

By: Senator(s) Doxey

To:

SENATE BILL NO. 2467

1 AN ACT TO AMEND SECTION 25-11-103, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT FOR PERSONS WHO BECOME MEMBERS OF THE PUBLIC
3 EMPLOYEES' RETIREMENT SYSTEM ON OR AFTER JULY 1, 2007, THE TERM
4 "AVERAGE COMPENSATION" SHALL MEAN THE AVERAGE ANNUAL EARNED
5 COMPENSATION OF AN EMPLOYEE FOR ANY PERIOD OF FIVE SUCCESSIVE
6 YEARS OF SERVICE AS AN EMPLOYEE DURING WHICH THE COMPENSATION WAS
7 THE HIGHEST; TO AMEND SECTION 25-11-111, MISSISSIPPI CODE OF 1972,
8 TO PROVIDE THAT PERSONS WHO BECOME MEMBERS OF THE PUBLIC
9 EMPLOYEES' RETIREMENT SYSTEM ON OR AFTER JULY 1, 2007, MAY RETIRE
10 AT AGE 60 IF THEY HAVE AT LEAST TEN YEARS OF CREDITABLE SERVICE OR
11 AT ANY AGE IF THEY HAVE AT LEAST 30 YEARS OF CREDITABLE SERVICE;
12 TO AMEND SECTIONS 25-11-105, 25-11-109, 25-11-113, 25-11-114 AND
13 25-11-117, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND
14 FOR 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

39 (i) For persons who became a member of the system
40 before July 1, 2007, the average of the four (4) highest years of
41 earned compensation reported for an employee in a fiscal or
42 calendar year period, or combination thereof that do not overlap,
43 or the last forty-eight (48) consecutive months of earned
44 compensation reported for an employee. The four (4) years need
45 not be successive or joined years of service.

46 (ii) For persons who became members of the system
47 on or after July 1, 2007, the average annual earned compensation
48 for any period of five (5) successive or joined years of service
49 as an employee during which the compensation was the highest. In
50 the case of interruption of employment, the period of five (5)
51 years shall be computed by joining employment periods immediately
52 preceding and succeeding the interruption.

53 In no case shall the average compensation so determined be in
54 excess of One Hundred Fifty Thousand Dollars (\$150,000.00). In
55 computing the average compensation, any amount lawfully paid in a
56 lump sum for personal leave or major medical leave shall be
57 included in the calculation to the extent that the amount does not
58 exceed an amount that is equal to thirty (30) days of earned
59 compensation and to the extent that it does not cause the
60 employees' earned compensation to exceed the maximum reportable
61 amount specified in Section 25-11-103(k); however, this thirty-day
62 limitation shall not prevent the inclusion in the calculation of
63 leave earned under federal regulations before July 1, 1976, and
64 frozen as of that date as referred to in Section 25-3-99. Only
65 the amount of lump-sum pay for personal leave due and paid upon

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

96 (g) "Beneficiary" means any person entitled to receive
97 a retirement allowance, an annuity or other benefit as provided by
98 Articles 1 and 3. The term "beneficiary" may also include an

99 organization, estate, trust or entity; however, a beneficiary
100 designated or entitled to receive monthly payments under an
101 optional settlement based on life contingency or pursuant to a
102 statutory monthly benefit may only be a natural person. In the
103 event of the death before retirement of any member who became a
104 member of the system before July 1, 2007, and whose spouse and/or
105 children are not entitled to a retirement allowance on the basis
106 that the member has less than four (4) years of service credit, or
107 who became a member of the system on or after July 1, 2007, and
108 whose spouse and/or children are not entitled to a retirement
109 allowance on the basis that the member has less than ten (10)
110 years of service credit, and/or has not been married for a minimum
111 of one (1) year or the spouse has waived his or her entitlement to
112 a retirement allowance under Section 25-11-114, the lawful spouse
113 of a member at the time of the death of the member shall be the
114 beneficiary of the member unless the member has designated another
115 beneficiary after the date of marriage in writing, and filed that
116 writing in the office of the executive director of the board of
117 trustees. No designation or change of beneficiary shall be made
118 in any other manner.

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

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

132 subdivision of the state to adopt such vacation and sick leave
133 policies as it deems necessary.

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

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

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

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

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

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

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

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

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

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

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

196 (n) "Executive director" means the secretary to the
197 board of trustees, as provided in Section 25-11-15(9), and the

198 administrator of the Public Employees' Retirement System and all
199 systems under the management of the board of trustees. Wherever
200 the term "Executive Secretary of the Public Employees' Retirement
201 System" or "executive secretary" appears in this article or in any
202 other provision of law, it shall be construed to mean the
203 Executive Director of the Public Employees' Retirement System.

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

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

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

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

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

231 shall not relieve the employee or employer of liability thereof.
232 The board shall adopt such rules and regulations as necessary to
233 implement and enforce this provision.

