

By: Representative Stringer

To: Appropriations

HOUSE BILL NO. 1016

1 AN ACT TO AMEND SECTIONS 25-11-103, 25-11-105, 25-11-109,
2 25-11-111, 25-11-113, 25-11-114, 25-11-115, 25-11-117, 25-11-311
3 AND 25-11-315, MISSISSIPPI CODE OF 1972, TO INCREASE THE NUMBER OF
4 YEARS OF MEMBERSHIP SERVICE REQUIRED TO VEST IN THE PUBLIC
5 EMPLOYEES' RETIREMENT SYSTEM FROM FOUR YEARS TO EIGHT YEARS FOR
6 PERSONS WHO BECOME MEMBERS OF THE SYSTEM ON OR AFTER JULY 1, 2007;
7 TO LIMIT THE SELECTION OF THE PARTIAL LUMP-SUM DISTRIBUTION OPTION
8 TO THOSE WHO HAVE TWENTY-EIGHT OR MORE YEARS OF CREDITABLE SERVICE
9 AT THE TIME OF RETIREMENT FOR PERSONS WHO BECOME MEMBERS OF THE
10 SYSTEM ON OR AFTER JULY 1, 2007; TO CONFORM THE USE OF THE TERMS
11 "MEMBERSHIP SERVICE" AND "CREDITABLE SERVICE"; TO DELETE OBSOLETE
12 LANGUAGE REGARDING THE PHASE-IN OF THE NEW RETIREMENT FORMULA AND
13 REFERENCES TO OPTION 4-C, WHICH IS NO LONGER AVAILABLE; AND FOR
14 RELATED PURPOSES.

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

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

18 25-11-103. The following words and phrases as used in
19 Articles 1 and 3, unless a different meaning is plainly required
20 by the context, have the following meanings:

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

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

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

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

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

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

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

87 (g) "Beneficiary" means any person entitled to receive
88 a retirement allowance, an annuity or other benefit as provided by
89 Articles 1 and 3. The term "beneficiary" may also include an
90 organization, estate, trust or entity; however, a beneficiary
91 designated or entitled to receive monthly payments under an
92 optional settlement based on life contingency or under a statutory
93 monthly benefit may only be a natural person. In the event of the
94 death before retirement of any member who became a member of the
95 system before July 1, 2007, and whose spouse and/or children are
96 not entitled to a retirement allowance on the basis that the
97 member has less than four (4) years of service credit, or who
98 became a member of the system on or after July 1, 2007, and whose

99 spouse and/or children are not entitled to a retirement allowance
100 on the basis that the member has less than eight (8) years of
101 service credit, and/or has not been married for a minimum of one
102 (1) year or the spouse has waived his or her entitlement to a
103 retirement allowance under Section 25-11-114, the lawful spouse of
104 a member at the time of the death of the member shall be the
105 beneficiary of the member unless the member has designated another
106 beneficiary after the date of marriage in writing, and filed that
107 writing in the office of the executive director of the board of
108 trustees. No designation or change of beneficiary shall be made
109 in any other manner.

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

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

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

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

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

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

159 (iii) In the case of members of the State
160 Legislature, all remuneration or amounts paid, except mileage
161 allowance, shall apply.

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

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

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

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

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

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

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

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

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

197 (p) "Medical board" means the board of physicians or
198 any governmental or nongovernmental disability determination
199 service designated by the board of trustees that is qualified to
200 make disability determinations as provided for in Section
201 25-11-119.

202 (q) "Member" means any person included in the
203 membership of the system as provided in Section 25-11-105. For
204 purposes of Sections 25-11-103, 25-11-105, 25-11-109, 25-11-111,
205 25-11-113, 25-11-114, 25-11-115 and 25-11-117, if a member of the
206 system withdrew from state service and received a refund of the
207 amount of the accumulated contributions to the credit of the
208 member in the annuity savings account before July 1, 2007, and the
209 person reenters state service and becomes a member of the system
210 again on or after July 1, 2007, and repays all or part of the
211 amount received as a refund and interest in order to receive
212 creditable service for service rendered before July 1, 2007, the
213 member shall be considered to have become a member of the system
214 on or after July 1, 2007, subject to the eight (8) year membership
215 service requirement, as applicable in those sections.

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

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

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

238 (t) "Prior service" means:

239 (i) For persons who became members of the system
240 before July 1, 2007, service rendered before February 1, 1953, for
241 which credit is allowable under Sections 25-11-105 and 25-11-109,
242 and which shall allow prior service for any person who is now or
243 becomes a member of the Public Employees' Retirement System and
244 who does contribute to the system for a minimum period of four (4)
245 years.

246 (ii) For persons who became members of the system
247 on or after July 1, 2007, service rendered before February 1,
248 1953, for which credit is allowable under Sections 25-11-105 and
249 25-11-109, and which shall allow prior service for any person who
250 is now or becomes a member of the Public Employees' Retirement
251 System and who does contribute to the system for a minimum period
252 of eight (8) years.

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

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

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

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

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

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

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

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

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

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

303 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

304 The membership of this retirement system shall be composed as
305 follows:

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

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

322 (b) All persons who become employees in the state
323 service after January 31, 1953, except those specifically excluded
324 or as to whom election is provided in Articles 1 and 3, unless
325 they file with the board before the lapse of sixty (60) days of
326 employment or sixty (60) days after the effective date of the
327 cited articles, whichever is later, on a form prescribed by the
328 board, a notice of election not to be covered by the membership of

329 the retirement system and a duly executed waiver of all present
330 and prospective benefits that would otherwise inure to them on
331 account of their participation in the system, shall become members
332 of the retirement system; however, no credit for prior service
333 will be granted to members who became members of the system before
334 July 1, 2007, until they have contributed to Article 3 of the
335 retirement system for a minimum period of at least four (4) years,
336 or to members who became members of the system on or after July 1,
337 2007, until they have contributed to Article 3 of the retirement
338 system for a minimum period of at least eight (8) years. Those
339 members shall receive credit for services performed before January
340 1, 1953, in employment now covered by Article 3, but no credit
341 shall be granted for retroactive services between January 1, 1953,
342 and the date of their entry into the retirement system, unless the
343 employee pays into the retirement system both the employer's and
344 the employee's contributions on wages paid him during the period
345 from January 31, 1953, to the date of his becoming a contributing
346 member, together with interest at the rate determined by the board
347 of trustees. Members reentering after withdrawal from service
348 shall qualify for prior service under the provisions of Section
349 25-11-117. From and after July 1, 1998, upon eligibility as noted
350 above, the member may receive credit for such retroactive service
351 provided:

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

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

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

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

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

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

389 (f) Each political subdivision of the state and each
390 instrumentality of the state or a political subdivision, or both,
391 is authorized to submit, for approval by the board of trustees, a
392 plan for extending the benefits of this article to employees of
393 any such political subdivision or instrumentality. Each such plan
394 or any amendment to the plan for extending benefits thereof shall

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

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

416 (ii) It specifies the source or sources from which
417 the funds necessary to make the payments required by paragraph (d)
418 of Section 25-11-123 and of paragraph (f)(v)2 and 3 of this
419 section are expected to be derived and contains reasonable
420 assurance that those sources will be adequate for that purpose;

421 (iii) It provides for such methods of
422 administration of the plan by the political subdivision or
423 instrumentality as are found by the board of trustees to be
424 necessary for the proper and efficient administration thereof;

425 (iv) It provides that the political subdivision or
426 instrumentality will make such reports, in such form and

427 containing such information, as the board of trustees may from
428 time to time require;

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

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

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

453 3. Every political subdivision or
454 instrumentality required to make payments under paragraph (f)(v)2
455 of this section is authorized, in consideration of the employees'
456 retention in or entry upon employment after enactment of Articles
457 1 and 3, to impose upon its employees, as to services that are
458 covered by an approved plan, a contribution with respect to wages
459 (as defined in Section 25-11-5) not exceeding the amount provided

460 in Section 25-11-123(d) if those services constituted employment
461 within the meaning of Articles 1 and 3, and to deduct the amount
462 of the contribution from the wages as and when paid.
463 Contributions so collected shall be paid into the contribution
464 fund as partial discharge of the liability of the political
465 subdivisions or instrumentalities under paragraph (f)(v)2 of this
466 section. Failure to deduct the contribution shall not relieve the
467 employee or employer of liability for the contribution.

