equivalent of the remaining payments
1511 shall be paid pursuant to Section 25-11-117.1(1);

1512 **Option 4-C.** Such retirement allowance otherwise payable may
1513 be converted into a retirement allowance of equivalent actuarial
1514 value in such an amount that, with the member's benefit under
1515 Title II of the federal Social Security Act, the member will
1516 receive, so far as possible, approximately the same amount
1517 annually before and after the earliest age at which the member
1518 becomes eligible to receive a social security benefit. This

1519 option shall not be available to retirees whose retirement is
1520 effective on or after July 1, 2004.

1521 **Option 6.** Any member who became a member of the system
1522 before July 1, 2006, and who has at least twenty-eight (28) years
1523 of creditable service at the time of retirement or who is at least
1524 sixty-three (63) years of age and eligible to retire, or any
1525 member who became a member of the system on or after July 1, 2006,
1526 and who has at least thirty-three (33) years of creditable service
1527 at the time of retirement or who is at least sixty-three (63)
1528 years of age and eligible to retire, may select the maximum
1529 retirement benefit or an optional benefit as provided in this
1530 subsection together with a partial lump-sum distribution. The
1531 amount of the lump-sum distribution under this option shall be
1532 equal to the maximum monthly benefit multiplied by twelve (12),
1533 twenty-four (24) or thirty-six (36) as selected by the member.
1534 The maximum retirement benefit shall be actuarially reduced to
1535 reflect the amount of the lump-sum distribution selected and
1536 further reduced for any other optional benefit selected. The
1537 annuity and lump-sum distribution shall be computed to result in
1538 no actuarial loss to the system. The lump-sum distribution shall
1539 be made as a single payment payable at the time the first monthly
1540 annuity payment is paid to the retiree. The amount of the
1541 lump-sum distribution shall be deducted from the member's annuity
1542 savings account in computing what contributions remain at the
1543 death of the retiree and/or a beneficiary. The lump-sum
1544 distribution option may be elected only once by a member upon
1545 initial retirement, and may not be elected by a retiree, by
1546 members applying for a disability retirement annuity, by survivors
1547 or by a member selecting Option 4-C.

1548 (2) No change in the option selected shall be permitted
1549 after the member's death or after the member has received his
1550 first retirement check except as provided in subsections (3) and
1551 (4) of this section and in Section 25-11-127. Members who are
1552 pursuing a disability retirement allowance and simultaneously or
1553 subsequently elect to begin to receive a service retirement

1554 allowance while continuing to pursue a disability retirement
1555 allowance, shall not be eligible to select Option 4-C or Option 6
1556 and those options may not be selected at a later time if the
1557 application for a disability retirement allowance is voided or
1558 denied. However, any retired member who is receiving a retirement
1559 allowance under Option 2 or Option 4-A upon July 1, 1992, and
1560 whose designated beneficiary predeceased him or whose marriage to
1561 a spouse who is his designated beneficiary is terminated by
1562 divorce or other dissolution, upon written notification to the
1563 retirement system of the death of the designated beneficiary or of
1564 the termination of his marriage to his designated beneficiary, the
1565 retirement allowance payable to the member after receipt of such
1566 notification by the retirement system shall be equal to the
1567 retirement allowance which would have been payable had the member
1568 not elected the option. In addition, any retired member who is
1569 receiving the maximum retirement allowance for life, a retirement
1570 allowance under Option 1 or who is receiving a retirement
1571 allowance under Option 2 or Option 4-A on July 1, 1992, may elect
1572 to provide survivor benefits under Option 2 or Option 4-A to a
1573 spouse who was not previously the member's beneficiary and whom
1574 the member married before July 1, 1992.

1575 (3) Any retired member who is receiving a reduced retirement
1576 allowance under Option 2 or Option 4-A whose designated
1577 beneficiary predeceases him, or whose marriage to a spouse who is
1578 his designated beneficiary is terminated by divorce or other
1579 dissolution, may elect to cancel his reduced retirement allowance
1580 and receive the maximum retirement allowance for life in an amount
1581 equal to the amount that would have been payable if the member had
1582 not elected Option 2 or Option 4-A. Such election must be made in
1583 writing to the office of the executive director of the system on a
1584 form prescribed by the board. Any such election shall be
1585 effective the first of the month following the date the election
1586 is received by the system.

