

**Adopted
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

Senate Bill No. 2689

BY: Committee

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

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

29 25-11-103. The following words and phrases as used in
30 Articles 1 and 3, unless a different meaning is plainly required
31 by the context, have the following meanings:

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

36 (b) "Actuarial cost" means the amount of funds
37 presently required to provide future benefits as determined by the
38 board based on applicable tables and formulas provided by the
39 actuary.

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

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

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

49 (f) "Average compensation" means the average of the
50 four (4) highest years of earned compensation reported for an
51 employee in a fiscal or calendar year period, or combination
52 thereof that do not overlap, or the last forty-eight (48)
53 consecutive months of earned compensation reported for an
54 employee. The four (4) years need not be successive or joined
55 years of service. In no case shall the average compensation so
56 determined be in excess of One Hundred Fifty Thousand Dollars
57 (\$150,000.00). In computing the average compensation, any amount
58 lawfully paid in a lump sum for personal leave or major medical
59 leave shall be included in the calculation to the extent that the
60 amount does not exceed an amount that is equal to thirty (30) days
61 of earned compensation and to the extent that it does not cause
62 the employees' earned compensation to exceed the maximum
63 reportable amount specified in Section 25-11-103(k); however, this
64 thirty-day limitation shall not prevent the inclusion in the
65 calculation of leave earned under federal regulations before July
66 1, 1976, and frozen as of that date as referred to in Section
67 25-3-99. Only the amount of lump-sum pay for personal leave due
68 and paid upon the death of a member attributable for up to one
69 hundred fifty (150) days shall be used in the deceased member's
70 average compensation calculation in determining the beneficiary's
71 benefits. In computing the average compensation, no amounts shall
72 be used that are in excess of the amount on which contributions
73 were required and paid, and no nontaxable amounts paid by the
74 employer for health or life insurance premiums for the employee
75 shall be used. If any member who is or has been granted any

76 increase in annual salary or compensation of more than eight
77 percent (8%) retires within twenty-four (24) months from the date
78 that the increase becomes effective, then the board shall exclude
79 that part of the increase in salary or compensation that exceeds
80 eight percent (8%) in calculating that member's average
81 compensation for retirement purposes. The board may enforce this
82 provision by rule or regulation. However, increases in
83 compensation in excess of eight percent (8%) per year granted
84 within twenty-four (24) months of the date of retirement may be
85 included in the calculation of average compensation if
86 satisfactory proof is presented to the board showing that the
87 increase in compensation was the result of an actual change in the
88 position held or services rendered, or that the compensation
89 increase was authorized by the State Personnel Board or was
90 increased as a result of statutory enactment, and the employer
91 furnishes an affidavit stating that the increase granted within
92 the last twenty-four (24) months was not contingent on a promise
93 or agreement of the employee to retire. Nothing in Section
94 25-3-31 shall affect the calculation of the average compensation
95 of any member for the purposes of this article. The average
96 compensation of any member who retires before July 1, 1992, shall
97 not exceed the annual salary of the Governor.

98 (g) "Beneficiary" means any person entitled to receive
99 a retirement allowance, an annuity or other benefit as provided by
100 Articles 1 and 3. The term "beneficiary" may also include an
101 organization, estate, trust or entity; however, a beneficiary
102 designated or entitled to receive monthly payments under an
103 optional settlement based on life contingency or pursuant to a
104 statutory monthly benefit may only be a natural person. In the
105 event of the death before retirement of any member who became a
106 member of the system before July 1, 2006, and whose spouse and/or
107 children are not entitled to a retirement allowance on the basis

108 that the member has less than four (4) years of service credit, or
109 who became a member of the system on or after July 1, 2006, and
110 whose spouse and/or children are not entitled to a retirement
111 allowance on the basis that the member has less than ten (10)
112 years of service credit, and/or has not been married for a minimum
113 of one (1) year or the spouse has waived his or her entitlement to
114 a retirement allowance under Section 25-11-114, the lawful spouse
115 of a member at the time of the death of the member shall be the
116 beneficiary of the member unless the member has designated another
117 beneficiary after the date of marriage in writing, and filed that
118 writing in the office of the executive director of the board of
119 trustees. No designation or change of beneficiary shall be made
120 in any other manner.

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

124 (i) "Creditable service" means "prior service,"
125 "retroactive service" and all lawfully credited unused leave not
126 exceeding the accrual rates and limitations provided in Section
127 25-3-91 et seq., as of the date of withdrawal from service plus
128 "membership service" for which credit is allowable as provided in
129 Section 25-11-109. Except to limit creditable service reported to
130 the system for the purpose of computing an employee's retirement
131 allowance or annuity or benefits provided in this article, nothing
132 in this paragraph shall limit or otherwise restrict the power of
133 the governing authority of a municipality or other political
134 subdivision of the state to adopt such vacation and sick leave
135 policies as it deems necessary.

136 (j) "Child" means either a natural child of the member,
137 a child that has been made a child of the member by applicable
138 court action before the death of the member, or a child under the
139 permanent care of the member at the time of the latter's death,

140 which permanent care status shall be determined by evidence
141 satisfactory to the board.

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

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

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

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

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

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

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

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

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

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

198 (n) "Executive director" means the secretary to the
199 board of trustees, as provided in Section 25-11-15(9), and the
200 administrator of the Public Employees' Retirement System and all
201 systems under the management of the board of trustees. Wherever

202 the term "Executive Secretary of the Public Employees' Retirement
203 System" or "executive secretary" appears in this article or in any
204 other provision of law, it shall be construed to mean the
205 Executive Director of the Public Employees' Retirement System.

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

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

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

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

217 (s) "Position" means any office or any employment in
218 the state service, or two (2) or more of them, the duties of which
219 call for services to be rendered by one (1) person, including
220 positions jointly employed by federal and state agencies
221 administering federal and state funds. The employer shall
222 determine upon initial employment and during the course of
223 employment of an employee who does not meet the criteria for
224 coverage in the Public Employees' Retirement System based on the
225 position held, whether the employee is or becomes eligible for
226 coverage in the Public Employees' Retirement System based upon any
227 other employment in a covered agency or political subdivision. If
228 or when the employee meets the eligibility criteria for coverage
229 in the other position, then the employer must withhold
230 contributions and report wages from the noncovered position in
231 accordance with the provisions for reporting of earned
232 compensation. Failure to deduct and report those contributions
233 shall not relieve the employee or employer of liability thereof.

234 The board shall adopt such rules and regulations as necessary to
235 implement and enforce this provision.

236 (t) "Prior service" means:

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

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

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

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

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

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

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

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

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

297 (bb) The masculine pronoun, wherever used, includes the
298 feminine pronoun.

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

301 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

302 The membership of this retirement system shall be composed as
303 follows:

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

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

320 (b) All persons who become employees in the state
321 service after January 31, 1953, except those specifically excluded
322 or as to whom election is provided in Articles 1 and 3, unless
323 they file with the board before the lapse of sixty (60) days of
324 employment or sixty (60) days after the effective date of the
325 cited articles, whichever is later, on a form prescribed by the

326 board, a notice of election not to be covered by the membership of
327 the retirement system and a duly executed waiver of all present
328 and prospective benefits that would otherwise inure to them on
329 account of their participation in the system, shall become members
330 of the retirement system; however, no credit for prior service
331 will be granted to members who became members of the system before
332 July 1, 2006, until they have contributed to Article 3 of the
333 retirement system for a minimum period of at least four (4) years,
334 or to members who became members of the system on or after July 1,
335 2006, until they have contributed to Article 3 of the retirement
336 system for a minimum period of at least ten (10) years. Those
337 members shall receive credit for services performed before January
338 1, 1953, in employment now covered by Article 3, but no credit
339 shall be granted for retroactive services between January 1, 1953,
340 and the date of their entry into the retirement system, unless the
341 employee pays into the retirement system both the employer's and
342 the employee's contributions on wages paid him during the period
343 from January 31, 1953, to the date of his becoming a contributing
344 member, together with interest at the rate determined by the board
345 of trustees. Members reentering after withdrawal from service
346 shall qualify for prior service under the provisions of Section
347 25-11-117. From and after July 1, 1998, upon eligibility as noted
348 above, the member may receive credit for such retroactive service
349 provided:

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

353 (2) The member shall pay to the retirement system
354 on the date he or she is eligible for that credit or at any time
355 thereafter before the date of retirement the actuarial cost for
356 each year of that creditable service. The provisions of this
357 subparagraph (2) shall be subject to the limitations of Section

358 415 of the Internal Revenue Code and regulations promulgated under
359 Section 415.

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

364 (c) All persons who become employees in the state
365 service after January 31, 1953, and who are eligible for
366 membership in any other retirement system shall become members of
367 this retirement system as a condition of their employment, unless
368 they elect at the time of their employment to become a member of
369 that other system.

370 (d) All persons who are employees in the state service
371 on January 31, 1953, and who are members of any nonfunded
372 retirement system operated by the State of Mississippi, or any of
373 its departments or agencies, shall become members of this system
374 with prior service credit unless, before February 1, 1953, they
375 file a written notice with the board of trustees that they do not
376 elect to become members.

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

387 (f) Each political subdivision of the state and each
388 instrumentality of the state or a political subdivision, or both,
389 is authorized to submit, for approval by the board of trustees, a

390 plan for extending the benefits of this article to employees of
391 any such political subdivision or instrumentality. Each such plan
392 or any amendment to the plan for extending benefits thereof shall
393 be approved by the board of trustees if it finds that the plan, or
394 the plan as amended, is in conformity with such requirements as
395 are provided in Articles 1 and 3; however, upon approval of the
396 plan or any such plan previously approved by the board of
397 trustees, the approved plan shall not be subject to cancellation
398 or termination by the political subdivision or instrumentality,
399 except that any community hospital serving a municipality that
400 joined the Public Employees' Retirement System as of November 1,
401 1956, to offer social security coverage for its employees and
402 subsequently extended retirement annuity coverage to its employees
403 as of December 1, 1965, may, upon documentation of extreme
404 financial hardship, have future retirement annuity coverage
405 cancelled or terminated at the discretion of the board of
406 trustees. No such plan shall be approved unless:

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

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

419 (3) It provides for such methods of administration
420 of the plan by the political subdivision or instrumentality as are

421 found by the board of trustees to be necessary for the proper and
422 efficient administration thereof;

423 (4) It provides that the political subdivision or
424 instrumentality will make such reports, in such form and
425 containing such information, as the board of trustees may from
426 time to time require;

427 (5) It authorizes the board of trustees to
428 terminate the plan in its entirety in the discretion of the board
429 if it finds that there has been a failure to comply substantially
430 with any provision contained in the plan, the termination to take
431 effect at the expiration of such notice and on such conditions as
432 may be provided by regulations of the board and as may be
433 consistent with applicable federal law.