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

481 5. Each political subdivision of the state
482 and each instrumentality of the state or a political subdivision
483 or subdivisions that submit a plan for approval of the board, as
484 provided in this section, shall reimburse the board for coverage
485 into the expense account, its pro rata share of the total expense
486 of administering Articles 1 and 3 as provided by regulations of
487 the board.

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

492 its discretion, make optional with employees in any such classes
493 their individual entrance into this system.

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

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

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

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

522 (k) Employees of a political subdivision or
523 instrumentality who were employed by the political subdivision or
524 instrumentality before an agreement between the entity and the

525 Public Employees' Retirement System to extend the benefits of this
526 article to its employees, and which agreement provides for the
527 establishment of retroactive service credit, and who became
528 members of the retirement system before July 1, 2007, and have
529 remained contributors to the retirement system for four (4) years,
530 or who became members of the retirement system on or after July 1,
531 2007, and have remained contributors to the retirement system for
532 eight (8) years, may receive credit for that retroactive service
533 with the political subdivision or instrumentality, provided that
534 the employee and/or employer, as provided under the terms of the
535 modification of the joinder agreement in allowing that coverage,
536 pay into the retirement system the employer's and employee's
537 contributions on wages paid the member during the previous
538 employment, together with interest or actuarial cost as determined
539 by the board covering the period from the date the service was
540 rendered until the payment for the credit for the service was
541 made. Those wages shall be verified by the Social Security
542 Administration or employer payroll records. Effective July 1,
543 1998, upon eligibility as noted above, a member may receive credit
544 for that retroactive service with the political subdivision or
545 instrumentality provided:

546 (i) The member shall furnish proof satisfactory to
547 the board of trustees of certification of those services from the
548 political subdivision or instrumentality where the services were
549 rendered or verification by the Social Security Administration;
550 and

551 (ii) The member shall pay to the retirement system
552 on the date he or she is eligible for that credit or at any time
553 thereafter before the date of retirement the actuarial cost for
554 each year of that creditable service. The provisions of this
555 subparagraph (ii) shall be subject to the limitations of Section
556 415 of the Internal Revenue Code and regulations promulgated under
557 Section 415.

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

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

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

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

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

586 (a) Patient or inmate help in state charitable, penal
587 or correctional institutions;

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

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

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

598 **III. TERMINATION OF MEMBERSHIP**

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

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

605 25-11-109. (1) Under such rules and regulations as the
606 board of trustees shall adopt, each person who becomes a member of
607 this retirement system, as provided in Section 25-11-105, on or
608 before July 1, 1953, or who became a member of the system before
609 July 1, 2007, and contributes to the system for a minimum period
610 of four (4) years, or who became a member of the system on or
611 after July 1, 2007, and contributes to the system for a minimum
612 period of eight (8) years, shall receive credit for all state
613 service rendered before February 1, 1953. To receive that credit,
614 the member shall file a detailed statement of all services as an
615 employee rendered by him in the state service before February 1,
616 1953. For any member who joined the system after July 1, 1953,
617 and before July 1, 2007, any creditable service for which the
618 member is not required to make contributions shall not be credited
619 to the member until the member has contributed to the system for a
620 minimum period of at least four (4) years. For any member who
621 joined the system on or after July 1, 2007, any creditable service
622 for which the member is not required to make contributions shall

623 not be credited to the member until the member has contributed to
624 the system for a minimum period of at least eight (8) years.

625 (2) In the computation of creditable service under the
626 provisions of this article, the total months of accumulative
627 service during any fiscal year shall be calculated in accordance
628 with the schedule as follows: ten (10) or more months of
629 creditable service during any fiscal year shall constitute a year
630 of creditable service; seven (7) months to nine (9) months
631 inclusive, three-quarters (3/4) of a year of creditable service;
632 four (4) months to six (6) months inclusive, one-half-year of
633 creditable service; one (1) month to three (3) months inclusive,
634 one-quarter (1/4) of a year of creditable service. In no case
635 shall credit be allowed for any period of absence without
636 compensation except for disability while in receipt of a
637 disability retirement allowance, nor shall less than fifteen (15)
638 days of service in any month, or service less than the equivalent
639 of one-half (1/2) of the normal working load for the position and
640 less than one-half (1/2) of the normal compensation for the
641 position in any month, constitute a month of creditable service,
642 nor shall more than one (1) year of service be creditable for all
643 services rendered in any one (1) fiscal year; however, for a
644 school employee, substantial completion of the legal school term
645 when and where the service was rendered shall constitute a year of
646 service credit * * *. Any state or local elected official shall
647 be deemed a full-time employee for the purpose of creditable
648 service * * *. However, an appointed or elected official
649 compensated on a per diem basis only shall not be allowed
650 creditable service for terms of office.

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

655 benefit shall be granted for any such fractional period of
656 service.

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

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

671 (a) For service before July 1, 1984, the members shall
672 receive credit for leave (combined personal and major medical) for
673 service as an elected official before that date at the rate of
674 thirty (30) days per year.

675 (b) For service on and after July 1, 1984, the member
676 shall receive credit for personal and major medical leave
677 beginning July 1, 1984, at the rates authorized in Sections
678 25-3-93 and 25-3-95, computed as a full-time employee.

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

683 (4) Upon verification of the statement of prior service, the
684 board shall issue a prior service certificate certifying to each
685 member the length of prior service for which credit shall have
686 been allowed on the basis of his statement of service. So long as
687 membership continues, a prior service certificate shall be final

688 and conclusive for retirement purposes as to such service,
689 provided that any member may within five (5) years from the date
690 of issuance or modification of such certificate request the board
691 of trustees to modify or correct his prior service certificate.
692 Any modification or correction authorized shall only apply
693 prospectively.

694 When membership ceases, such prior service certificates shall
695 become void. Should the employee again become a member, he shall
696 enter the system as an employee not entitled to prior service
697 credit except as provided in Sections 25-11-105(I), 25-11-113 and
698 25-11-117.

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

705 (6) Any member who served on active duty in the Armed Forces
706 of the United States, who served in the Commissioned Corps of the
707 United States Public Health Service before 1972 or who served in
708 maritime service during periods of hostility in World War II,
709 shall be entitled to creditable service at no cost for his service
710 on active duty in the Armed Forces, in the Commissioned Corps of
711 the United States Public Health Service before 1972 or in such
712 maritime service, provided he entered state service after his
713 discharge from the Armed Forces or entered state service after he
714 completed such maritime service. The maximum period for such
715 creditable service for all military service as defined in this
716 subsection (6) shall not exceed four (4) years unless positive
717 proof can be furnished by such person that he was retained in the
718 Armed Forces during World War II or in maritime service during
719 World War II by causes beyond his control and without opportunity
720 of discharge. The member shall furnish proof satisfactory to the

721 board of trustees of certification of military service or maritime
722 service records showing dates of entrance into active duty service
723 and the date of discharge. From and after July 1, 1993, no
724 creditable service shall be granted for any military service or
725 maritime service to a member who qualifies for a retirement
726 allowance in another public retirement system administered by the
727 Board of Trustees of the Public Employees' Retirement System based
728 in whole or in part on such military or maritime service. In no
729 case shall the member receive creditable service if the member
730 received a dishonorable discharge from the Armed Forces of the
731 United States.