1587 (4) Any retired member who is receiving the maximum
1588 retirement allowance for life, or a retirement allowance under

1589 Option 1, and who marries after his retirement may elect to cancel
1590 his maximum retirement allowance and receive a reduced retirement
1591 allowance under Option 2 or Option 4-A to provide continuing
1592 lifetime benefits to his spouse. Such election must be made in
1593 writing to the office of the executive director of the system on a
1594 form prescribed by the board not earlier than the date of the
1595 marriage. Any such election shall be effective the first of the
1596 month following the date the election is received by the system.

1597 (5) In the event the election of an optional benefit is made
1598 after the member has attained the age of sixty-five (65) years,
1599 the actuarial equivalent factor shall be used to compute the
1600 reduced retirement allowance as if the election had been made on
1601 his sixty-fifth birthday; however, from and after January 1, 2003,
1602 if there is an election of Option 6 after the member has attained
1603 the age of sixty-five (65) years, the actuarial equivalent factor
1604 based on the retiree's age at the time of retirement shall be used
1605 to compute the reduced maximum monthly retirement allowance.
1606 However, if a retiree marries or remarries after retirement and
1607 elects either Option 2 or Option 4-A as provided in subsection (2)
1608 or (4) of this section, the actuarial equivalent factor used to
1609 compute the reduced retirement allowance shall be the factor for
1610 the age of the retiree and his or her beneficiary at the time such
1611 election for recalculation of benefits is made.

1612 (6) Notwithstanding any provision of Section 25-11-1 et
1613 seq., no payments may be made for a retirement allowance on a
1614 monthly basis for a period of time in excess of that allowed by
1615 federal law.

1616 (7) If a retirant and his eligible beneficiary, if any, both
1617 die before they have received in annuity payments a total amount
1618 equal to the accumulated contributions standing to the retirant's
1619 credit in the annuity savings account at the time of his
1620 retirement, the difference between the accumulated contributions
1621 and the total amount of annuities received by them shall be paid
1622 to such persons as the retirant has nominated by written
1623 designation duly executed and filed in the office of the executive

1624 director. If no designated person survives the retirant and his
1625 beneficiary, the difference, if any, shall be paid pursuant to
1626 Section 25-11-117.1(1).

1627 (8) Any retired member who retired on Option 2(5) or 4-A(5)
1628 prior to July 1, 1992, who is still receiving a retirement
1629 allowance on July 1, 1994, shall receive an increase in the annual
1630 retirement allowance effective July 1, 1994, equal to the amount
1631 they would have received under Option 2 or Option 4-A without a
1632 reduction for Option 5 based on the ages at retirement of the
1633 retiree and beneficiary and option factors in effect on July 1,
1634 1992. Such increase shall be prospective only.

1635 **SECTION 8.** Section 25-11-117, Mississippi Code of 1972, is
1636 amended as follows:

1637 25-11-117. (1) A member may be paid a refund of the amount
1638 of accumulated contributions to the credit of the member in the
1639 annuity savings account, provided that the member has withdrawn
1640 from state service and has not returned to state service on the
1641 date the refund of the accumulated contributions would be paid.
1642 That refund of the contributions to the credit of the member in
1643 the annuity savings account shall be paid within ninety (90) days
1644 from receipt in the office of the retirement system of the
1645 properly completed form requesting the payment. In the event of
1646 death before retirement of any member whose spouse and/or children
1647 are not entitled to a retirement allowance, the accumulated
1648 contributions to the credit of the deceased member in the annuity
1649 savings account shall be paid to the designated beneficiary on
1650 file in writing in the office of the executive director of the
1651 board of trustees within ninety (90) days from receipt of a
1652 properly completed form requesting the payment. If there is no
1653 such designated beneficiary on file for the deceased member in the
1654 office of the system, upon the filing of a proper request with the
1655 board, the contributions to the credit of the deceased member in
1656 the annuity savings account shall be refunded pursuant to Section
1657 25-11-117.1(1). The payment of the refund shall discharge all
1658 obligations of the retirement system to the member on account of

1659 any creditable service rendered by the member prior to the receipt
1660 of the refund. By the acceptance of the refund, the member shall
1661 waive and relinquish all accrued rights in the system.

1662 (2) Under the Unemployment Compensation Amendments of 1992
1663 (Public Law 102-318 (UCA)), a member or the spouse of a member who
1664 is an eligible beneficiary entitled to a refund under this section
1665 may elect, on a form prescribed by the board under rules and
1666 regulations established by the board, to have an eligible rollover
1667 distribution of accumulated contributions payable under this
1668 section paid directly to an eligible retirement plan, as defined
1669 under applicable federal law, or an individual retirement account.
1670 If the member or the spouse of a member who is an eligible
1671 beneficiary makes that election and specifies the eligible
1672 retirement plan or individual retirement account to which the
1673 distribution is to be paid, the distribution will be made in the
1674 form of a direct trustee-to-trustee transfer to the specified
1675 eligible retirement plan. Flexible rollovers under this
1676 subsection shall not be considered assignments under Section
1677 25-11-129.