434 A. The board of trustees shall not finally
435 refuse to approve a plan submitted under paragraph (f), and shall
436 not terminate an approved plan without reasonable notice and
437 opportunity for hearing to each political subdivision or
438 instrumentality affected by the board's decision. The board's
439 decision in any such case shall be final, conclusive and binding
440 unless an appeal is taken by the political subdivision or
441 instrumentality aggrieved by the decision to the Circuit Court of
442 Hinds County, Mississippi, in accordance with the provisions of
443 law with respect to civil causes by certiorari.

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

451 C. Every political subdivision or
452 instrumentality required to make payments under paragraph (f)(5)B

453 of this section is authorized, in consideration of the employees'
454 retention in or entry upon employment after enactment of Articles
455 1 and 3, to impose upon its employees, as to services that are
456 covered by an approved plan, a contribution with respect to wages
457 (as defined in Section 25-11-5) not exceeding the amount provided
458 in Section 25-11-123(d) if those services constituted employment
459 within the meaning of Articles 1 and 3, and to deduct the amount
460 of the contribution from the wages as and when paid.

461 Contributions so collected shall be paid into the contribution
462 fund as partial discharge of the liability of the political
463 subdivisions or instrumentalities under paragraph (f)(5)B of this
464 section. Failure to deduct the contribution shall not relieve the
465 employee or employer of liability for the contribution.

466 D. Any state agency, school, political
467 subdivision, instrumentality or any employer that is required to
468 submit contribution payments or wage reports under any section of
469 this chapter shall be assessed interest on delinquent payments or
470 wage reports as determined by the board of trustees in accordance
471 with rules and regulations adopted by the board and delinquent
472 payments, assessed interest and any other amount certified by the
473 board as owed by an employer, may be recovered by action in a
474 court of competent jurisdiction against the reporting agency
475 liable therefor or may, upon due certification of delinquency and
476 at the request of the board of trustees, be deducted from any
477 other monies payable to the reporting agency by any department or
478 agency of the state.

479 E. Each political subdivision of the state
480 and each instrumentality of the state or a political subdivision
481 or subdivisions that submit a plan for approval of the board, as
482 provided in this section, shall reimburse the board for coverage
483 into the expense account, its pro rata share of the total expense

484 of administering Articles 1 and 3 as provided by regulations of
485 the board.

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

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

498 (i) If any member of this system changes his employment
499 to any agency of the state having an actuarially funded retirement
500 system, the board of trustees may authorize the transfer of the
501 member's creditable service and of the present value of the
502 member's employer's accumulation account and of the present value
503 of the member's accumulated membership contributions to that other
504 system, provided that the employee agrees to the transfer of his
505 accumulated membership contributions and provided that the other
506 system is authorized to receive and agrees to make the transfer.

507 If any member of any other actuarially funded system
508 maintained by an agency of the state changes his employment to an
509 agency covered by this system, the board of trustees may authorize
510 the receipt of the transfer of the member's creditable service and
511 of the present value of the member's employer's accumulation
512 account and of the present value of the member's accumulated
513 membership contributions from the other system, provided that the
514 employee agrees to the transfer of his accumulated membership

515 contributions to this system and provided that the other system is
516 authorized and agrees to make the transfer.

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

520 (k) Employees of a political subdivision or
521 instrumentality who were employed by the political subdivision or
522 instrumentality before an agreement between the entity and the
523 Public Employees' Retirement System to extend the benefits of this
524 article to its employees, and which agreement provides for the
525 establishment of retroactive service credit, and who have been
526 members of the retirement system who became members of the system
527 before July 1, 2006, and have remained contributors to the
528 retirement system for four (4) years, or who became members of the
529 system on or after July 1, 2006, and have remained contributors to
530 the retirement system for ten (10) years, may receive credit for
531 that retroactive service with the political subdivision or
532 instrumentality, provided that the employee and/or employer, as
533 provided under the terms of the modification of the joinder
534 agreement in allowing that coverage, pay into the retirement
535 system the employer's and employee's contributions on wages paid
536 the member during the previous employment, together with interest
537 or actuarial cost as determined by the board covering the period
538 from the date the service was rendered until the payment for the
539 credit for the service was made. Those wages shall be verified by
540 the Social Security Administration or employer payroll records.
541 Effective July 1, 1998, upon eligibility as noted above, a member
542 may receive credit for that retroactive service with the political
543 subdivision or instrumentality provided:

544 (1) The member shall furnish proof satisfactory to
545 the board of trustees of certification of those services from the
546 political subdivision or instrumentality where the services were

547 rendered or verification by the Social Security Administration;
548 and

549 (2) The member shall pay to the retirement system
550 on the date he or she is eligible for that credit or at any time
551 thereafter before the date of retirement the actuarial cost for
552 each year of that creditable service. The provisions of this
553 subparagraph (2) shall be subject to the limitations of Section
554 415 of the Internal Revenue Code and regulations promulgated under
555 Section 415.

556 Nothing contained in this paragraph (k) shall be construed to
557 limit the authority of the board to allow the correction of
558 reporting errors or omissions based on the payment of employee and
559 employer contributions plus applicable interest. Payment for that
560 time shall be made in increments of not less than one-quarter
561 (1/4) year of creditable service beginning with the most recent
562 service. Upon the payment of all or part of the required
563 contributions, plus interest or the actuarial cost as provided
564 above, the member shall receive credit for the period of
565 creditable service for which full payment has been made to the
566 retirement system.

567 (1) Through June 30, 1998, any state service eligible
568 for retroactive service credit, no part of which has ever been
569 reported, and requiring the payment of employee and employer
570 contributions plus interest, or, from and after July 1, 1998, any
571 state service eligible for retroactive service credit, no part of
572 which has ever been reported to the retirement system, and
573 requiring the payment of the actuarial cost for that creditable
574 service, may, at the member's option, be purchased in quarterly
575 increments as provided above at the time that its purchase is
576 otherwise allowed.

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

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

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

584 (a) Patient or inmate help in state charitable, penal
585 or correctional institutions;

586 (b) Students of any state educational institution
587 employed by any agency of the state for temporary, part-time or
588 intermittent work;

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

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

596 **III. TERMINATION OF MEMBERSHIP**

597 Membership in this system shall cease by a member withdrawing
598 his accumulated contributions, or by a member withdrawing from
599 active service with a retirement allowance, or by a member's
600 death.

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

603 25-11-109. (1) Under such rules and regulations as the
604 board of trustees shall adopt, each person who becomes a member of
605 this retirement system, as provided in Section 25-11-105, on or
606 prior to July 1, 1953, or who became a member of the system before
607 July 1, 2006, and contributes to the system for a minimum period
608 of four (4) years, or who became a member of the system on or

609 after July 1, 2006, and contributes to the system for a minimum
610 period of ten (10) years, shall receive credit for all state
611 service rendered before February 1, 1953. To receive such credit,
612 such member shall file a detailed statement of all services as an
613 employee rendered by him in the state service before February 1,
614 1953. For any member who joined the system after July 1, 1953,
615 and before July 1, 2006, any creditable service for which the
616 member is not required to make contributions shall not be credited
617 to the member until the member has contributed to the system for a
618 minimum period of at least four (4) years. For any member who
619 joined the system on or after July 1, 2006, any creditable service
620 for which the member is not required to make contributions shall
621 not be credited to the member until the member has contributed to
622 the system for a minimum period of at least ten (10) years.

623 (2) In the computation of membership service or prior
624 service under the provisions of this article, the total months of
625 accumulative service during any fiscal year shall be calculated in
626 accordance with the schedule as follows: ten (10) or more months
627 of creditable service during any fiscal year shall constitute a
628 year of creditable service; seven (7) months to nine (9) months
629 inclusive, three-quarters (3/4) of a year of creditable service;
630 four (4) months to six (6) months inclusive, one-half-year of
631 creditable service; one (1) month to three (3) months inclusive,
632 one-quarter (1/4) of a year of creditable service. In no case
633 shall credit be allowed for any period of absence without
634 compensation except for disability while in receipt of a
635 disability retirement allowance, nor shall less than fifteen (15)
636 days of service in any month, or service less than the equivalent
637 of one-half (1/2) of the normal working load for the position and
638 less than one-half (1/2) of the normal compensation for the
639 position in any month, constitute a month of creditable service,
640 nor shall more than one (1) year of service be creditable for all

641 services rendered in any one (1) fiscal year; however, for a
642 school employee, substantial completion of the legal school term
643 when and where the service was rendered shall constitute a year of
644 service credit for both prior service and membership service. Any
645 state or local elected official shall be deemed a full-time
646 employee for the purpose of creditable service for prior service
647 or membership service. However, an appointed or elected official
648 compensated on a per diem basis only shall not be allowed
649 creditable service for terms of office.

650 In the computation of any retirement allowance or any annuity
651 or benefits provided in this article, any fractional period of
652 service of less than one (1) year shall be taken into account and
653 a proportionate amount of such retirement allowance, annuity or
654 benefit shall be granted for any such fractional period of
655 service.

656 In the computation of unused leave for creditable service
657 authorized in Section 25-11-103, the following shall govern:
658 twenty-one (21) days of unused leave shall constitute one (1)
659 month of creditable service and in no case shall credit be allowed
660 for any period of unused leave of less than fifteen (15) days.
661 The number of months of unused leave shall determine the number of
662 quarters or years of creditable service in accordance with the
663 above schedule for membership and prior service. In order for the
664 member to receive creditable service for the number of days of
665 unused leave, the system must receive certification from the
666 governing authority.

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

670 (a) For service prior to July 1, 1984, the members
671 shall receive credit for leave (combined personal and major

672 medical) for service as an elected official prior to that date at
673 the rate of thirty (30) days per year.