732 (7) (a) Any member of the Public Employees' Retirement
733 System whose membership service is interrupted as a result of
734 qualified military service within the meaning of Section 414(u)(5)
735 of the Internal Revenue Code, and who has received the maximum
736 service credit available under subsection (6) of this section,
737 shall receive creditable service for the period of qualified
738 military service that does not qualify as creditable service under
739 subsection (6) of this section upon reentering membership service
740 in an amount not to exceed five (5) years if:

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

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

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

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

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

764 (8) Any member of the Public Employees' Retirement System
765 who became a member of the system before July 1, 2007, and who has
766 at least four (4) years of membership service credit, or who
767 became a member of the system on or after July 1, 2007, and who
768 has at least eight (8) years of membership service credit, shall
769 be entitled to receive a maximum of five (5) years creditable
770 service for service rendered in another state as a public employee
771 of such other state, or a political subdivision, public education
772 system or other governmental instrumentality thereof, or service
773 rendered as a teacher in American overseas dependent schools
774 conducted by the Armed Forces of the United States for children of
775 citizens of the United States residing in areas outside the
776 continental United States, provided that:

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

783 (b) The member is not receiving or will not be entitled
784 to receive from the public retirement system of the other state or
785 from any other retirement plan, including optional retirement

786 plans, sponsored by the employer, a retirement allowance including
787 such services; and

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

796 (9) Any member of the Public Employees' Retirement System
797 who became a member of the system before July 1, 2007, and has at
798 least four (4) years of membership service credit, or who became a
799 member of the system on or after July 1, 2007, and has at least
800 eight (8) years of membership service credit, and who receives, or
801 has received, professional leave without compensation for
802 professional purposes directly related to the employment in state
803 service shall receive creditable service for the period of
804 professional leave without compensation provided:

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

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

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

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

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

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

826 Any actively contributing member participating in the School
827 Administrator Sabbatical Program established in Section 37-9-77
828 shall qualify for continued participation under this subsection
829 (9).

830 (10) Any member of the Public Employees' Retirement System
831 who became a member of the system before July 1, 2007, and has at
832 least four (4) years of credited membership service, or who became
833 a member of the system on or after July 1, 2007, and has at least
834 eight (8) years of credited membership service, shall be entitled
835 to receive a maximum of ten (10) years creditable service for:

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

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

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

851 After a member has made full payment to the retirement system for
852 all or any part of such service, the member shall receive
853 creditable service for the period of such service for which full
854 payment has been made to the retirement system.

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

857 25-11-111. (a) (1) Any member who became a member of the
858 system before July 1, 2007, upon withdrawal from service upon or
859 after attainment of the age of sixty (60) years who has completed
860 at least four (4) years of membership service, or any member upon
861 withdrawal from service regardless of age who has completed at
862 least twenty-five (25) years of creditable service, shall be
863 entitled to receive a retirement allowance, which shall begin on
864 the first of the month following the date the member's application
865 for the allowance is received by the board, but in no event before
866 withdrawal from service.

867 (2) Any member who became a member of the system on or
868 after July 1, 2007, upon withdrawal from service upon or after
869 attainment of the age of sixty (60) years who has completed at
870 least eight (8) years of membership service, or any member who
871 became a member of the system on or after July 1, 2007, upon
872 withdrawal from service regardless of age who has completed at
873 least twenty-five (25) years of creditable service, shall be
874 entitled to receive a retirement allowance, which shall begin on
875 the first of the month following the date the member's application
876 for the allowance is received by the board, but in no event before
877 withdrawal from service.

878 (b) (1) Any member who became a member of the system before
879 July 1, 2007, whose withdrawal from service occurs before
880 attaining the age of sixty (60) years who has completed four (4)
881 or more years of membership service and has not * * * received a
882 refund of his accumulated contributions, shall be entitled to
883 receive a retirement allowance, beginning upon his attaining the

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

886 (2) Any member who became a member of the system on or
887 after July 1, 2007, whose withdrawal from service occurs before
888 attaining the age of sixty (60) years who has completed eight (8)
889 or more years of membership service and has not received a refund
890 of his accumulated contributions, shall be entitled to receive a
891 retirement allowance, beginning upon his attaining the age of
892 sixty (60) years, of the amount earned and accrued at the date of
893 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 before actual retirement or death, but upon
902 the death or retirement of the member, the optional settlement
903 shall be placed in effect upon proper notification to the
904 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 * * * service up
914 to and including twenty-five (25) years of creditable service, and
915 two and one-half percent (2-1/2%) of the average compensation for

916 each year of * * * service exceeding twenty-five (25) years of
917 creditable service. * * *

918 * * *

919 (3) Any retired member or beneficiary thereof who was
920 eligible to receive a retirement allowance before July 1, 1991,
921 and who is still receiving a retirement allowance on July 1, 1992,
922 shall receive an increase in the annual retirement allowance of
923 the retired member equal to one-eighth of one percent (1/8 of 1%)
924 of the average compensation for each year of state service in
925 excess of twenty-five (25) years of membership service up to and
926 including thirty (30) years. The maximum increase shall be
927 five-eighths of one percent (5/8 of 1%). In no case shall a
928 member who has been retired before July 1, 1987, receive less than
929 Ten Dollars (\$10.00) per month for each year of creditable service
930 and proportionately for each quarter year thereof. Persons
931 retired on or after July 1, 1987, shall receive at least Ten
932 Dollars (\$10.00) per month for each year of service and
933 proportionately for each quarter year thereof reduced for the
934 option selected. However, such Ten Dollars (\$10.00) minimum per
935 month for each year of creditable service shall not apply to a
936 retirement allowance computed under Section 25-11-114 based on a
937 percentage of the member's average compensation.

938 * * *

939 (e) No member, except members excluded by the Age
940 Discrimination in Employment Act Amendments of 1986 (Public Law
941 99-592), under either Article 1 or Article 3 in state service
942 shall be required to retire because of age.

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

946 (g) (1) A retiree or beneficiary may, on a form prescribed
947 by and filed with the retirement system, irrevocably waive all or
948 a portion of any benefits from the retirement system to which the

949 retiree or beneficiary is entitled. The waiver shall be binding
950 on the heirs and assigns of any retiree or beneficiary and the
951 same must agree to forever hold harmless the Public Employees'
952 Retirement System of Mississippi from any claim to the waived
953 retirement benefits.

954 (2) Any waiver under this subsection shall apply only
955 to the person executing the waiver. A beneficiary shall be
956 entitled to benefits according to the option selected by the
957 member at the time of retirement. However, a beneficiary may, at
958 the option of the beneficiary, execute a waiver of benefits under
959 this subsection.

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

963 (4) The board of trustees may provide rules and
964 regulations for the administration of waivers under this
965 subsection.

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

968 25-11-113. (1) (a) Upon the application of a member or his
969 employer, any active member in state service who became a member
970 of the system before July 1, 2007, and who has at least four (4)
971 years of membership service credit, or any active member in state
972 service who became a member of the system on or after July 1,
973 2007, who has at least eight (8) years of membership service
974 credit, may be retired by the board of trustees on the first of
975 the month following the date of filing the application on a
976 disability retirement allowance, but in no event shall the
977 disability retirement allowance begin before termination of state
978 service, provided that the medical board, after an evaluation of
979 medical evidence that may or may not include an actual physical
980 examination by the medical board, certifies that the member is
981 mentally or physically incapacitated for the further performance

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

1001 (b) Any inactive member who became a member of the
1002 system before July 1, 2007, with four (4) or more years of
1003 membership service credit, or any inactive member who became a
1004 member of the system on or after July 1, 2007, with eight (8) or
1005 more years of membership service credit, who has withdrawn from
1006 active state service, is not eligible for a disability retirement
1007 allowance unless the disability occurs within six (6) months of
1008 the termination of active service and unless satisfactory proof is
1009 presented to the board of trustees that the disability was the
1010 direct cause of withdrawal from state service.