1678 (3) (a) If any person who became a member of the system
1679 before July 1, 2006, has received a refund reenters the state
1680 service and again becomes a member of the system, the member may
1681 repay all or part of the amounts previously received as a refund,
1682 together with regular interest covering the period from the date
1683 of refund to the date of repayment; however, the amounts that are
1684 repaid by the member and the creditable service related thereto
1685 shall not be used in any benefit calculation or determination
1686 until the member has remained a contributor to the system for a
1687 period of at least four (4) years after the member's reentry into
1688 state service. Repayment for that time shall be made in
1689 increments of not less than one-quarter (1/4) year of creditable
1690 service beginning with the most recent service for which refund
1691 has been made. Upon the repayment of all or part of that refund
1692 and interest, the member shall again receive credit for the period

1693 of creditable service for which full repayment has been made to
1694 the system.

1695 (b) If any person who became a member of the system on
1696 or after July 1, 2006, has received a refund reenters the state
1697 service and again becomes a member of the system, the member may
1698 repay all or part of the amounts previously received as a refund,
1699 together with regular interest covering the period from the date
1700 of refund to the date of repayment; however, the amounts that are
1701 repaid by the member and the creditable service related thereto
1702 shall not be used in any benefit calculation or determination
1703 until the member has remained a contributor to the system for a
1704 period of at least ten (10) years after the member's reentry into
1705 state service. Repayment for that time shall be made in
1706 increments of not less than one-quarter (1/4) year of creditable
1707 service beginning with the most recent service for which refund
1708 has been made. Upon the repayment of all or part of that refund
1709 and interest, the member shall again receive credit for the period
1710 of creditable service for which full repayment has been made to
1711 the system.

1712 (4) (a) In order to provide a source of income to members
1713 who have applied for disability benefits under Section 25-11-113
1714 or 25-11-114, the board may provide, at the employee's election, a
1715 temporary benefit to be paid from the member's accumulated
1716 contributions, if any, without forfeiting the right to pursue
1717 disability benefits, provided that the member has exhausted all
1718 personal and medical leave and has terminated his or her
1719 employment. The board may prescribe rules and regulations for
1720 carrying out the provisions of this subsection (4).

1721 (b) If a member who has elected to receive temporary
1722 benefits under this subsection later applies for a refund of his
1723 or her accumulated contributions, all amounts paid under this
1724 subsection shall be deducted from the accumulated contributions
1725 and the balance will be paid to the member. If a member who has
1726 elected to receive temporary benefits under this subsection is
1727 later approved for a disability retirement allowance, and a

1728 service retirement allowance or survivor benefits are paid on the
1729 account, the board shall adjust the benefits in such a manner that
1730 no more than the actuarial equivalent of the benefits to which the
1731 member or beneficiary was or is entitled shall be paid.

1732 (c) The board may study, develop and propose a
1733 disability benefit structure, including short and long term
1734 disability benefits, provided that it is the actuarial equivalent
1735 of the benefits currently provided in Section 25-11-113 or
1736 25-11-114.

1737 **SECTION 9.** For purposes of Sections 25-11-103, 25-11-105,
1738 25-11-109, 25-11-111, 25-11-113, 25-11-114, 25-11-115 and
1739 25-11-117, if a member of the system withdrew from state service
1740 and received a refund of the amount of the accumulated
1741 contributions to the credit of the member in the annuity savings
1742 account before July 1, 2006, and the person reenters state service
1743 and becomes a member of the system again on or after July 1, 2006,
1744 and repays all or part of the amount received as a refund and
1745 interest in order to receive creditable service for service
1746 rendered before July 1, 2006, the member shall be considered to
1747 have become a member of the system on or after July 1, 2006.