674 (b) For service on and after July 1, 1984, the member
675 shall receive credit for personal and major medical leave
676 beginning July 1, 1984, at the rates authorized in Sections
677 25-3-93 and 25-3-95, computed as a full-time employee.

678 (3) Subject to the above restrictions and to such other
679 rules and regulations as the board may adopt, the board shall
680 verify, as soon as practicable after the filing of such statements
681 of service, the services therein claimed.

682 (4) Upon verification of the statement of prior service, the
683 board shall issue a prior service certificate certifying to each
684 member the length of prior service for which credit shall have
685 been allowed on the basis of his statement of service. So long as
686 membership continues, a prior service certificate shall be final
687 and conclusive for retirement purposes as to such service,
688 provided that any member may within five (5) years from the date
689 of issuance or modification of such certificate request the board
690 of trustees to modify or correct his prior service certificate.
691 Any modification or correction authorized shall only apply
692 prospectively.

693 When membership ceases, such prior service certificates shall
694 become void. Should the employee again become a member, he shall
695 enter the system as an employee not entitled to prior service
696 credit except as provided in Sections 25-11-105(I), 25-11-113 and
697 25-11-117.

698 (5) Creditable service at retirement, on which the
699 retirement allowance of a member shall be based, shall consist of
700 the membership service rendered by him since he last became a
701 member, and also, if he has a prior service certificate which is
702 in full force and effect, the amount of the service certified on
703 his prior service certificate.

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

731 (7) (a) Any member of the Public Employees' Retirement
732 System whose membership service is interrupted as a result of
733 qualified military service within the meaning of Section 414(u)(5)
734 of the Internal Revenue Code, and who has received the maximum
735 service credit available under subsection (6) of this section,

736 shall receive creditable service for the period of qualified
737 military service that does not qualify as creditable service under
738 subsection (6) of this section upon reentering membership service
739 in an amount not to exceed five (5) years if:

740 (i) The member pays the contributions he would
741 have made to the retirement system if he had remained in
742 membership service for the period of qualified military service
743 based upon his salary at the time his membership service was
744 interrupted;

745 (ii) The member returns to membership service
746 within ninety (90) days of the end of his qualified military
747 service; and

748 (iii) The employer at the time the member's
749 service was interrupted and to which employment the member returns
750 pays the contributions it would have made into the retirement
751 system for such period based on the member's salary at the time
752 the service was interrupted.

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

758 (c) The member shall furnish proof satisfactory to the
759 board of trustees of certification of military service showing
760 dates of entrance into qualified service and the date of discharge
761 as well as proof that the member has returned to active employment
762 within the time specified.

763 (8) Any member of the Public Employees' Retirement System
764 who became a member of the system before July 1, 2006, and who has
765 at least four (4) years of membership service credit, or who
766 became a member of the system on or after July 1, 2006, and who
767 has at least ten (10) years of membership service credit, shall be

768 entitled to receive a maximum of five (5) years creditable service
769 for service rendered in another state as a public employee of such
770 other state, or a political subdivision, public education system
771 or other governmental instrumentality thereof, or service rendered
772 as a teacher in American overseas dependent schools conducted by
773 the Armed Forces of the United States for children of citizens of
774 the United States residing in areas outside the continental United
775 States, provided that:

776 (a) The member shall furnish proof satisfactory to the
777 board of trustees of certification of such services from the
778 state, public education system, political subdivision or
779 retirement system of the state where the services were performed
780 or the governing entity of the American overseas dependent school
781 where the services were performed; and

782 (b) The member is not receiving or will not be entitled
783 to receive from the public retirement system of the other state or
784 from any other retirement plan, including optional retirement
785 plans, sponsored by the employer, a retirement allowance including
786 such services; and

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

794 (9) Any member of the Public Employees' Retirement System
795 who became a member of the system before July 1, 2006, and has at
796 least four (4) years of membership service credit, or who became a
797 member of the system on or after July 1, 2006, and has at least
798 ten (10) years of membership service credit, and who receives, or
799 has received, professional leave without compensation for

800 professional purposes directly related to the employment in state
801 service shall receive creditable service for the period of
802 professional leave without compensation provided:

803 (a) The professional leave is performed with a public
804 institution or public agency of this state, or another state or
805 federal agency;

806 (b) The employer approves the professional leave
807 showing the reason for granting the leave and makes a
808 determination that the professional leave will benefit the
809 employee and employer;

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

812 (d) The employee shall serve the employer on a
813 full-time basis for a period of time equivalent to the
814 professional leave period granted immediately following the
815 termination of the leave period;

816 (e) The contributing member shall pay to the retirement
817 system the actuarial cost as determined by the actuary for each
818 year of professional leave. The provisions of this subsection are
819 subject to the regulations of the Internal Revenue Code
820 limitations;

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

824 Any actively contributing member participating in the School
825 Administrator Sabbatical Program established in Section 37-9-77
826 shall qualify for continued participation under this subsection
827 (9).

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

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

834 (a) Any service rendered as an employee of any
835 political subdivision of this state, or any instrumentality
836 thereof, which does not participate in the Public Employees'
837 Retirement System; or

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

842 (c) Any service rendered as an employee of any
843 political subdivision of this state, or any instrumentality
844 thereof, for which coverage of the employee's position was or is
845 excluded; provided that the member pays into the retirement system
846 the actuarial cost as determined by the actuary for each year, or
847 portion thereof, of such service. Payment for such service may be
848 made in increments of one-quarter-year of creditable service.
849 After a member has made full payment to the retirement system for
850 all or any part of such service, the member shall receive
851 creditable service for the period of such service for which full
852 payment has been made to the retirement system.

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

855 25-11-111. (a) (1) Any member who became a member of the
856 system before July 1, 2006, upon withdrawal from service upon or
857 after attainment of the age of sixty (60) years who shall have
858 completed at least four (4) years of creditable service, or any
859 member who became a member of the system before July 1, 2006, upon
860 withdrawal from service regardless of age who shall have completed
861 at least twenty-five (25) years of creditable service, shall be
862 entitled to receive a retirement allowance which shall begin on
863 the first of the month following the date the member's application

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

866 (2) Any member who became a member of the system on or
867 after July 1, 2006, upon withdrawal from service upon or after
868 attainment of the age of sixty (60) years who shall have completed
869 at least ten (10) years of creditable service, or any member who
870 became a member of the system on or after July 1, 2006, upon
871 withdrawal from service upon or after attaining the age of
872 fifty-five (55) years who shall have completed at least thirty
873 (30) years of creditable service, shall be entitled to receive a
874 retirement allowance which shall begin on the first of the month
875 following the date the member's application for the allowance is
876 received by the board, but in no event before withdrawal from
877 service.

878 (b) (1) Any member who became a member of the system before
879 July 1, 2006, whose withdrawal from service occurs prior to
880 attaining the age of sixty (60) years who shall have completed
881 four (4) or more years of creditable service and shall not have
882 received a refund of his accumulated contributions, shall be
883 entitled to receive a retirement allowance, beginning upon his
884 attaining the age of sixty (60) years, of the amount earned and
885 accrued at the date of withdrawal from service.

886 (2) Any member who became a member of the system on or
887 after July 1, 2006, whose withdrawal from service occurs prior to
888 attaining the age of sixty (60) years who shall have completed ten
889 (10) or more years of creditable service and shall not have
890 received a refund of his accumulated contributions, shall be
891 entitled to receive a retirement allowance, beginning upon his
892 attaining the age of sixty (60) years, of the amount earned and
893 accrued at the date of withdrawal from service.

894 (c) Any member in service who has qualified for retirement
895 benefits may select any optional method of settlement of

896 retirement benefits by notifying the Executive Director of the
897 Board of Trustees of the Public Employees' Retirement System in
898 writing, on a form prescribed by the board, of the option he has
899 selected and by naming the beneficiary of the option and
900 furnishing necessary proof of age. The option, once selected, may
901 be changed at any time prior to actual retirement or death, but
902 upon the death or retirement of the member, the optional
903 settlement shall be placed in effect upon proper notification to
904 the executive director.

905 (d) The annual amount of the retirement allowance shall
906 consist of:

907 (1) A member's annuity which shall be the actuarial
908 equivalent of the accumulated contributions of the member at the
909 time of retirement computed according to the actuarial table in
910 use by the system; and

911 (2) An employer's annuity which, together with the
912 member's annuity provided above, shall be equal to two percent
913 (2%) of the average compensation for each year of state service up
914 to and including twenty-five (25) years of membership service, and
915 two and one-half percent (2-1/2%) of the average compensation for
916 each year of state service exceeding twenty-five (25) years of
917 membership service * * *; and

918 * * *

919 (3) A prior service annuity equal to two percent (2%)
920 of the average compensation for each year of state service up to
921 and including twenty-five (25) years of prior service, and two and
922 one-half percent (2-1/2%) of the average compensation for each
923 year of state service exceeding twenty-five (25) years of prior
924 service for which the member is allowed credit. * * *

925 * * *

926 (4) Any retired member or beneficiary thereof who was
927 eligible to receive a retirement allowance before July 1, 1991,

928 and who is still receiving a retirement allowance on July 1, 1992,
929 shall receive an increase in the annual retirement allowance of
930 the retired member equal to one-eighth of one percent (1/8 of 1%)
931 of the average compensation for each year of state service in
932 excess of twenty-five (25) years of membership service up to and
933 including thirty (30) years. The maximum increase shall be
934 five-eighths of one percent (5/8 of 1%). In no case shall a
935 member who has been retired prior to July 1, 1987, receive less
936 than Ten Dollars (\$10.00) per month for each year of creditable
937 service and proportionately for each quarter year thereof.
938 Persons retired on or after July 1, 1987, shall receive at least
939 Ten Dollars (\$10.00) per month for each year of service and
940 proportionately for each quarter year thereof reduced for the
941 option selected. However, such Ten Dollars (\$10.00) minimum per
942 month for each year of creditable service shall not apply to a
943 retirement allowance computed under Section 25-11-114 based on a
944 percentage of the member's average compensation.

945 * * *

946 (e) No member, except members excluded by the Age
947 Discrimination in Employment Act Amendments of 1986 (Public Law
948 99-592), under either Article 1 or Article 3 in state service
949 shall be required to retire because of age.