1011 (c) Any member who is or becomes eligible for service
1012 retirement benefits under Section 25-11-111 while pursuing a
1013 disability retirement allowance under this section or Section
1014 25-11-114 may elect to receive a service retirement allowance

1015 pending a final determination on eligibility for a disability
1016 retirement allowance or withdrawal of the application for the
1017 disability retirement allowance. In such a case, an application
1018 for a disability retirement allowance must be on file with the
1019 system before the beginning of a service retirement allowance. If
1020 the application is approved, the option selected and beneficiary
1021 designated on the retirement application shall be used to
1022 determine the disability retirement allowance. If the application
1023 is not approved or if the application is withdrawn, the service
1024 retirement allowance shall continue to be paid in accordance with
1025 the option selected. No person may apply for a disability
1026 retirement allowance after the person begins to receive a service
1027 retirement allowance.

1028 (d) If the medical board certifies that the member is
1029 not mentally or physically incapacitated for the future
1030 performance of duty, the member may request, within sixty (60)
1031 days, a hearing before the hearing officer as provided in Section
1032 25-11-120. All hearings shall be held in accordance with rules
1033 and regulations adopted by the board to govern those hearings.
1034 The hearing may be closed upon the request of the member.

1035 (e) The medical board may request additional medical
1036 evidence and/or other physicians to conduct an evaluation of the
1037 member's condition. If the medical board requests additional
1038 medical evidence and the member refuses the request, the
1039 application shall be considered void.

1040 (2) Allowance on disability retirement.

1041 (a) Upon retirement for disability, an eligible member
1042 shall receive a retirement allowance if he has attained the age of
1043 sixty (60) years.

1044 (b) Except as provided in paragraph (c) of this
1045 subsection (2), an eligible member who is retired for disability
1046 and who has not attained sixty (60) years of age shall receive a

1047 disability benefit as computed in Section 25-11-111(d)(1) through
1048 (d)(4), which shall consist of:

1049 (i) A member's annuity, which shall be the
1050 actuarial equivalent of his accumulated contributions at the time
1051 of retirement; and

1052 (ii) An employer's annuity equal to the amount
1053 that would have been payable as a retirement allowance for
1054 eligible creditable service if the member had continued in service
1055 to the age of sixty (60) years, which shall apply to the allowance
1056 for disability retirement paid to retirees receiving such
1057 allowance upon and after April 12, 1977. This employer's annuity
1058 shall be computed on the basis of the average "earned
1059 compensation" as defined in Section 25-11-103.

1060 (c) For persons who become members after June 30, 1992,
1061 and for active members on June 30, 1992, who elect benefits under
1062 this paragraph (c) instead of those provided under paragraph (b)
1063 of this subsection (2), the disability allowance shall consist of
1064 two (2) parts: a temporary allowance and a deferred allowance.

1065 The temporary allowance shall equal the greater of (i) forty
1066 percent (40%) of average compensation at the time of disability,
1067 plus ten percent (10%) of average compensation for each of the
1068 first two (2) dependent children, as defined in Sections 25-11-103
1069 and 25-11-114, or (ii) the accrued benefit based on actual
1070 service. It shall be payable for a period of time based on the
1071 member's age at disability, as follows:

1072	Age at Disability	Duration
1073	60 and earlier	to age 65
1074	61	to age 66
1075	62	to age 66
1076	63	to age 67
1077	64	to age 67
1078	65	to age 68
1079	66	to age 68

1080 67 to age 69
1081 68 to age 70
1082 69 and over one year

1083 The deferred allowance shall begin when the temporary
1084 allowance ends and shall be payable for life. The deferred
1085 allowance shall equal the greater of (i) the allowance that would
1086 have been payable had the member continued in service to the
1087 termination age of the temporary allowance, but no more than forty
1088 percent (40%) of average compensation, or (ii) the accrued benefit
1089 based on actual service at the time of disability. The deferred
1090 allowance as determined at the time of disability shall be
1091 adjusted in accordance with Section 25-11-112 for the period
1092 during which the temporary annuity is payable. In no case shall a
1093 member receive less than Ten Dollars (\$10.00) per month for each
1094 year of service and proportionately for each quarter year thereof
1095 reduced for the option selected.

1096 (d) The member may elect to receive the actuarial
1097 equivalent of the disability retirement allowance in a reduced
1098 allowance payable throughout life under any of the provisions of
1099 the options provided under Section 25-11-115.

1100 (e) If a disability retiree who has not selected an
1101 option under Section 25-11-115 dies before being repaid in
1102 disability benefits the sum of his total contributions, then his
1103 named beneficiary shall receive the difference in cash, which
1104 shall apply to all deceased disability retirees from and after
1105 January 1, 1953.

1106 (3) Reexamination of retirees retired on account of
1107 disability. Except as otherwise provided in this section, once
1108 each year during the first five (5) years following retirement of
1109 a member on a disability retirement allowance, and once in every
1110 period of three (3) years thereafter, the board of trustees may,
1111 and upon his application shall, require any disability retiree who
1112 has not yet attained the age of sixty (60) years or the

1113 termination age of the temporary allowance under subsection (2)(c)
1114 of this section to undergo a medical examination, the examination
1115 to be made at the place of residence of the retiree or other place
1116 mutually agreed upon by a physician or physicians designated by
1117 the board. The board, however, in its discretion, may authorize
1118 the medical board to establish reexamination schedules appropriate
1119 to the medical condition of individual disability retirees. If
1120 any disability retiree who has not yet attained the age of sixty
1121 (60) years or the termination age of the temporary allowance under
1122 subsection (2)(c) of this section refuses to submit to any medical
1123 examination provided in this section, his allowance may be
1124 discontinued until his withdrawal of that refusal; and if his
1125 refusal continues for one (1) year, all his rights to a disability
1126 benefit shall be revoked by the board of trustees.

1127 (4) If the medical board reports and certifies to the board
1128 of trustees, after a comparable job analysis or other similar
1129 study, that the disability retiree is engaged in, or is able to
1130 engage in, a gainful occupation paying more than the difference
1131 between his disability allowance, exclusive of cost of living
1132 adjustments, and the average compensation, and if the board of
1133 trustees concurs in the report, the disability benefit shall be
1134 reduced to an amount that, together with the amount earnable by
1135 him, equals the amount of his average compensation. If his
1136 earning capacity is later changed, the amount of the benefit may
1137 be further modified, provided that the revised benefit shall not
1138 exceed the amount originally granted. A retiree receiving a
1139 disability benefit who is restored to active service at a salary
1140 less than the average compensation shall not become a member of
1141 the retirement system.

1142 (5) If a disability retiree under the age of sixty (60)
1143 years or the termination age of the temporary allowance under
1144 subsection (2)(c) of this section is restored to active service at
1145 a compensation not less than his average compensation, his

1146 disability benefit shall end, he shall again become a member of
1147 the retirement system, and contributions shall be withheld and
1148 reported. Any such prior service certificate, on the basis of
1149 which his service was computed at the time of retirement, shall be
1150 restored to full force and effect. In addition, upon his later
1151 retirement he shall be credited with all creditable service as a
1152 member, but the total retirement allowance paid to the retired
1153 member in his previous retirement shall be deducted from his
1154 retirement reserve and taken into consideration in recalculating
1155 the retirement allowance under a new option selected.