1748 **SECTION 10.** Section 25-13-11, Mississippi Code of 1972, is
1749 amended as follows:

1750 25-13-11. (1) Any member upon withdrawal from service, upon
1751 or after attainment of the age of fifty-five (55) years, who shall
1752 have completed at least five (5) years of creditable service; or
1753 any member who became a member before July 1, 2006, upon
1754 withdrawal from service upon or after attainment of the age of
1755 forty-five (45) years, who shall have completed at least twenty
1756 (20) years of creditable service; or any member upon withdrawal
1757 from service, regardless of age, who shall have completed at least
1758 twenty-five (25) years of creditable service, shall be entitled to
1759 receive a retirement allowance which shall be payable the first of
1760 the month following receipt of the member's application in the
1761 Office of the Executive Director of the Public Employees'
1762 Retirement System, but in no event before withdrawal from service.

1763 (2) Any member whose withdrawal from service occurs prior to
1764 attaining the age of fifty-five (55) years, who shall have
1765 completed more than five (5) years of creditable service and shall
1766 not have received a refund of the member's accumulated
1767 contributions, shall be entitled to receive a retirement allowance
1768 beginning upon his attaining the age of fifty-five (55) years of
1769 the amount earned and accrued at the date of withdrawal from
1770 service.

1771 (3) The annual amount of the retirement allowance shall
1772 consist of:

1773 (a) A member's annuity, which shall be the actuarial
1774 equivalent of the accumulated contributions of the member at the
1775 time of retirement, computed according to the actuarial table in
1776 use by the system.

1777 (b) An employer's annuity which, together with the
1778 member's annuity provided above, shall be equal to two and
1779 one-half percent (2-1/2%) of the average compensation, based on
1780 the four (4) highest consecutive years, for each year of
1781 membership service.

1782 (c) A prior service annuity equal to two and one-half
1783 percent (2-1/2%) of the average compensation, based on the four
1784 (4) highest consecutive years, for each year of prior service for
1785 which the member is allowed credit.

1786 (d) In the case of retirement of any member prior to
1787 attaining the age of fifty-five (55) years, the retirement
1788 allowance shall be computed in accordance with the formula
1789 hereinabove set forth in this section, except that the employer's
1790 annuity and prior service annuity above described shall be reduced
1791 three percent (3%) for each year of age below fifty-five (55)
1792 years, or three percent (3%) for each year of service below
1793 twenty-five (25) years of creditable service, whichever is lesser.

1794 (e) Upon retiring from service, a member shall be
1795 eligible to obtain retirement benefits, as computed above, for
1796 life, except that the aggregate amount of the employer's annuity
1797 and prior service annuity above described shall not exceed more

1798 than one hundred percent (100%) of the average compensation
1799 regardless of the years of service.

1800 (f) Any member in the service who shall have attained
1801 the age of sixty (60) years shall be retired forthwith. However,
1802 any member who has attained age sixty (60) may ask the
1803 Commissioner of Public Safety to allow him to continue in service
1804 with the Mississippi Highway Safety Patrol beyond age sixty (60).
1805 If the commissioner determines that the member's continuance in
1806 service would be advantageous to the Highway Safety Patrol because
1807 of his expert knowledge, experience or qualifications, the member
1808 shall be allowed to continue in service beyond age sixty (60) for
1809 a period of one (1) year. After the initial one-year continuance,
1810 the commissioner may authorize the member to continue in service
1811 for additional periods of one (1) year until the member attains
1812 age sixty-five (65), at which time retirement shall be mandatory.

1813 (g) Notwithstanding any provision of this chapter
1814 pertaining to the Mississippi Highway Safety Patrol Retirement
1815 System, no payments may be made for a retirement allowance on a
1816 monthly basis for a period of time in excess of that allowed by
1817 any applicable federal law.

1818 (h) In no case shall any retired member who has
1819 completed at least fifteen (15) years of creditable service
1820 receive less than Five Hundred Dollars (\$500.00) per month; in no
1821 case shall any retired member who has completed ten (10) or more
1822 years of creditable service, but less than fifteen (15) years of
1823 creditable service, receive less than Three Hundred Dollars
1824 (\$300.00) per month; and in no case shall any retired member who
1825 has completed less than ten (10) years of creditable service
1826 receive less than Two Hundred Fifty Dollars (\$250.00) per month.
1827 In no case shall a beneficiary who is receiving a retirement
1828 allowance receive less than Two Hundred Fifty Dollars (\$250.00)
1829 per month or Three Thousand Dollars (\$3,000.00) per year.