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

953 (g) (1) A retiree or beneficiary may, on a form prescribed
954 by and filed with the retirement system, irrevocably waive all or
955 a portion of any benefits from the retirement system to which the
956 retiree or beneficiary is entitled. Such waiver shall be binding
957 on the heirs and assigns of any retiree or beneficiary and the
958 same must agree to forever hold harmless the Public Employees'

959 Retirement System of Mississippi from any claim to such waived
960 retirement benefits.

961 (2) Any waiver pursuant to this subsection shall apply
962 only to the person executing the waiver. A beneficiary shall be
963 entitled to benefits according to the option selected by the
964 member at the time of retirement. However, a beneficiary may, at
965 the option of the beneficiary, execute a waiver of benefits
966 pursuant to this subsection.

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

970 (4) The board of trustees may provide rules and
971 regulations for the administration of waivers under this
972 subsection.

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

975 25-11-113. (1) (a) Upon the application of a member or his
976 employer, any active member in state service who became a member
977 of the system before July 1, 2006, and who has at least four (4)
978 years of membership service credit, or any active member in state
979 service who became a member of the system on or after July 1,
980 2006, who has at least ten (10) years of membership service
981 credit, may be retired by the board of trustees on the first of
982 the month following the date of filing such application on a
983 disability retirement allowance, but in no event shall the
984 disability retirement allowance commence before termination of
985 state service, provided that the medical board, after an
986 evaluation of medical evidence that may or may not include an
987 actual physical examination by the medical board, shall certify
988 that the member is mentally or physically incapacitated for the
989 further performance of duty, that such incapacity is likely to be
990 permanent, and that the member should be retired; however, the

991 board of trustees may accept a disability medical determination
992 from the Social Security Administration in lieu of a certification
993 from the medical board. For the purposes of disability
994 determination, the medical board shall apply the following
995 definition of disability: the inability to perform the usual
996 duties of employment or the incapacity to perform such lesser
997 duties, if any, as the employer, in its discretion, may assign
998 without material reduction in compensation, or the incapacity to
999 perform the duties of any employment covered by the Public
1000 Employees' Retirement System (Section 25-11-101 et seq.) that is
1001 actually offered and is within the same general territorial work
1002 area, without material reduction in compensation. The employer
1003 shall be required to furnish the job description and duties of the
1004 member. The employer shall further certify whether the employer
1005 has offered the member other duties and has complied with the
1006 applicable provisions of the Americans With Disabilities Act in
1007 affording reasonable accommodations which would allow the employee
1008 to continue employment.

1009 (b) Any inactive member who became a member of the
1010 system before July 1, 2006, with four (4) or more years of
1011 membership service credit, or any inactive member who became a
1012 member of the system on or after July 1, 2006, with ten (10) or
1013 more years of membership service credit, who has withdrawn from
1014 active state service, is not eligible for a disability retirement
1015 allowance unless the disability occurs within six (6) months of
1016 the termination of active service and unless satisfactory proof is
1017 presented to the board of trustees that the disability was the
1018 direct cause of withdrawal from state service.

1019 (c) Any member who is or becomes eligible for service
1020 retirement benefits under Section 25-11-111 while pursuing a
1021 disability retirement allowance under this section or Section
1022 25-11-114 may elect to receive a service retirement allowance

1023 pending a final determination on eligibility for a disability
1024 retirement allowance or withdrawal of the application for the
1025 disability retirement allowance. In such a case, an application
1026 for a disability retirement allowance must be on file with the
1027 system before the commencement of a service retirement allowance.
1028 If the application is approved, the option selected and
1029 beneficiary designated on the retirement application shall be used
1030 to determine the disability retirement allowance. If the
1031 application is not approved or if the application is withdrawn,
1032 the service retirement allowance shall continue to be paid in
1033 accordance with the option selected. No person may apply for a
1034 disability retirement allowance after the person begins to receive
1035 a service retirement allowance.

1036 (d) If the medical board certifies that the member is
1037 not mentally or physically incapacitated for the future
1038 performance of duty, the member may request, within sixty (60)
1039 days, a hearing before the hearing officer as provided in Section
1040 25-11-120. All hearings shall be held in accordance with rules
1041 and regulations adopted by the board to govern such hearings.
1042 Such hearing may be closed upon the request of the member.

1043 (e) The medical board may request additional medical
1044 evidence and/or other physicians to conduct an evaluation of the
1045 member's condition. If the medical board requests additional
1046 medical evidence and the member refuses the request, the
1047 application shall be considered void.

1048 (2) Allowance on disability retirement.

1049 (a) Upon retirement for disability, an eligible member
1050 shall receive a retirement allowance if he has attained the age of
1051 sixty (60) years.

1052 (b) Except as provided in paragraph (c) of this
1053 subsection (2), an eligible member who is retired for disability
1054 and who has not attained sixty (60) years of age shall receive a

1055 disability benefit as computed in Section 25-11-111(d)(1) through
1056 (d)(4) which shall consist of:

1057 (i) A member's annuity which shall be the
1058 actuarial equivalent of his accumulated contributions at the time
1059 of retirement; and

1060 (ii) An employer's annuity equal to the amount
1061 that would have been payable as a retirement allowance for both
1062 membership service and prior service had the member continued in
1063 service to the age of sixty (60) years, which shall apply to the
1064 allowance for disability retirement paid to retirees receiving
1065 such allowance upon and after April 12, 1977. This employer's
1066 annuity shall be computed on the basis of the average "earned
1067 compensation" as defined in Section 25-11-103.

1068 (c) For persons who become members after June 30, 1992,
1069 and for active members on June 30, 1992, who elect benefits under
1070 this paragraph (c) instead of those provided under paragraph (b)
1071 of this subsection (2), the disability allowance shall consist of
1072 two (2) parts: a temporary allowance and a deferred allowance.

1073 The temporary allowance shall equal the greater of (i) forty
1074 percent (40%) of average compensation at the time of disability,
1075 plus ten percent (10%) of average compensation for each of the
1076 first two (2) dependent children, as defined in Sections 25-11-103
1077 and 25-11-114, or (ii) the accrued benefit based on actual
1078 service. It shall be payable for a period of time based on the
1079 member's age at disability, as follows:

1080	Age at Disability	Duration
1081	60 and earlier	to age 65
1082	61	to age 66
1083	62	to age 66
1084	63	to age 67
1085	64	to age 67
1086	65	to age 68

1087	66	to age 68
1088	67	to age 69
1089	68	to age 70
1090	69 and over	one year

1091 The deferred allowance shall commence when the temporary
1092 allowance ceases and shall be payable for life. The deferred
1093 allowance shall equal the greater of (i) the allowance that would
1094 have been payable had the member continued in service to the
1095 termination age of the temporary allowance, but no more than forty
1096 percent (40%) of average compensation, or (ii) the accrued benefit
1097 based on actual service at the time of disability. The deferred
1098 allowance as determined at the time of disability shall be
1099 adjusted in accordance with Section 25-11-112 for the period
1100 during which the temporary annuity is payable. In no case shall a
1101 member receive less than Ten Dollars (\$10.00) per month for each
1102 year of service and proportionately for each quarter year thereof
1103 reduced for the option selected.

1104 (d) The member may elect to receive the actuarial
1105 equivalent of the disability retirement allowance in a reduced
1106 allowance payable throughout life under any of the provisions of
1107 the options provided under Section 25-11-115.

1108 (e) Should a disability retiree who has not selected an
1109 option under Section 25-11-115 die before being repaid in
1110 disability benefits the sum of his total contributions, then his
1111 named beneficiary shall receive the difference in cash, which
1112 shall apply to all deceased disability retirees from and after
1113 January 1, 1953.

1114 (3) Reexamination of retirees retired on account of
1115 disability. Except as otherwise provided in this section, once
1116 each year during the first five (5) years following retirement of
1117 a member on a disability retirement allowance, and once in every
1118 period of three (3) years thereafter, the board of trustees may,

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

1135 (4) If the medical board reports and certifies to the board
1136 of trustees, after a comparable job analysis or other similar
1137 study, that such disability retiree is engaged in, or is able to
1138 engage in, a gainful occupation paying more than the difference
1139 between his disability allowance, exclusive of cost of living
1140 adjustments, and the average compensation, and if the board of
1141 trustees concurs in such report, the disability benefit shall be
1142 reduced to an amount which, together with the amount earnable by
1143 him, shall equal the amount of his average compensation. If his
1144 earning capacity be later changed, the amount of the benefit may
1145 be further modified, provided that the revised benefit shall not
1146 exceed the amount originally granted. A retiree receiving a
1147 disability benefit who is restored to active service at a salary
1148 less than the average compensation shall not become a member of
1149 the retirement system.

1150 (5) Should a disability retiree under the age of sixty (60)
1151 years or the termination age of the temporary allowance under
1152 paragraph (2)(c) of this section be restored to active service at
1153 a compensation not less than his average compensation, his
1154 disability benefit shall cease, he shall again become a member of
1155 the retirement system, and contributions shall be withheld and
1156 reported. Any such prior service certificate, on the basis of
1157 which his service was computed at the time of retirement, shall be
1158 restored to full force and effect. In addition, upon his
1159 subsequent retirement he shall be credited with all creditable
1160 service as a member, but the total retirement allowance paid to
1161 the retired member in his previous retirement shall be deducted
1162 from his retirement reserve and taken into consideration in
1163 recalculating the retirement allowance under a new option
1164 selected.

1165 (6) If following reexamination in accordance with the
1166 provisions contained in this section, the medical board determines
1167 that a retiree retired on account of disability is physically and
1168 mentally able to return to the employment from which he is
1169 retired, the board of trustees, upon certification of such
1170 findings from the medical board, shall, after a reasonable period
1171 of time, terminate the disability allowance, whether or not the
1172 retiree is reemployed or seeks such reemployment. In addition, if
1173 the board of trustees determines that the retiree is no longer
1174 sustaining a loss of income as established by documented evidence
1175 of the retiree's earned income, the eligibility for a disability
1176 allowance shall terminate and the allowance terminated within a
1177 reasonable period of time. In the event the retirement allowance
1178 is terminated under the provisions of this section, the retiree
1179 may subsequently qualify for a retirement allowance under Section
1180 25-11-111 based on actual years of service credit plus credit for
1181 the period during which a disability allowance was paid.