1156 (6) If following reexamination in accordance with the
1157 provisions contained in this section, the medical board determines
1158 that a retiree retired on account of disability is physically and
1159 mentally able to return to the employment from which he is
1160 retired, the board of trustees, upon certification of those
1161 findings from the medical board, shall, after a reasonable period
1162 of time, terminate the disability allowance, whether or not the
1163 retiree is reemployed or seeks that reemployment. In addition, if
1164 the board of trustees determines that the retiree is no longer
1165 sustaining a loss of income as established by documented evidence
1166 of the retiree's earned income, the eligibility for a disability
1167 allowance shall terminate and the allowance terminated within a
1168 reasonable period of time. If the retirement allowance is
1169 terminated under the provisions of this section, the retiree may
1170 later qualify for a retirement allowance under Section 25-11-111
1171 based on actual years of service credit plus credit for the period
1172 during which a disability allowance was paid.

1173 (7) Any current member as of June 30, 1992, who retires on a
1174 disability retirement allowance after June 30, 1992, and who has
1175 not elected to receive benefits under subsection (2)(c) of this
1176 section, shall relinquish all rights under the Age Discrimination
1177 in Employment Act of 1967, as amended, with regard to the benefits
1178 payable under this section.

1179 **SECTION 6.** Section 25-11-114, Mississippi Code of 1972, is
1180 amended as follows:

1181 25-11-114. (1) The applicable benefits provided in
1182 subsections (2) and (3) of this section shall be paid to eligible
1183 beneficiaries of any member who became a member of the system
1184 before July 1, 2007, and has completed four (4) or more years of
1185 membership service, or who became a member of the system on or
1186 after July 1, 2007, and has completed eight (8) or more years of
1187 membership service, and who dies before retirement and who has not
1188 filed a Pre-Retirement Optional Retirement Form as provided in
1189 Section 25-11-111.

1190 (2) (a) The member's surviving spouse who has been married
1191 to the member for not less than one (1) year immediately preceding
1192 his death shall receive an annuity computed in accordance with
1193 paragraph (d) of this subsection (2) as if the member:

1194 (i) Had retired on the date of his death with
1195 entitlement to an annuity provided for in Section 25-11-111,
1196 notwithstanding that he might not have attained age sixty (60) or
1197 acquired twenty-five (25) years of creditable service;

1198 (ii) Had nominated his spouse as beneficiary; and

1199 (b) If, at the time of the member's death, there are no
1200 dependent children, and the surviving spouse, who otherwise would
1201 receive the annuity under this subsection (2), has filed with the
1202 system a signed written waiver of his or her rights to the annuity
1203 and that waiver was in effect at the time of the member's death, a
1204 lump sum distribution of the deceased member's accumulated
1205 contributions shall be refunded in accordance with Section
1206 25-11-117.

1207 (c) The spouse annuity shall begin on the first day of
1208 the month following the date of the member's death, but in case of
1209 late filing, retroactive payments will be made for a period of not
1210 more than one (1) year.

1211 (d) The spouse annuity shall be payable for life and
1212 shall be the greater of twenty percent (20%) of the deceased
1213 member's average compensation as defined in Section 25-11-103 at
1214 the time of death or Fifty Dollars (\$50.00) monthly. Surviving
1215 spouses of deceased members who previously received spouse
1216 retirement benefits under this paragraph (d) from and after July
1217 1, 1992, and whose benefits were terminated before July 1, 2004,
1218 because of remarriage, may again receive the retirement benefits
1219 authorized under this paragraph (d) by making application with the
1220 board to reinstate those benefits. Any reinstatement of the
1221 benefits shall be prospective only and shall begin after the first
1222 of the month following the date of the application for
1223 reinstatement, but no earlier than July 1, 2004.

1224 (e) However, the spouse may elect by an irrevocable
1225 agreement on a form prescribed by the board of trustees to receive
1226 a monthly allowance as computed under either paragraph (d) or this
1227 paragraph. The irrevocable agreement shall constitute a waiver by
1228 the spouse to any current and future monthly allowance under the
1229 paragraph not elected, and the waiver shall be a complete and full
1230 discharge of all obligations of the retirement system under that
1231 paragraph.

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

1244 Section 25-11-111(d). However, if the member dies before being
1245 qualified for full unreduced benefits, then the benefits shall be
1246 reduced by three percent (3%) per year for the lesser of either
1247 the years of service or age required for full unreduced benefits
1248 in Section 25-11-111(d).

1249 (3) (a) Subject to the maximum limitation provided in this
1250 paragraph, the member's dependent children each shall receive an
1251 annuity of the greater of ten percent (10%) of the member's
1252 average compensation as defined in Section 25-11-103 at the time
1253 of the death of the member or Fifty Dollars (\$50.00) monthly;
1254 however, if there are more than three (3) dependent children, each
1255 dependent child shall receive an equal share of a total annuity
1256 equal to thirty percent (30%) of the member's average
1257 compensation, provided that the total annuity shall not be less
1258 than One Hundred Fifty Dollars (\$150.00) per month for all
1259 children.

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

1277 educational or training objective within the period generally
1278 accepted as minimum for completion, by a full-time day student, of
1279 the academic or training program concerned. Any child who is
1280 physically or mentally incompetent, as adjudged by either a
1281 Mississippi court of competent jurisdiction or by the board, shall
1282 receive benefits for as long as the incompetency exists.

1283 (c) If there are more than three (3) dependent
1284 children, upon a child's ceasing to be a dependent child, his
1285 annuity shall terminate and there shall be a redetermination of
1286 the amounts payable to any remaining dependent children.

1287 (d) Annuities payable under this subsection (3) shall
1288 begin the first day of the month following the date of the
1289 member's death or in case of late filing, retroactive payments
1290 will be made for a period of not more than one (1) year. Those
1291 benefits may be paid to a surviving parent or the lawful custodian
1292 of a dependent child for the use and benefit of the child without
1293 the necessity of appointment as guardian.

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

1310 dependent child shall receive an equal share of a total annuity
1311 equal to one-half (1/2) of the member's average compensation. If
1312 there are more than two (2) dependent children, upon a child's
1313 ceasing to be a dependent child, his annuity shall terminate and
1314 there shall be a redetermination of the amounts payable to any
1315 remaining dependent children. Those benefits shall cease to be
1316 paid for the support and maintenance of each child upon the child
1317 attaining the age of nineteen (19) years; however, the spouse
1318 shall continue to be eligible for the aforesaid retirement
1319 allowance. Those benefits may be paid to a surviving parent or
1320 lawful custodian of the children for the use and benefit of the
1321 children without the necessity of appointment as guardian. Any
1322 spouse who received spouse retirement benefits under this
1323 paragraph (a) from and after April 4, 1984, and whose benefits
1324 were terminated before July 1, 2004, because of remarriage, may
1325 again receive the retirement benefits authorized under this
1326 paragraph (a) by making application with the board to reinstate
1327 those benefits. Any reinstatement of the benefits shall be
1328 prospective only and shall begin after the first of the month
1329 following the date of the application for reinstatement, but not
1330 earlier than July 1, 2004.