1830 (i) Any retired member who is receiving a retirement
1831 allowance on July 1, 1999, shall receive an ad hoc increase in the
1832 annual retirement allowance equal to Three Dollars and Fifty Cents

1833 (\$3.50) per month for each full fiscal year through June 30, 1999,
1834 that the member has actually drawn retirement payments from the
1835 date of retirement, or the date of last retirement if there is
1836 more than one (1) retirement date, plus an amount equal to One
1837 Dollar (\$1.00) per month for each full year of creditable service
1838 and proportionately for each quarter year of creditable service,
1839 as documented by the system and on which benefits are being paid.
1840 If there are multiple beneficiaries receiving a retirement
1841 allowance from a deceased member's account, the ad hoc increase
1842 shall be divided proportionately.

1843 (4) For purposes of this section, if a highway patrolman
1844 received a refund under Section 25-13-21 before July 1, 2006, and
1845 reenters the service of the Highway Safety Patrol and becomes a
1846 member of the system again on or after July 1, 2006, and repays
1847 all or part of the amount received as a refund and interest in
1848 order to receive creditable service for service rendered before
1849 July 1, 2006, the member shall be considered to have become a
1850 member of the system on or after July 1, 2006.

1851 **SECTION 11.** Section 25-11-127, Mississippi Code of 1972, is
1852 amended as follows:

1853 25-11-127. (1) (a) No person who is being paid a
1854 retirement allowance or a pension after retirement under this
1855 article shall be employed or paid for any service by the State of
1856 Mississippi, except as provided in this section.

1857 (b) No retiree of this retirement system who is
1858 reemployed or is reelected to office after retirement shall
1859 continue to draw retirement benefits while so reemployed, except
1860 as provided in this section.

1861 (c) No person employed or elected under the exceptions
1862 provided for in this section shall become a member under Article 3
1863 of the retirement system.

1864 (2) Any person who has been retired under the provisions of
1865 Article 3 and who is later reemployed in service covered by this
1866 article shall cease to receive benefits under this article and
1867 shall again become a contributing member of the retirement system.

1868 When the person retires again, if the reemployment exceeds six (6)
1869 months, the person shall have his or her benefit recomputed,
1870 including service after again becoming a member, provided that the
1871 total retirement allowance paid to the retired member in his or
1872 her previous retirement shall be deducted from the member's
1873 retirement reserve and taken into consideration in recalculating
1874 the retirement allowance under a new option selected.

1875 (3) The board shall have the right to prescribe rules and
1876 regulations for carrying out the provisions of this section.

1877 (4) The provisions of this section shall not be construed to
1878 prohibit any retiree, regardless of age, from being employed and
1879 drawing a retirement allowance either:

1880 (a) For a period of time not to exceed one-half (1/2)
1881 of the normal working days for the position in any fiscal year
1882 during which the retiree will receive no more than fifty percent
1883 (50%) of the retiree's average compensation, or

1884 (b) For a period of time in any fiscal year sufficient
1885 in length to permit a retiree to earn not in excess of fifty
1886 percent (50% of the retiree's average compensation).

1887 To determine the normal working days for a position under
1888 paragraph (a) of this subsection, the employer shall determine the
1889 required number of working days for the position on a full-time
1890 basis and the equivalent number of hours representing the
1891 full-time position. The retiree then may work up to one-half
1892 (1/2) of the required number of working days or up to one-half
1893 (1/2) of the equivalent number of hours and receive up to fifty
1894 percent (50%) of the retiree's average compensation. In the case
1895 of employment with multiple employers, the limitation shall equal
1896 one-half (1/2) of the number of days or hours for a single
1897 full-time position.

1898 Notice shall be given in writing to the executive director,
1899 setting forth the facts upon which the employment is being made,
1900 and the notice shall be given within five (5) days from the date
1901 of employment and also from the date of termination of the
1902 employment.

1903 (5) Any member may continue in municipal or county elected
1904 office or be elected to a municipal or county office, provided
1905 that the person:

1906 (a) Files annually, in writing, in the office of the
1907 employer and the office of the executive director of the system
1908 before the person takes office or as soon as possible after
1909 retirement, a waiver of all salary or compensation and elects to
1910 receive in lieu of that salary or compensation a retirement
1911 allowance as provided in this section, in which event no salary or
1912 compensation shall thereafter be due or payable for those
1913 services; however, any such officer or employee may receive, in
1914 addition to the retirement allowance, office expense allowance,
1915 mileage or travel expense authorized by any statute of the State
1916 of Mississippi; or

1917 (b) Elects to receive compensation for that elective
1918 office in an amount not to exceed twenty-five percent (25%) of the
1919 retiree's average compensation. As used in this paragraph, the
1920 term "compensation" shall not include office expense allowance,
1921 mileage or travel expense authorized by a statute of the State of
1922 Mississippi. In order to receive compensation as allowed in this
1923 paragraph, the member shall file annually, in writing, in the
1924 office of the employer and the office of the executive director of
1925 the system, an election to receive, in addition to a retirement
1926 allowance, compensation as allowed in this paragraph.