1182 (7) Any current member as of June 30, 1992, who retires on a
1183 disability retirement allowance after June 30, 1992, and who has
1184 not elected to receive benefits under paragraph (2)(c) of this
1185 section, shall relinquish all rights under the Age Discrimination
1186 in Employment Act of 1967, as amended, with regard to the benefits
1187 payable under this section.

1188 **SECTION 6.** Section 25-11-114, Mississippi Code of 1972, is
1189 amended as follows:

1190 25-11-114. (1) The applicable benefits provided in
1191 subsections (2) and (3) of this section shall be paid to eligible
1192 beneficiaries of any member who became a member of the system
1193 before July 1, 2006, and has completed four (4) or more years of
1194 creditable service, or who became a member of the system on or
1195 after July 1, 2006, and has completed ten (10) or more years of
1196 creditable service, and who dies before retirement and who has not
1197 filed a Pre-Retirement Optional Retirement Form as provided in
1198 Section 25-11-111.

1199 (2) (a) The member's surviving spouse who has been married
1200 to the member for not less than one (1) year immediately preceding
1201 his death shall receive an annuity computed in accordance with
1202 paragraph (d) of this subsection (2) as if the member:

1203 (i) Had retired on the date of his death with
1204 entitlement to an annuity provided for in Section 25-11-111,
1205 notwithstanding that he might not have attained age sixty (60), if
1206 he became a member of the system before July 1, 2006,
1207 notwithstanding that he might not have acquired twenty-five (25)
1208 years of creditable service, or if he became a member of the
1209 system on or after July 1, 2006, notwithstanding that he might not
1210 have attained the age of fifty-five (55) years and acquired thirty
1211 (30) years of creditable service;

1212 (ii) Had nominated his spouse as beneficiary; and

1213 (b) If, at the time of the member's death, there are no
1214 dependent children, and the surviving spouse, who otherwise would
1215 receive the annuity under this subsection (2), has filed with the
1216 system a signed written waiver of his or her rights to the annuity
1217 and that waiver was in effect at the time of the member's death, a
1218 lump sum distribution of the deceased member's accumulated
1219 contributions shall be refunded in accordance with Section
1220 25-11-117.

1221 (c) The spouse annuity shall begin on the first day of
1222 the month following the date of the member's death, but in case of
1223 late filing, retroactive payments will be made for a period of not
1224 more than one (1) year.

1225 (d) The spouse annuity shall be payable for life and
1226 shall be the greater of twenty percent (20%) of the deceased
1227 member's average compensation as defined in Section 25-11-103 at
1228 the time of death or Fifty Dollars (\$50.00) monthly. Surviving
1229 spouses of deceased members who previously received spouse
1230 retirement benefits under this paragraph (d) from and after July
1231 1, 1992, and whose benefits were terminated before July 1, 2004,
1232 because of remarriage, may again receive the retirement benefits
1233 authorized under this paragraph (d) by making application with the
1234 board to reinstate those benefits. Any reinstatement of the
1235 benefits shall be prospective only and shall begin after the first
1236 of the month following the date of the application for
1237 reinstatement, but no earlier than July 1, 2004.

1238 (e) However, the spouse may elect by an irrevocable
1239 agreement on a form prescribed by the board of trustees to receive
1240 a monthly allowance as computed under either paragraph (d) or this
1241 paragraph. The irrevocable agreement shall constitute a waiver by
1242 the spouse to any current and future monthly allowance under the
1243 paragraph not elected, and the waiver shall be a complete and full

1244 discharge of all obligations of the retirement system under that
1245 paragraph.

1246 Any member who has completed the requisite minimum number of
1247 years of membership service to qualify for a retirement allowance
1248 at age sixty (60) and who dies before retirement and leaves a
1249 spouse who has been married to the member for not less than one
1250 (1) year immediately preceding his death and has not exercised any
1251 other option shall be deemed to have exercised Option 2 under
1252 Section 25-11-115 for the benefit of his spouse, which spouse
1253 shall be paid Option 2 settlement benefits under this article
1254 beginning on the first of the month following the date of death,
1255 but in case of late filing, retroactive payments will be made for
1256 a period of not more than one (1) year. The method of calculating
1257 the retirement benefits shall be on the same basis as provided in
1258 Section 25-11-111(d). However, if the member dies before being
1259 qualified for full unreduced benefits, then the benefits shall be
1260 reduced by three percent (3%) per year for the lesser of either
1261 the years of service or age required for full unreduced benefits
1262 in Section 25-11-111(d).

1263 (3) (a) Subject to the maximum limitation provided in this
1264 paragraph, the member's dependent children each shall receive an
1265 annuity of the greater of ten percent (10%) of the member's
1266 average compensation as defined in Section 25-11-103 at the time
1267 of the death of the member or Fifty Dollars (\$50.00) monthly;
1268 however, if there are more than three (3) dependent children, each
1269 dependent child shall receive an equal share of a total annuity
1270 equal to thirty percent (30%) of the member's average
1271 compensation, provided that the total annuity shall not be less
1272 than One Hundred Fifty Dollars (\$150.00) per month for all
1273 children.

1274 (b) A child shall be considered to be a dependent child
1275 until marriage, or the attainment of age nineteen (19), whichever

1276 comes first; however, this age limitation shall be extended beyond
1277 age nineteen (19), but in no event beyond the attainment of age
1278 twenty-three (23), as long as the child is a student regularly
1279 pursuing a full-time course of resident study or training in an
1280 accredited high school, trade school, technical or vocational
1281 institute, junior or community college, college, university or
1282 comparable recognized educational institution duly licensed by a
1283 state. A student child whose birthday falls during the school
1284 year (September 1 through June 30) is considered not to reach age
1285 twenty-three (23) until the July 1 following the actual
1286 twenty-third birthday. A full-time course of resident study or
1287 training means a day or evening noncorrespondence course that
1288 includes school attendance at the rate of at least thirty-six (36)
1289 weeks per academic year or other applicable period with a subject
1290 load sufficient, if successfully completed, to attain the
1291 educational or training objective within the period generally
1292 accepted as minimum for completion, by a full-time day student, of
1293 the academic or training program concerned. Any child who is
1294 physically or mentally incompetent, as adjudged by either a
1295 Mississippi court of competent jurisdiction or by the board, shall
1296 receive benefits for as long as the incompetency exists.

1297 (c) If there are more than three (3) dependent
1298 children, upon a child's ceasing to be a dependent child, his
1299 annuity shall terminate and there shall be a redetermination of
1300 the amounts payable to any remaining dependent children.

1301 (d) Annuities payable under this subsection (3) shall
1302 begin the first day of the month following the date of the
1303 member's death or in case of late filing, retroactive payments
1304 will be made for a period of not more than one (1) year. Those
1305 benefits may be paid to a surviving parent or the lawful custodian
1306 of a dependent child for the use and benefit of the child without
1307 the necessity of appointment as guardian.

1308 (4) (a) Death benefits in the line of duty. Regardless of
1309 the number of years of the member's creditable service, the spouse
1310 and/or the dependent children of an active member who is killed in
1311 the line of performance of duty or dies as a direct result of an
1312 accident occurring in the line of performance of duty shall
1313 qualify, on approval of the board, for a retirement allowance on
1314 the first of the month following the date of death, but in the
1315 case of late filing, retroactive payments will be made for a
1316 period of not more than one (1) year. The spouse shall receive a
1317 retirement allowance for life equal to one-half (1/2) of the
1318 average compensation as defined in Section 25-11-103. In addition
1319 to the retirement allowance for the spouse, or if there is no
1320 surviving spouse, the member's dependent child shall receive a
1321 retirement allowance in the amount of one-fourth (1/4) of the
1322 member's average compensation as defined in Section 25-11-103;
1323 however, if there are two (2) or more dependent children, each
1324 dependent child shall receive an equal share of a total annuity
1325 equal to one-half (1/2) of the member's average compensation. If
1326 there are more than two (2) dependent children, upon a child's
1327 ceasing to be a dependent child, his annuity shall terminate and
1328 there shall be a redetermination of the amounts payable to any
1329 remaining dependent children. Those benefits shall cease to be
1330 paid for the support and maintenance of each child upon the child
1331 attaining the age of nineteen (19) years; however, the spouse
1332 shall continue to be eligible for the aforesaid retirement
1333 allowance. Those benefits may be paid to a surviving parent or
1334 lawful custodian of the children for the use and benefit of the
1335 children without the necessity of appointment as guardian. Any
1336 spouse who received spouse retirement benefits under this
1337 paragraph (a) from and after April 4, 1984, and whose benefits
1338 were terminated before July 1, 2004, because of remarriage, may
1339 again receive the retirement benefits authorized under this

1340 paragraph (a) by making application with the board to reinstate
1341 those benefits. Any reinstatement of the benefits shall be
1342 prospective only and shall begin after the first of the month
1343 following the date of the application for reinstatement, but not
1344 earlier than July 1, 2004.

1345 (b) A child shall be considered to be a dependent child
1346 until marriage, or the attainment of age nineteen (19), whichever
1347 comes first; however, this age limitation shall be extended beyond
1348 age nineteen (19), but in no event beyond the attainment of age
1349 twenty-three (23), as long as the child is a student regularly
1350 pursuing a full-time course of resident study or training in an
1351 accredited high school, trade school, technical or vocational
1352 institute, junior or community college, college, university or
1353 comparable recognized educational institution duly licensed by a
1354 state. A student child whose birthday falls during the school
1355 year (September 1 through June 30) is considered not to reach age
1356 twenty-three (23) until the July 1 following the actual
1357 twenty-third birthday. A full-time course of resident study or
1358 training means a day or evening noncorrespondence course that
1359 includes school attendance at the rate of at least thirty-six (36)
1360 weeks per academic year or other applicable period with a subject
1361 load sufficient, if successfully completed, to attain the
1362 educational or training objective within the period generally
1363 accepted as minimum for completion, by a full-time day student, of
1364 the academic or training program concerned. Any child who is
1365 physically or mentally incompetent, as adjudged by either a
1366 Mississippi court of competent jurisdiction or by the board, shall
1367 receive benefits for as long as the incompetency exists.