1331 (b) A child shall be considered to be a dependent child
1332 until marriage, or the attainment of age nineteen (19), whichever
1333 comes first; however, this age limitation shall be extended beyond
1334 age nineteen (19), but in no event beyond the attainment of age
1335 twenty-three (23), as long as the child is a student regularly
1336 pursuing a full-time course of resident study or training in an
1337 accredited high school, trade school, technical or vocational
1338 institute, junior or community college, college, university or
1339 comparable recognized educational institution duly licensed by a
1340 state. A student child whose birthday falls during the school
1341 year (September 1 through June 30) is considered not to reach age
1342 twenty-three (23) until the July 1 following the actual

1343 twenty-third birthday. A full-time course of resident study or
1344 training means a day or evening noncorrespondence course that
1345 includes school attendance at the rate of at least thirty-six (36)
1346 weeks per academic year or other applicable period with a subject
1347 load sufficient, if successfully completed, to attain the
1348 educational or training objective within the period generally
1349 accepted as minimum for completion, by a full-time day student, of
1350 the academic or training program concerned. Any child who is
1351 physically or mentally incompetent, as adjudged by either a
1352 Mississippi court of competent jurisdiction or by the board, shall
1353 receive benefits for as long as the incompetency exists.

1354 (5) If all the annuities provided for in this section
1355 payable on account of the death of a member terminate before there
1356 has been paid an aggregate amount equal to the member's
1357 accumulated contributions standing to the member's credit in the
1358 annuity savings account at the time of the member's death, the
1359 difference between the accumulated contributions and the aggregate
1360 amount of annuity payments shall be paid to the person that the
1361 member has nominated by written designation duly executed and
1362 filed with the board. If there is no designated beneficiary
1363 surviving at termination of benefits, the difference shall be
1364 payable under Section 25-11-117.1(1).

1365 (6) Regardless of the number of years of creditable service,
1366 upon the application of a member or employer, any active member
1367 who becomes disabled as a direct result of an accident or
1368 traumatic event resulting in a physical injury occurring in the
1369 line of performance of duty, provided that the medical board or
1370 other designated governmental agency after a medical examination
1371 certifies that the member is mentally or physically incapacitated
1372 for the further performance of duty and the incapacity is likely
1373 to be permanent, may be retired by the board of trustees on the
1374 first of the month following the date of filing the application
1375 but in no event shall the retirement allowance begin before the

1376 termination of state service. The retirement allowance shall
1377 equal the allowance on disability retirement as provided in
1378 Section 25-11-113 but shall not be less than fifty percent (50%)
1379 of average compensation.

1380 Permanent and total disability resulting from a
1381 cardiovascular, pulmonary or musculo-skeletal condition that was
1382 not a direct result of a traumatic event occurring in the
1383 performance of duty shall be deemed an ordinary disability. A
1384 mental disability based exclusively on employment duties occurring
1385 on an ongoing basis shall be deemed an ordinary disability.

1386 (7) If the deceased or disabled member has less than four
1387 (4) years of membership service, the average compensation as
1388 defined in Section 25-11-103 shall be the average of all annual
1389 earned compensation in state service for the purposes of benefits
1390 provided in this section.

1391 (8) In case of death or total and permanent disability under
1392 subsection (4) or subsection (6) of this section and before the
1393 board shall consider any application for a retirement allowance,
1394 the employer must certify to the board that the member's death or
1395 disability was a direct result of an accident or a traumatic event
1396 occurring during and as a result of the performance of the regular
1397 and assigned duties of the employee and that the death or
1398 disability was not the result of the willful negligence of the
1399 employee.

1400 (9) The application for the retirement allowance must be
1401 filed within one (1) year after death of an active member who is
1402 killed in the line of performance of duty or dies as a direct
1403 result of an accident occurring in the line of performance of duty
1404 or traumatic event; but the board of trustees may consider an
1405 application for disability filed after the one-year period if it
1406 can be factually demonstrated to the satisfaction of the board of
1407 trustees that the disability is due to the accident and that the
1408 filing was not accomplished within the one-year period due to a

1409 delayed manifestation of the disability or to circumstances beyond
1410 the control of the member. However, in case of late filing,
1411 retroactive payments will be made for a period of not more than
1412 one (1) year only.

1413 (10) Notwithstanding any other section of this article and
1414 in lieu of any payments to a designated beneficiary for a refund
1415 of contributions under Section 25-11-117, the spouse and/or
1416 children shall be eligible for the benefits payable under this
1417 section, and the spouse may elect, for both the spouse and/or
1418 children, to receive benefits in accordance with either
1419 subsections (2) and (3) or subsection (4) of this section;
1420 otherwise, the contributions to the credit of the deceased member
1421 shall be refunded in accordance with Section 25-11-117.

1422 (11) If the member has previously received benefits from the
1423 system to which he was not entitled and has not repaid in full all
1424 amounts payable by him to the system, the annuity amounts
1425 otherwise provided by this section shall be withheld and used to
1426 effect repayment until the total of the withholdings repays in
1427 full all amounts payable by him to the system.

1428 **SECTION 7.** Section 25-11-115, Mississippi Code of 1972, is
1429 amended as follows:

1430 25-11-115. (1) Upon application for superannuation or
1431 disability retirement, any member may elect to receive his benefit
1432 in a retirement allowance payable throughout life with no further
1433 payments to anyone at his death, except that if his total
1434 retirement payments under this article do not equal his total
1435 contributions under this article, his named beneficiary shall
1436 receive the difference in cash at his death. Or he may elect upon
1437 retirement, or upon becoming eligible for retirement, to receive
1438 the actuarial equivalent subject to the provisions of subsection
1439 (3) of this section of his retirement allowance in a reduced
1440 retirement allowance payable throughout life with the provision
1441 that:

1442 **Option 1.** If he dies before he has received in annuity
1443 payment the value of the member's annuity savings account as it
1444 was at the time of his retirement, the balance shall be paid to
1445 his legal representative or to such person as he has nominated by
1446 written designation duly acknowledged and filed with the
1447 board; * * *

1448 **Option 2.** Upon his death, his reduced retirement allowance
1449 shall be continued throughout the life of, and paid to, such
1450 person as he has nominated by written designation duly
1451 acknowledged and filed with the board of trustees at the time of
1452 his retirement;

1453 **Option 3.** Upon his death, one-half (1/2) of his reduced
1454 retirement allowance shall be continued throughout the life of,
1455 and paid to, such person as he has nominated by written
1456 designation duly acknowledged and filed with the board of trustees
1457 at the time of his retirement, and the other one-half (1/2) of his
1458 reduced retirement allowance to some other designated beneficiary;

1459 **Option 4-A.** Upon his death, one-half (1/2) of his reduced
1460 retirement allowance, or such other specified amount, shall be
1461 continued throughout the life of, and paid to, such person as he
1462 has nominated by written designation duly acknowledged and filed
1463 with the board of trustees at the time of his retirement; * * *

1464 **Option 4-B.** A reduced retirement allowance shall be
1465 continued throughout the life of the retirant, but with the
1466 further guarantee of payments to the named beneficiary,
1467 beneficiaries or to the estate for a specified number of years
1468 certain. If the retired member or the last designated beneficiary
1469 receiving annuity payments dies before receiving all guaranteed
1470 payments due, the actuarial equivalent of the remaining payments
1471 shall be paid under Section 25-11-117.1(1);

1472 * * *

1473 **Option 6.** Any member who became a member of the system
1474 before July 1, 2007, and who has at least twenty-eight (28) years

1475 of creditable service at the time of retirement or who is at least
1476 sixty-three (63) years of age and eligible to retire, may select
1477 the maximum retirement benefit or an optional benefit as provided
1478 in this subsection together with a partial lump-sum distribution.
1479 Any member who became a member of the system on or after July 1,
1480 2007, and who has at least twenty-eight (28) years of creditable
1481 service at the time of retirement may select the maximum
1482 retirement benefit or any optional benefit as provided in this
1483 subsection together with a partial lump-sum distribution. The
1484 amount of the lump-sum distribution under this option shall be
1485 equal to the maximum monthly benefit multiplied by twelve (12),
1486 twenty-four (24) or thirty-six (36) as selected by the member.
1487 The maximum retirement benefit shall be actuarially reduced to
1488 reflect the amount of the lump-sum distribution selected and
1489 further reduced for any other optional benefit selected. The
1490 annuity and lump-sum distribution shall be computed to result in
1491 no actuarial loss to the system. The lump-sum distribution shall
1492 be made as a single payment payable at the time the first monthly
1493 annuity payment is paid to the retiree. The amount of the
1494 lump-sum distribution shall be deducted from the member's annuity
1495 savings account in computing what contributions remain at the
1496 death of the retiree and/or a beneficiary. The lump-sum
1497 distribution option may be elected only once by a member upon
1498 initial retirement, and may not be elected by a retiree, by
1499 members applying for a disability retirement annuity, or by
1500 survivors * * *.