1927 (6) A retiree who is being paid a retirement allowance or a
1928 pension after retirement under Article 3 and who is engaged or
1929 employed as an independent contractor to any agency of the State
1930 of Mississippi, or any political subdivision or instrumentality
1931 thereof that elects to participate in the retirement system as
1932 provided in Section 25-11-105(f), shall forfeit his or her
1933 retirement allowance for the period beginning on the first day of
1934 the month in which the independent contractor services begin and
1935 ending on the first day of the month following the month in which
1936 the independent contractor services end. A retiree who is subject

1937 to this subsection (6) shall not contribute to the retirement
1938 system and shall not become a member of the system.

1939 **SECTION 12.** This act shall take effect and be in force from
1940 and after July 1, 2006, except for Section 11, which shall take
1941 effect and be in force from and after the passage of this act.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTIONS 25-11-103, 25-11-105, 25-11-109,
2 25-11-111, 25-11-113, 25-11-114, 25-11-115 AND 25-11-117,
3 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT PERSONS WHO BECOME
4 MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM ON OR AFTER
5 JULY 1, 2006, MAY RETIRE AT AGE 60 IF THEY HAVE AT LEAST 10 YEARS
6 OF CREDITABLE SERVICE OR AT AGE 55 IF THEY HAVE AT LEAST 30 YEARS
7 OF CREDITABLE SERVICE; TO PROVIDE THAT PERSONS WHO BECOME MEMBERS
8 OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM ON OR AFTER JULY 1,
9 2006, MUST HAVE AT LEAST 10 YEARS OF SERVICE CREDIT BEFORE VARIOUS
10 BENEFITS ACCRUE AND BEFORE VARIOUS TYPES OF SERVICE MAY BE CLAIMED
11 AS CREDITABLE SERVICE; TO ALLOW CERTAIN COMMUNITY HOSPITALS TO
12 HAVE RETIREMENT ANNUITY RETIREMENT COVERAGE UNDER THE PUBLIC
13 EMPLOYEES' RETIREMENT SYSTEM RESTRICTED TO EMPLOYEES WHO BECAME
14 MEMBERS OF THE SYSTEM BEFORE JULY 1, 2006; TO PROVIDE THAT A
15 FINDING OF DISABILITY BY THE SOCIAL SECURITY ADMINISTRATION WILL
16 CREATE A REBUTTABLE PRESUMPTION OF DISABILITY FOR THE PURPOSE OF
17 DETERMINING WHETHER A MEMBER OF THE SYSTEM IS ELIGIBLE FOR A
18 DISABILITY RETIREMENT ALLOWANCE; TO AMEND SECTION 25-13-11,
19 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT MEMBERS OF THE HIGHWAY
20 SAFETY PATROL RETIREMENT SYSTEM WHO BECOME MEMBERS OF THE SYSTEM
21 ON OR AFTER JULY 1, 2006, SHALL NOT HAVE THE OPTION OF RETIRING
22 UPON OR AFTER THE ATTAINMENT OF 45 YEARS OF AGE WITH 20 YEARS OF
23 CREDITABLE SERVICE; TO AMEND SECTION 25-11-127, MISSISSIPPI CODE
24 OF 1972, TO PROVIDE THAT RETIREES UNDER THE PUBLIC EMPLOYEES'
25 RETIREMENT SYSTEM WHO ARE EMPLOYED FOR ONE-HALF OF THE NORMAL
26 WORKING DAYS FOR THE POSITION MAY NOT RECEIVE MORE THAN 50% OF THE
27 RETIREE'S AVERAGE COMPENSATION; TO PROVIDE THAT RETIREES UNDER THE
28 PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO ARE ENGAGED OR EMPLOYED AS
29 AN INDEPENDENT CONTRACTOR TO A STATE AGENCY OR POLITICAL
30 SUBDIVISION SHALL FORFEIT THEIR RETIREMENT ALLOWANCES DURING THE
31 PERIOD IN WHICH THEY PROVIDE THE INDEPENDENT CONTRACTOR SERVICES;
32 AND FOR RELATED PURPOSES.

HR03\SB2689PH.J

Don Richardson
Clerk of the House of Representatives