1368 (5) If all the annuities provided for in this section
1369 payable on account of the death of a member terminate before there
1370 has been paid an aggregate amount equal to the member's
1371 accumulated contributions standing to the member's credit in the

1372 annuity savings account at the time of the member's death, the
1373 difference between the accumulated contributions and the aggregate
1374 amount of annuity payments shall be paid to the person that the
1375 member has nominated by written designation duly executed and
1376 filed with the board. If there is no designated beneficiary
1377 surviving at termination of benefits, the difference shall be
1378 payable pursuant to Section 25-11-117.1(1).

1379 (6) Regardless of the number of years of creditable service
1380 upon the application of a member or employer, any active member
1381 who becomes disabled as a direct result of an accident or
1382 traumatic event resulting in a physical injury occurring in the
1383 line of performance of duty, provided that the medical board or
1384 other designated governmental agency after a medical examination
1385 certifies that the member is mentally or physically incapacitated
1386 for the further performance of duty and the incapacity is likely
1387 to be permanent, may be retired by the board of trustees on the
1388 first of the month following the date of filing the application
1389 but in no event shall the retirement allowance begin before the
1390 termination of state service. The retirement allowance shall
1391 equal the allowance on disability retirement as provided in
1392 Section 25-11-113 but shall not be less than fifty percent (50%)
1393 of average compensation.

1394 Permanent and total disability resulting from a
1395 cardiovascular, pulmonary or musculo-skeletal condition that was
1396 not a direct result of a traumatic event occurring in the
1397 performance of duty shall be deemed an ordinary disability. A
1398 mental disability based exclusively on employment duties occurring
1399 on an ongoing basis shall be deemed an ordinary disability.

1400 (7) If the deceased or disabled member became a member of
1401 the system before July 1, 2006, and has less than four (4) years
1402 of creditable service, or became a member of the system on or
1403 after July 1, 2006, and has less than ten (10) years of creditable

1404 service, the average compensation as defined in Section 25-11-103
1405 shall be the average of all annual earned compensation in state
1406 service for the purposes of benefits provided in this section.

1407 (8) In case of death or total and permanent disability under
1408 subsection (4) or subsection (6) of this section and before the
1409 board shall consider any application for a retirement allowance,
1410 the employer must certify to the board that the member's death or
1411 disability was a direct result of an accident or a traumatic event
1412 occurring during and as a result of the performance of the regular
1413 and assigned duties of the employee and that the death or
1414 disability was not the result of the willful negligence of the
1415 employee.

1416 (9) The application for the retirement allowance must be
1417 filed within one (1) year after death of an active member who is
1418 killed in the line of performance of duty or dies as a direct
1419 result of an accident occurring in the line of performance of duty
1420 or traumatic event; but the board of trustees may consider an
1421 application for disability filed after the one-year period if it
1422 can be factually demonstrated to the satisfaction of the board of
1423 trustees that the disability is due to the accident and that the
1424 filing was not accomplished within the one-year period due to a
1425 delayed manifestation of the disability or to circumstances beyond
1426 the control of the member. However, in case of late filing,
1427 retroactive payments will be made for a period of not more than
1428 one (1) year only.

1429 (10) Notwithstanding any other section of this article and
1430 in lieu of any payments to a designated beneficiary for a refund
1431 of contributions under Section 25-11-117, the spouse and/or
1432 children shall be eligible for the benefits payable under this
1433 section, and the spouse may elect, for both the spouse and/or
1434 children, to receive benefits in accordance with either
1435 subsections (2) and (3) or subsection (4) of this section;

1436 otherwise, the contributions to the credit of the deceased member
1437 shall be refunded in accordance with Section 25-11-117.

1438 (11) If the member has previously received benefits from the
1439 system to which he was not entitled and has not repaid in full all
1440 amounts payable by him to the system, the annuity amounts
1441 otherwise provided by this section shall be withheld and used to
1442 effect repayment until the total of the withholdings repays in
1443 full all amounts payable by him to the system.

1444 **SECTION 7.** Section 25-11-115, Mississippi Code of 1972, is
1445 amended as follows:

1446 25-11-115. (1) Upon application for superannuation or
1447 disability retirement, any member may elect to receive his benefit
1448 in a retirement allowance payable throughout life with no further
1449 payments to anyone at his death, except that in the event his
1450 total retirement payments under this article do not equal his
1451 total contributions under this article, his named beneficiary
1452 shall receive the difference in cash at his death. Or he may
1453 elect upon retirement, or upon becoming eligible for retirement,
1454 to receive the actuarial equivalent subject to the provisions of
1455 subsection (3) of this section of his retirement allowance in a
1456 reduced retirement allowance payable throughout life with the
1457 provision that:

1458 **Option 1.** If he dies before he has received in annuity
1459 payment the value of the member's annuity savings account as it
1460 was at the time of his retirement, the balance shall be paid to
1461 his legal representative or to such person as he shall nominate by
1462 written designation duly acknowledged and filed with the board; or

1463 **Option 2.** Upon his death, his reduced retirement allowance
1464 shall be continued throughout the life of, and paid to, such
1465 person as he has nominated by written designation duly
1466 acknowledged and filed with the board of trustees at the time of
1467 his retirement;

1468 **Option 3.** Upon his death, one-half (1/2) of his reduced
1469 retirement allowance shall be continued throughout the life of,
1470 and paid to, such person as he shall have nominated by written
1471 designation duly acknowledged and filed with the board of trustees
1472 at the time of his retirement, and the other one-half (1/2) of his
1473 reduced retirement allowance to some other designated beneficiary;

1474 **Option 4-A.** Upon his death, one-half (1/2) of his reduced
1475 retirement allowance, or such other specified amount, shall be
1476 continued throughout the life of, and paid to, such person as he
1477 shall have nominated by written designation duly acknowledged and
1478 filed with the board of trustees at the time of his retirement; or

1479 **Option 4-B.** A reduced retirement allowance shall be
1480 continued throughout the life of the retirant, but with the
1481 further guarantee of payments to the named beneficiary,
1482 beneficiaries or to the estate for a specified number of years
1483 certain. If the retired member or the last designated beneficiary
1484 receiving annuity payments dies prior to receiving all guaranteed
1485 payments due, the actuarial equivalent of the remaining payments
1486 shall be paid pursuant to Section 25-11-117.1(1);

1487 **Option 4-C.** Such retirement allowance otherwise payable may
1488 be converted into a retirement allowance of equivalent actuarial
1489 value in such an amount that, with the member's benefit under
1490 Title II of the federal Social Security Act, the member will
1491 receive, so far as possible, approximately the same amount
1492 annually before and after the earliest age at which the member
1493 becomes eligible to receive a social security benefit. This
1494 option shall not be available to retirees whose retirement is
1495 effective on or after July 1, 2004.

1496 **Option 6.** Any member who became a member of the system
1497 before July 1, 2006, and who has at least twenty-eight (28) years
1498 of creditable service at the time of retirement or who is at least
1499 sixty-three (63) years of age and eligible to retire, or any

1500 member who became a member of the system on or after July 1, 2006,
1501 and who has at least thirty-three (33) years of creditable service
1502 at the time of retirement or who is at least sixty-three (63)
1503 years of age and eligible to retire, may select the maximum
1504 retirement benefit or an optional benefit as provided in this
1505 subsection together with a partial lump-sum distribution. The
1506 amount of the lump-sum distribution under this option shall be
1507 equal to the maximum monthly benefit multiplied by twelve (12),
1508 twenty-four (24) or thirty-six (36) as selected by the member.
1509 The maximum retirement benefit shall be actuarially reduced to
1510 reflect the amount of the lump-sum distribution selected and
1511 further reduced for any other optional benefit selected. The
1512 annuity and lump-sum distribution shall be computed to result in
1513 no actuarial loss to the system. The lump-sum distribution shall
1514 be made as a single payment payable at the time the first monthly
1515 annuity payment is paid to the retiree. The amount of the
1516 lump-sum distribution shall be deducted from the member's annuity
1517 savings account in computing what contributions remain at the
1518 death of the retiree and/or a beneficiary. The lump-sum
1519 distribution option may be elected only once by a member upon
1520 initial retirement, and may not be elected by a retiree, by
1521 members applying for a disability retirement annuity, by survivors
1522 or by a member selecting Option 4-C.

1523 (2) No change in the option selected shall be permitted
1524 after the member's death or after the member has received his
1525 first retirement check except as provided in subsections (3) and
1526 (4) of this section and in Section 25-11-127. Members who are
1527 pursuing a disability retirement allowance and simultaneously or
1528 subsequently elect to begin to receive a service retirement
1529 allowance while continuing to pursue a disability retirement
1530 allowance, shall not be eligible to select Option 4-C or Option 6
1531 and those options may not be selected at a later time if the

1532 application for a disability retirement allowance is voided or
1533 denied. However, any retired member who is receiving a retirement
1534 allowance under Option 2 or Option 4-A upon July 1, 1992, and
1535 whose designated beneficiary predeceased him or whose marriage to
1536 a spouse who is his designated beneficiary is terminated by
1537 divorce or other dissolution, upon written notification to the
1538 retirement system of the death of the designated beneficiary or of
1539 the termination of his marriage to his designated beneficiary, the
1540 retirement allowance payable to the member after receipt of such
1541 notification by the retirement system shall be equal to the
1542 retirement allowance which would have been payable had the member
1543 not elected the option. In addition, any retired member who is
1544 receiving the maximum retirement allowance for life, a retirement
1545 allowance under Option 1 or who is receiving a retirement
1546 allowance under Option 2 or Option 4-A on July 1, 1992, may elect
1547 to provide survivor benefits under Option 2 or Option 4-A to a
1548 spouse who was not previously the member's beneficiary and whom
1549 the member married before July 1, 1992.

1550 (3) Any retired member who is receiving a reduced retirement
1551 allowance under Option 2 or Option 4-A whose designated
1552 beneficiary predeceases him, or whose marriage to a spouse who is
1553 his designated beneficiary is terminated by divorce or other
1554 dissolution, may elect to cancel his reduced retirement allowance
1555 and receive the maximum retirement allowance for life in an amount
1556 equal to the amount that would have been payable if the member had
1557 not elected Option 2 or Option 4-A. Such election must be made in
1558 writing to the office of the executive director of the system on a
1559 form prescribed by the board. Any such election shall be
1560 effective the first of the month following the date the election
1561 is received by the system.