1501 (2) No change in the option selected shall be permitted
1502 after the member's death or after the member has received his
1503 first retirement check except as provided in subsections (3) and
1504 (4) of this section and in Section 25-11-127. Members who are
1505 pursuing a disability retirement allowance and simultaneously or
1506 later elect to begin to receive a service retirement allowance
1507 while continuing to pursue a disability retirement allowance,

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

1528 (3) Any retired member who is receiving a reduced retirement
1529 allowance under Option 2 or Option 4-A whose designated
1530 beneficiary predeceases him, or whose marriage to a spouse who is
1531 his designated beneficiary is terminated by divorce or other
1532 dissolution, may elect to cancel his reduced retirement allowance
1533 and receive the maximum retirement allowance for life in an amount
1534 equal to the amount that would have been payable if the member had
1535 not elected Option 2 or Option 4-A. That election must be made in
1536 writing to the office of the executive director of the system on a
1537 form prescribed by the board. Any such election shall be
1538 effective the first of the month following the date the election
1539 is received by the system.

1540 (4) Any retired member who is receiving the maximum
1541 retirement allowance for life, or a retirement allowance under
1542 Option 1, and who marries after his retirement may elect to cancel
1543 his maximum retirement allowance and receive a reduced retirement
1544 allowance under Option 2 or Option 4-A to provide continuing
1545 lifetime benefits to his spouse. That election must be made in
1546 writing to the office of the executive director of the system on a
1547 form prescribed by the board not earlier than the date of the
1548 marriage. Any such election shall be effective the first of the
1549 month following the date the election is received by the system.

1550 (5) If the election of an optional benefit is made after the
1551 member has attained the age of sixty-five (65) years, the
1552 actuarial equivalent factor shall be used to compute the reduced
1553 retirement allowance as if the election had been made on his
1554 sixty-fifth birthday; however, from and after January 1, 2003, if
1555 there is an election of Option 6 after the member has attained the
1556 age of sixty-five (65) years, the actuarial equivalent factor
1557 based on the retiree's age at the time of retirement shall be used
1558 to compute the reduced maximum monthly retirement allowance.
1559 However, if a retiree marries or remarries after retirement and
1560 elects either Option 2 or Option 4-A as provided in subsection (2)
1561 or (4) of this section, the actuarial equivalent factor used to
1562 compute the reduced retirement allowance shall be the factor for
1563 the age of the retiree and his or her beneficiary at the time such
1564 election for recalculation of benefits is made.

1565 (6) Notwithstanding any provision of Section 25-11-1 et
1566 seq., no payments may be made for a retirement allowance on a
1567 monthly basis for a period of time in excess of that allowed by
1568 federal law.

1569 (7) If a retirant and his eligible beneficiary, if any, both
1570 die before they have received in annuity payments a total amount
1571 equal to the accumulated contributions standing to the retirant's
1572 credit in the annuity savings account at the time of his

1573 retirement, the difference between the accumulated contributions
1574 and the total amount of annuities received by them shall be paid
1575 to such persons as the retirant has nominated by written
1576 designation duly executed and filed in the office of the executive
1577 director. If no designated person survives the retirant and his
1578 beneficiary, the difference, if any, shall be paid under Section
1579 25-11-117.1(1).

1580 (8) Any retired member who retired on Option 2(5) or 4-A(5)
1581 before July 1, 1992, who is still receiving a retirement allowance
1582 on July 1, 1994, shall receive an increase in the annual
1583 retirement allowance effective July 1, 1994, equal to the amount
1584 they would have received under Option 2 or Option 4-A without a
1585 reduction for Option 5 based on the ages at retirement of the
1586 retiree and beneficiary and option factors in effect on July 1,
1587 1992. That increase shall be prospective only.

1588 **SECTION 8.** Section 25-11-117, Mississippi Code of 1972, is
1589 amended as follows:

1590 25-11-117. (1) A member may be paid a refund of the amount
1591 of accumulated contributions to the credit of the member in the
1592 annuity savings account, provided that the member has withdrawn
1593 from state service and has not returned to state service on the
1594 date the refund of the accumulated contributions would be paid.
1595 That refund of the contributions to the credit of the member in
1596 the annuity savings account shall be paid within ninety (90) days
1597 from receipt in the office of the retirement system of the
1598 properly completed form requesting the payment. In the event of
1599 death before retirement of any member whose spouse and/or children
1600 are not entitled to a retirement allowance, the accumulated
1601 contributions to the credit of the deceased member in the annuity
1602 savings account shall be paid to the designated beneficiary on
1603 file in writing in the office of the executive director of the
1604 board of trustees within ninety (90) days from receipt of a
1605 properly completed form requesting the payment. If there is no

1606 such designated beneficiary on file for the deceased member in the
1607 office of the system, upon the filing of a proper request with the
1608 board, the contributions to the credit of the deceased member in
1609 the annuity savings account shall be refunded under Section
1610 25-11-117.1(1). The payment of the refund shall discharge all
1611 obligations of the retirement system to the member on account of
1612 any creditable service rendered by the member before the receipt
1613 of the refund. By the acceptance of the refund, the member shall
1614 waive and relinquish all accrued rights in the system.

1615 (2) Under the Unemployment Compensation Amendments of 1992
1616 (Public Law 102-318 (UCA)), a member or the spouse of a member who
1617 is an eligible beneficiary entitled to a refund under this section
1618 may elect, on a form prescribed by the board under rules and
1619 regulations established by the board, to have an eligible rollover
1620 distribution of accumulated contributions payable under this
1621 section paid directly to an eligible retirement plan, as defined
1622 under applicable federal law, or an individual retirement account.
1623 If the member or the spouse of a member who is an eligible
1624 beneficiary makes that election and specifies the eligible
1625 retirement plan or individual retirement account to which the
1626 distribution is to be paid, the distribution will be made in the
1627 form of a direct trustee-to-trustee transfer to the specified
1628 eligible retirement plan. Flexible rollovers under this
1629 subsection shall not be considered assignments under Section
1630 25-11-129.

1631 (3) (a) If any person who became a member of the system
1632 before July 1, 2007, has received a refund reenters the state
1633 service and again becomes a member of the system, the member may
1634 repay all or part of the amounts previously received as a refund,
1635 together with regular interest covering the period from the date
1636 of refund to the date of repayment; however, the amounts that are
1637 repaid by the member and the creditable service related thereto
1638 shall not be used in any benefit calculation or determination

1639 until the member has remained a contributor to the system for a
1640 period of at least four (4) years after the member's reentry into
1641 state service. Repayment for that time shall be made in
1642 increments of not less than one-quarter (1/4) year of creditable
1643 service beginning with the most recent service for which refund
1644 has been made. Upon the repayment of all or part of that refund
1645 and interest, the member shall again receive credit for the period
1646 of creditable service for which full repayment has been made to
1647 the system.