1562 (4) Any retired member who is receiving the maximum
1563 retirement allowance for life, or a retirement allowance under

1564 Option 1, and who marries after his retirement may elect to cancel
1565 his maximum retirement allowance and receive a reduced retirement
1566 allowance under Option 2 or Option 4-A to provide continuing
1567 lifetime benefits to his spouse. Such election must be made in
1568 writing to the office of the executive director of the system on a
1569 form prescribed by the board not earlier than the date of the
1570 marriage. Any such election shall be effective the first of the
1571 month following the date the election is received by the system.

1572 (5) In the event the election of an optional benefit is made
1573 after the member has attained the age of sixty-five (65) years,
1574 the actuarial equivalent factor shall be used to compute the
1575 reduced retirement allowance as if the election had been made on
1576 his sixty-fifth birthday; however, from and after January 1, 2003,
1577 if there is an election of Option 6 after the member has attained
1578 the age of sixty-five (65) years, the actuarial equivalent factor
1579 based on the retiree's age at the time of retirement shall be used
1580 to compute the reduced maximum monthly retirement allowance.
1581 However, if a retiree marries or remarries after retirement and
1582 elects either Option 2 or Option 4-A as provided in subsection (2)
1583 or (4) of this section, the actuarial equivalent factor used to
1584 compute the reduced retirement allowance shall be the factor for
1585 the age of the retiree and his or her beneficiary at the time such
1586 election for recalculation of benefits is made.

1587 (6) Notwithstanding any provision of Section 25-11-1 et
1588 seq., no payments may be made for a retirement allowance on a
1589 monthly basis for a period of time in excess of that allowed by
1590 federal law.

1591 (7) If a retirant and his eligible beneficiary, if any, both
1592 die before they have received in annuity payments a total amount
1593 equal to the accumulated contributions standing to the retirant's
1594 credit in the annuity savings account at the time of his
1595 retirement, the difference between the accumulated contributions

1596 and the total amount of annuities received by them shall be paid
1597 to such persons as the retirant has nominated by written
1598 designation duly executed and filed in the office of the executive
1599 director. If no designated person survives the retirant and his
1600 beneficiary, the difference, if any, shall be paid pursuant to
1601 Section 25-11-117.1(1).

1602 (8) Any retired member who retired on Option 2(5) or 4-A(5)
1603 prior to July 1, 1992, who is still receiving a retirement
1604 allowance on July 1, 1994, shall receive an increase in the annual
1605 retirement allowance effective July 1, 1994, equal to the amount
1606 they would have received under Option 2 or Option 4-A without a
1607 reduction for Option 5 based on the ages at retirement of the
1608 retiree and beneficiary and option factors in effect on July 1,
1609 1992. Such increase shall be prospective only.

1610 **SECTION 8.** Section 25-11-117, Mississippi Code of 1972, is
1611 amended as follows:

1612 25-11-117. (1) A member may be paid a refund of the amount
1613 of accumulated contributions to the credit of the member in the
1614 annuity savings account, provided that the member has withdrawn
1615 from state service and has not returned to state service on the
1616 date the refund of the accumulated contributions would be paid.
1617 That refund of the contributions to the credit of the member in
1618 the annuity savings account shall be paid within ninety (90) days
1619 from receipt in the office of the retirement system of the
1620 properly completed form requesting the payment. In the event of
1621 death before retirement of any member whose spouse and/or children
1622 are not entitled to a retirement allowance, the accumulated
1623 contributions to the credit of the deceased member in the annuity
1624 savings account shall be paid to the designated beneficiary on
1625 file in writing in the office of the executive director of the
1626 board of trustees within ninety (90) days from receipt of a
1627 properly completed form requesting the payment. If there is no

1628 such designated beneficiary on file for the deceased member in the
1629 office of the system, upon the filing of a proper request with the
1630 board, the contributions to the credit of the deceased member in
1631 the annuity savings account shall be refunded pursuant to Section
1632 25-11-117.1(1). The payment of the refund shall discharge all
1633 obligations of the retirement system to the member on account of
1634 any creditable service rendered by the member prior to the receipt
1635 of the refund. By the acceptance of the refund, the member shall
1636 waive and relinquish all accrued rights in the system.

1637 (2) Under the Unemployment Compensation Amendments of 1992
1638 (Public Law 102-318 (UCA)), a member or the spouse of a member who
1639 is an eligible beneficiary entitled to a refund under this section
1640 may elect, on a form prescribed by the board under rules and
1641 regulations established by the board, to have an eligible rollover
1642 distribution of accumulated contributions payable under this
1643 section paid directly to an eligible retirement plan, as defined
1644 under applicable federal law, or an individual retirement account.
1645 If the member or the spouse of a member who is an eligible
1646 beneficiary makes that election and specifies the eligible
1647 retirement plan or individual retirement account to which the
1648 distribution is to be paid, the distribution will be made in the
1649 form of a direct trustee-to-trustee transfer to the specified
1650 eligible retirement plan. Flexible rollovers under this
1651 subsection shall not be considered assignments under Section
1652 25-11-129.

1653 (3) (a) If any person who became a member of the system
1654 before July 1, 2006, has received a refund reenters the state
1655 service and again becomes a member of the system, the member may
1656 repay all or part of the amounts previously received as a refund,
1657 together with regular interest covering the period from the date
1658 of refund to the date of repayment; however, the amounts that are
1659 repaid by the member and the creditable service related thereto

1660 shall not be used in any benefit calculation or determination
1661 until the member has remained a contributor to the system for a
1662 period of at least four (4) years after the member's reentry into
1663 state service. Repayment for that time shall be made in
1664 increments of not less than one-quarter (1/4) year of creditable
1665 service beginning with the most recent service for which refund
1666 has been made. Upon the repayment of all or part of that refund
1667 and interest, the member shall again receive credit for the period
1668 of creditable service for which full repayment has been made to
1669 the system.

1670 (b) If any person who became a member of the system on
1671 or after July 1, 2006, has received a refund reenters the state
1672 service and again becomes a member of the system, the member may
1673 repay all or part of the amounts previously received as a refund,
1674 together with regular interest covering the period from the date
1675 of refund to the date of repayment; however, the amounts that are
1676 repaid by the member and the creditable service related thereto
1677 shall not be used in any benefit calculation or determination
1678 until the member has remained a contributor to the system for a
1679 period of at least ten (10) years after the member's reentry into
1680 state service. Repayment for that time shall be made in
1681 increments of not less than one-quarter (1/4) year of creditable
1682 service beginning with the most recent service for which refund
1683 has been made. Upon the repayment of all or part of that refund
1684 and interest, the member shall again receive credit for the period
1685 of creditable service for which full repayment has been made to
1686 the system.

1687 (4) (a) In order to provide a source of income to members
1688 who have applied for disability benefits under Section 25-11-113
1689 or 25-11-114, the board may provide, at the employee's election, a
1690 temporary benefit to be paid from the member's accumulated
1691 contributions, if any, without forfeiting the right to pursue

1692 disability benefits, provided that the member has exhausted all
1693 personal and medical leave and has terminated his or her
1694 employment. The board may prescribe rules and regulations for
1695 carrying out the provisions of this subsection (4).

1696 (b) If a member who has elected to receive temporary
1697 benefits under this subsection later applies for a refund of his
1698 or her accumulated contributions, all amounts paid under this
1699 subsection shall be deducted from the accumulated contributions
1700 and the balance will be paid to the member. If a member who has
1701 elected to receive temporary benefits under this subsection is
1702 later approved for a disability retirement allowance, and a
1703 service retirement allowance or survivor benefits are paid on the
1704 account, the board shall adjust the benefits in such a manner that
1705 no more than the actuarial equivalent of the benefits to which the
1706 member or beneficiary was or is entitled shall be paid.

1707 (c) The board may study, develop and propose a
1708 disability benefit structure, including short and long term
1709 disability benefits, provided that it is the actuarial equivalent
1710 of the benefits currently provided in Section 25-11-113 or
1711 25-11-114.

1712 **SECTION 9.** For purposes of Sections 25-11-103, 25-11-105,
1713 25-11-109, 25-11-111, 25-11-113, 25-11-114, 25-11-115 and
1714 25-11-117, if a member of the system withdrew from state service
1715 and received a refund of the amount of the accumulated
1716 contributions to the credit of the member in the annuity savings
1717 account before July 1, 2006, and the person reenters state service
1718 and becomes a member of the system again on or after July 1, 2006,
1719 and repays all or part of the amount received as a refund and
1720 interest in order to receive creditable service for service
1721 rendered before July 1, 2006, the member shall be considered to
1722 have become a member of the system on or after July 1, 2006.

1723 **SECTION 10.** Section 25-13-11, Mississippi Code of 1972, is
1724 amended as follows:

1725 25-13-11. (1) Any member upon withdrawal from service, upon
1726 or after attainment of the age of fifty-five (55) years, who shall
1727 have completed at least five (5) years of creditable service; or
1728 any member who became a member before July 1, 2006, upon
1729 withdrawal from service upon or after attainment of the age of
1730 forty-five (45) years, who shall have completed at least twenty
1731 (20) years of creditable service; or any member upon withdrawal
1732 from service, regardless of age, who shall have completed at least
1733 twenty-five (25) years of creditable service, shall be entitled to
1734 receive a retirement allowance which shall be payable the first of
1735 the month following receipt of the member's application in the
1736 Office of the Executive Director of the Public Employees'
1737 Retirement System, but in no event before withdrawal from service.

1738 (2) Any member whose withdrawal from service occurs prior to
1739 attaining the age of fifty-five (55) years, who shall have
1740 completed more than five (5) years of creditable service and shall
1741 not have received a refund of the member's accumulated
1742 contributions, shall be entitled to receive a retirement allowance
1743 beginning upon his attaining the age of fifty-five (55) years of
1744 the amount earned and accrued at the date of withdrawal from
1745 service.

1746 (3) The annual amount of the retirement allowance shall
1747 consist of:

1748 (a) A member's annuity, which shall be the actuarial
1749 equivalent of the accumulated contributions of the member at the
1750 time of retirement, computed according to the actuarial table in
1751 use by the system.

1752 (b) An employer's annuity which, together with the
1753 member's annuity provided above, shall be equal to two and
1754 one-half percent (2-1/2%) of the average compensation, based on

1755 the four (4) highest consecutive years, for each year of
1756 membership service.

1757 (c) A prior service annuity equal to two and one-half
1758 percent (2-1/2%) of the average compensation, based on the four
1759 (4) highest consecutive years, for each year of prior service for
1760 which the member is allowed credit.

1761 (d) In the case of retirement of any member prior to
1762 attaining the age of fifty-five (55) years, the retirement
1763 allowance shall be computed in accordance with the formula
1764 hereinabove set forth in this section, except that the employer's
1765 annuity and prior service annuity above described shall be reduced
1766 three percent (3%) for each year of age below fifty-five (55)
1767 years, or three percent (3%) for each year of service below
1768 twenty-five (25) years of creditable service, whichever is lesser.

1769 (e) Upon retiring from service, a member shall be
1770 eligible to obtain retirement benefits, as computed above, for
1771 life, except that the aggregate amount of the employer's annuity
1772 and prior service annuity above described shall not exceed more
1773 than one hundred percent (100%) of the average compensation
1774 regardless of the years of service.

1775 (f) Any member in the service who shall have attained
1776 the age of sixty (60) years shall be retired forthwith. However,
1777 any member who has attained age sixty (60) may ask the
1778 Commissioner of Public Safety to allow him to continue in service
1779 with the Mississippi Highway Safety Patrol beyond age sixty (60).
1780 If the commissioner determines that the member's continuance in
1781 service would be advantageous to the Highway Safety Patrol because
1782 of his expert knowledge, experience or qualifications, the member
1783 shall be allowed to continue in service beyond age sixty (60) for
1784 a period of one (1) year. After the initial one-year continuance,
1785 the commissioner may authorize the member to continue in service

1786 for additional periods of one (1) year until the member attains
1787 age sixty-five (65), at which time retirement shall be mandatory.

1788 (g) Notwithstanding any provision of this chapter
1789 pertaining to the Mississippi Highway Safety Patrol Retirement
1790 System, no payments may be made for a retirement allowance on a
1791 monthly basis for a period of time in excess of that allowed by
1792 any applicable federal law.

1793 (h) In no case shall any retired member who has
1794 completed at least fifteen (15) years of creditable service
1795 receive less than Five Hundred Dollars (\$500.00) per month; in no
1796 case shall any retired member who has completed ten (10) or more
1797 years of creditable service, but less than fifteen (15) years of
1798 creditable service, receive less than Three Hundred Dollars
1799 (\$300.00) per month; and in no case shall any retired member who
1800 has completed less than ten (10) years of creditable service
1801 receive less than Two Hundred Fifty Dollars (\$250.00) per month.
1802 In no case shall a beneficiary who is receiving a retirement
1803 allowance receive less than Two Hundred Fifty Dollars (\$250.00)
1804 per month or Three Thousand Dollars (\$3,000.00) per year.

1805 (i) Any retired member who is receiving a retirement
1806 allowance on July 1, 1999, shall receive an ad hoc increase in the
1807 annual retirement allowance equal to Three Dollars and Fifty Cents
1808 (\$3.50) per month for each full fiscal year through June 30, 1999,
1809 that the member has actually drawn retirement payments from the
1810 date of retirement, or the date of last retirement if there is
1811 more than one (1) retirement date, plus an amount equal to One
1812 Dollar (\$1.00) per month for each full year of creditable service
1813 and proportionately for each quarter year of creditable service,
1814 as documented by the system and on which benefits are being paid.
1815 If there are multiple beneficiaries receiving a retirement
1816 allowance from a deceased member's account, the ad hoc increase
1817 shall be divided proportionately.

1818 (4) For purposes of this section, if a highway patrolman
1819 received a refund under Section 25-13-21 before July 1, 2006, and
1820 reenters the service of the Highway Safety Patrol and becomes a
1821 member of the system again on or after July 1, 2006, and repays
1822 all or part of the amount received as a refund and interest in
1823 order to receive creditable service for service rendered before
1824 July 1, 2006, the member shall be considered to have become a
1825 member of the system on or after July 1, 2006.

1826 **SECTION 11.** Section 25-11-127, Mississippi Code of 1972, is
1827 amended as follows:

1828 25-11-127. (1) (a) No person who is being paid a
1829 retirement allowance or a pension after retirement under this
1830 article shall be employed or paid for any service by the State of
1831 Mississippi, except as provided in this section.

1832 (b) No retiree of this retirement system who is
1833 reemployed or is reelected to office after retirement shall
1834 continue to draw retirement benefits while so reemployed, except
1835 as provided in this section.

1836 (c) No person employed or elected under the exceptions
1837 provided for in this section shall become a member under Article 3
1838 of the retirement system.

1839 (2) Any person who has been retired under the provisions of
1840 Article 3 and who is later reemployed in service covered by this
1841 article shall cease to receive benefits under this article and
1842 shall again become a contributing member of the retirement system.
1843 When the person retires again, if the reemployment exceeds six (6)
1844 months, the person shall have his or her benefit recomputed,
1845 including service after again becoming a member, provided that the
1846 total retirement allowance paid to the retired member in his or
1847 her previous retirement shall be deducted from the member's
1848 retirement reserve and taken into consideration in recalculating
1849 the retirement allowance under a new option selected.

1850 (3) The board shall have the right to prescribe rules and
1851 regulations for carrying out the provisions of this section.

1852 (4) The provisions of this section shall not be construed to
1853 prohibit any retiree, regardless of age, from being employed and
1854 drawing a retirement allowance either:

1855 (a) For a period of time not to exceed one-half (1/2)
1856 of the normal working days for the position in any fiscal year
1857 during which the retiree will receive no more than fifty percent
1858 (50%) of the retiree's average compensation, or

1859 (b) For a period of time in any fiscal year sufficient
1860 in length to permit a retiree to earn not in excess of twenty-five
1861 percent (25%) of the retiree's average compensation.

1862 To determine the normal working days for a position under
1863 paragraph (a) of this subsection, the employer shall determine the
1864 required number of working days for the position on a full-time
1865 basis and the equivalent number of hours representing the
1866 full-time position. The retiree then may work up to one-half
1867 (1/2) of the required number of working days or up to one-half
1868 (1/2) of the equivalent number of hours and receive up to fifty
1869 percent (50%) of the retiree's average compensation. In the case
1870 of employment with multiple employers, the limitation shall equal
1871 one-half (1/2) of the number of days or hours for a single
1872 full-time position.

1873 Notice shall be given in writing to the executive director,
1874 setting forth the facts upon which the employment is being made,
1875 and the notice shall be given within five (5) days from the date
1876 of employment and also from the date of termination of the
1877 employment.

1878 (5) Any member may continue in municipal or county elected
1879 office or be elected to a municipal or county office, provided
1880 that the person:

1881 (a) Files annually, in writing, in the office of the
1882 employer and the office of the executive director of the system
1883 before the person takes office or as soon as possible after
1884 retirement, a waiver of all salary or compensation and elects to
1885 receive in lieu of that salary or compensation a retirement
1886 allowance as provided in this section, in which event no salary or
1887 compensation shall thereafter be due or payable for those
1888 services; however, any such officer or employee may receive, in
1889 addition to the retirement allowance, office expense allowance,
1890 mileage or travel expense authorized by any statute of the State
1891 of Mississippi; or

1892 (b) Elects to receive compensation for that elective
1893 office in an amount not to exceed twenty-five percent (25%) of the
1894 retiree's average compensation. As used in this paragraph, the
1895 term "compensation" shall not include office expense allowance,
1896 mileage or travel expense authorized by a statute of the State of
1897 Mississippi. In order to receive compensation as allowed in this
1898 paragraph, the member shall file annually, in writing, in the
1899 office of the employer and the office of the executive director of
1900 the system, an election to receive, in addition to a retirement
1901 allowance, compensation as allowed in this paragraph.

1902 (6) A retiree who is being paid a retirement allowance or a
1903 pension after retirement under Article 3 and who is engaged or
1904 employed as an independent contractor to any agency of the State
1905 of Mississippi, or any political subdivision or instrumentality
1906 thereof that elects to participate in the retirement system as
1907 provided in Section 25-11-105(f), shall forfeit his or her
1908 retirement allowance for the period beginning on the first day of
1909 the month in which the independent contractor services begin and
1910 ending on the first day of the month following the month in which
1911 the independent contractor services end. A retiree who is subject

1912 to this subsection (6) shall not contribute to the retirement
1913 system and shall not become a member of the system.

1914 **SECTION 12.** This act shall take effect and be in force from
1915 and after July 1, 2006, except for Section 11, which shall take
1916 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 AMEND SECTION 25-13-11, MISSISSIPPI CODE
12 OF 1972, TO PROVIDE THAT MEMBERS OF THE HIGHWAY SAFETY PATROL
13 RETIREMENT SYSTEM WHO BECOME MEMBERS OF THE SYSTEM ON OR AFTER
14 JULY 1, 2006, SHALL NOT HAVE THE OPTION OF RETIRING UPON OR AFTER
15 THE ATTAINMENT OF 45 YEARS OF AGE WITH 20 YEARS OF CREDITABLE
16 SERVICE; TO AMEND SECTION 25-11-127, MISSISSIPPI CODE OF 1972, TO
17 PROVIDE THAT RETIREES UNDER THE PUBLIC EMPLOYEES' RETIREMENT
18 SYSTEM WHO ARE EMPLOYED FOR ONE-HALF OF THE NORMAL WORKING DAYS
19 FOR THE POSITION MAY NOT RECEIVE MORE THAN 50% OF THE RETIREE'S
20 AVERAGE COMPENSATION; TO PROVIDE THAT RETIREES UNDER THE PUBLIC
21 EMPLOYEES' RETIREMENT SYSTEM WHO ARE ENGAGED OR EMPLOYED AS AN
22 INDEPENDENT CONTRACTOR TO A STATE AGENCY OR POLITICAL SUBDIVISION
23 SHALL FORFEIT THEIR RETIREMENT ALLOWANCES DURING THE PERIOD IN
24 WHICH THEY PROVIDE THE INDEPENDENT CONTRACTOR SERVICES; AND FOR
25 RELATED PURPOSES.