1648 (b) If any person who became a member of the system on
1649 or after July 1, 2007, has received a refund reenters the state
1650 service and again becomes a member of the system, the member may
1651 repay all or part of the amounts previously received as a refund,
1652 together with regular interest covering the period from the date
1653 of refund to the date of repayment; however, the amounts that are
1654 repaid by the member and the creditable service related thereto
1655 shall not be used in any benefit calculation or determination
1656 until the member has remained a contributor to the system for a
1657 period of at least eight (8) years after the member's reentry into
1658 state service. Repayment for that time shall be made in
1659 increments of not less than one-quarter (1/4) year of creditable
1660 service beginning with the most recent service for which refund
1661 has been made. Upon the repayment of all or part of that refund
1662 and interest, the member shall again receive credit for the period
1663 of creditable service for which full repayment has been made to
1664 the system.

1665 (4) (a) In order to provide a source of income to members
1666 who have applied for disability benefits under Section 25-11-113
1667 or 25-11-114, the board may provide, at the employee's election, a
1668 temporary benefit to be paid from the member's accumulated
1669 contributions, if any, without forfeiting the right to pursue
1670 disability benefits, provided that the member has exhausted all
1671 personal and medical leave and has terminated his or her

1672 employment. The board may prescribe rules and regulations for
1673 carrying out the provisions of this subsection (4).

1674 (b) If a member who has elected to receive temporary
1675 benefits under this subsection later applies for a refund of his
1676 or her accumulated contributions, all amounts paid under this
1677 subsection shall be deducted from the accumulated contributions
1678 and the balance will be paid to the member. If a member who has
1679 elected to receive temporary benefits under this subsection is
1680 later approved for a disability retirement allowance, and a
1681 service retirement allowance or survivor benefits are paid on the
1682 account, the board shall adjust the benefits in such a manner that
1683 no more than the actuarial equivalent of the benefits to which the
1684 member or beneficiary was or is entitled shall be paid.

1685 (c) The board may study, develop and propose a
1686 disability benefit structure, including short and long term
1687 disability benefits, provided that it is the actuarial equivalent
1688 of the benefits currently provided in Section 25-11-113 or
1689 25-11-114.

1690 **SECTION 9.** Section 25-11-311, Mississippi Code of 1972, is
1691 amended as follows:

1692 25-11-311. (1) A member may be paid a refund of the amount
1693 of accumulated contributions to the credit of the member in the
1694 annuity savings account, provided the member has withdrawn from
1695 state service and further provided the member has not returned to
1696 state service on the date the refund of the accumulated
1697 contributions would be paid. The refund of the contributions to
1698 the credit of the member in the annuity savings account shall be
1699 paid within ninety (90) days from receipt in the office of the
1700 retirement system of the properly completed form requesting that
1701 payment. In the event of death before retirement of any member
1702 whose spouse and/or children are not entitled to a retirement
1703 allowance, the accumulated contributions to the credit of the
1704 deceased member in the annuity savings account shall be paid to

1705 the designated beneficiary on file in writing in the office of
1706 executive secretary of the board of trustees within ninety (90)
1707 days from receipt of a properly completed form requesting that
1708 payment. If there is no such designated beneficiary on file for
1709 the deceased member in the office of the system, upon the filing
1710 of a proper request with the board, the contributions to the
1711 credit of the deceased member in the annuity savings account shall
1712 be refunded under Section 25-11-311.1(1). The payment of the
1713 refund shall discharge all obligations of the retirement system to
1714 the member on account of any creditable service rendered by the
1715 member before the receipt of the refund. By the acceptance of the
1716 refund, the member shall waive and relinquish all accrued rights
1717 in the plan.

1718 (2) Under the Unemployment Compensation Amendments of 1992
1719 (Public Law 102-318 (USCS)), a member or eligible beneficiary
1720 making application for a refund under this section may elect, on a
1721 form prescribed by the board under rules and regulations
1722 established by the board, to have an eligible rollover
1723 distribution of accumulated contributions payable under this
1724 section paid directly to an eligible retirement plan, as defined
1725 under applicable federal law, or an individual retirement account.
1726 If the member or eligible beneficiary makes that election and
1727 specifies the eligible retirement plan or individual retirement
1728 account to which the distribution is to be paid, the distribution
1729 will be made in the form of a direct trustee-to-trustee transfer
1730 to the specified eligible retirement plan. Flexible rollovers
1731 under this subsection shall not be considered assignments under
1732 Section 25-11-129.

1733 (3) (a) If any person who became a member of the system
1734 before July 1, 2007, has received a refund is reelected to the
1735 Legislature or as President of the Senate and again becomes a
1736 member of the plan, the member may repay all or part of the
1737 amounts previously received as a refund, together with regular

1738 interest covering the period from the date of refund to the date
1739 of repayment; however, the amounts that are repaid by the member
1740 and the creditable service related thereto shall not be used in
1741 any benefit calculation or determination until the member has
1742 remained a contributor to the system for a period of at least four
1743 (4) years after the member's reentry into state service.
1744 Repayment for that time shall be made in increments of not less
1745 than one-quarter (1/4) year of creditable service beginning with
1746 the most recent service for which refund has been made. Upon the
1747 repayment of all or part of that refund and interest, the member
1748 shall again receive credit for the period of creditable service
1749 for which full repayment has been made to the system.

1750 (b) If any person who became a member of the system on
1751 or after July 1, 2007, has received a refund reenters the state
1752 service and again becomes a member of the system, the member may
1753 repay all or part of the amount previously received as a refund,
1754 together with regular interest covering the period from the date
1755 of refund to the date of repayment; however, the amounts that are
1756 repaid by the member and the creditable service related thereto
1757 shall not be used in any benefit calculation or determination
1758 until the member has remained a contributor to the system for a
1759 period of at least eight (8) years after the member's reentry into
1760 state service. Repayment for that time shall be made in
1761 increments of not less than one-quarter (1/4) year of creditable
1762 service beginning with the most recent service for which refund
1763 has been made. Upon the repayment of all or part of that refund
1764 and interest, the member shall again receive credit for the period
1765 of creditable service for which full repayment has been made to
1766 the system.

1767 **SECTION 10.** Section 25-11-315, Mississippi Code of 1972, is
1768 amended as follows:

1769 25-11-315. (1) Any member of the State Legislature or the
1770 President of the Senate who becomes a member of the plan on July

1771 1, 1989, shall be eligible for prior service as a member of the
1772 State Legislature or as President of the Senate. Each member
1773 shall submit to the board a verification of prior service as a
1774 member of the State Legislature or as President of the Senate.
1775 Upon receipt of that prior service statement, the board shall
1776 issue a prior service certificate certifying to each member the
1777 length of prior service for which credit has been allowed on the
1778 basis of the statement of service. Additional prior service
1779 regulations in force shall be those found in Section 25-11-101 et
1780 seq.

1781 (2) (a) Any member of the State Legislature or the
1782 President of the Senate who becomes a member of this plan after
1783 July 1, 1989, but before July 1, 2007, shall not be allowed prior
1784 service unless the member serves as a member of the State
1785 Legislature or as President of the Senate for a minimum of four
1786 (4) years and contributes to the plan for a minimum period of four
1787 (4) years.

1788 (b) Any member of the State Legislature or the
1789 President of the Senate who becomes a member of this plan on or
1790 after July 1, 2007, shall not be allowed prior service unless the
1791 member serves as a member of the State Legislature or as President
1792 of the Senate for a minimum of eight (8) years and contributes to
1793 the plan for a minimum period of eight (8) years.

1794 **SECTION 11.** This act shall take effect and be in force from
1795 and after July 1, 2007.