234 (t) "Prior service" means service rendered before
235 February 1, 1953, for which credit is allowable under Sections
236 25-11-105 and 25-11-109, and which shall allow prior service for
237 any person who is now or becomes a member of the Public Employees'
238 Retirement System and who does contribute to the system for a
239 minimum period of four (4) years.

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

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

253 (w) "Retroactive service" means service rendered after
254 February 1, 1953, for which credit is allowable under Section
255 25-11-105(b) and Section 25-11-105(k).

256 (x) "System" means the Public Employees' Retirement
257 System of Mississippi established and described in Section
258 25-11-101.

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

261 (z) "State service" means all offices and positions of
262 trust or employment in the employ of the state, or any political
263 subdivision or instrumentality of the state, that elect to

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

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

286 (bb) The masculine pronoun, wherever used, includes the
287 feminine pronoun.

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

290 25-11-111. (a) (1) Any member who became a member of the
291 system before July 1, 2007, upon withdrawal from service upon or
292 after attainment of the age of sixty (60) years who shall have
293 completed at least four (4) years of creditable service, or any
294 member who became a member of the system before July 1, 2007, upon
295 withdrawal from service regardless of age who shall have completed
296 at least twenty-five (25) years of creditable service, shall be

297 entitled to receive a retirement allowance which shall begin on
298 the first of the month following the date the member's application
299 for the allowance is received by the board, but in no event before
300 withdrawal from service.

301 (2) Any member who became a member of the system on or
302 after July 1, 2007, upon withdrawal from service upon or after
303 attainment of the age of sixty (60) years who shall have completed
304 at least ten (10) years of creditable service, or any member who
305 became a member of the system on or after July 1, 2007, upon
306 withdrawal from service regardless of age who shall have completed
307 at least thirty (30) years of creditable service, shall be
308 entitled to receive a retirement allowance which shall begin on
309 the first of the month following the date the member's application
310 for the allowance is received by the board, but in no event before
311 withdrawal from service.

312 (b) (1) Any member who became a member of the system before
313 July 1, 2007, whose withdrawal from service occurs prior to
314 attaining the age of sixty (60) years who shall have completed
315 four (4) or more years of creditable service and shall not have
316 received a refund of his accumulated contributions shall be
317 entitled to receive a retirement allowance, beginning upon his
318 attaining the age of sixty (60) years, of the amount earned and
319 accrued at the date of withdrawal from service.

320 (2) Any member who became a member of the system on or
321 after July 1, 2007, whose withdrawal from service occurs prior to
322 attaining the age of sixty (60) years who shall have completed ten
323 (10) or more years of creditable service and shall not have
324 received a refund of his accumulated contributions shall be
325 entitled to receive a retirement allowance, beginning upon his
326 attaining the age of sixty (60) years, of the amount earned and
327 accrued at the date of withdrawal from service.

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

330 retirement benefits by notifying the Executive Director of the
331 Board of Trustees of the Public Employees' Retirement System in
332 writing, on a form prescribed by the board, of the option he has
333 selected and by naming the beneficiary of such option and
334 furnishing necessary proof of age. Such option, once selected,
335 may be changed at any time prior to actual retirement or death,
336 but upon the death or retirement of the member, the optional
337 settlement shall be placed in effect upon proper notification to
338 the executive director.

339 (d) The annual amount of the retirement allowance shall
340 consist of:

341 (1) A member's annuity which shall be the actuarial
342 equivalent of the accumulated contributions of the member at the
343 time of retirement computed according to the actuarial table in
344 use by the system; and

345 (2) An employer's annuity which, together with the
346 member's annuity provided above, shall be equal to one and
347 seven-eighths percent (1-7/8%) of the average compensation for
348 each year of state service up to and including twenty-five (25)
349 years of membership service, and two and one-fourth percent
350 (2-1/4%) of the average compensation for each year of state
351 service exceeding twenty-five (25) years of membership service.
352 However, after the board of trustees has begun implementing the
353 changes in the computation of the retirement allowance as provided
354 in subsection (e), the employer's annuity shall be equal to:

355 (i) One and seven-eighths percent (1-7/8%) of the
356 average compensation for each year of membership service up to and
357 including the number of years specified in Column A of the table
358 in subsection (e) for the latest phase that has been implemented,
359 and

360 (ii) Two percent (2%) of the average compensation
361 for each year of membership service exceeding the number of years
362 specified in Column A of the table in subsection (e) for the

363 latest phase that has been implemented up to and including
364 twenty-five (25) years, and

365 (iii) The percentage of the average compensation
366 specified in Column B of the table in subsection (e) for the
367 latest phase that has been implemented for each year of membership
368 service exceeding twenty-five (25) years.

369 (3) A prior service annuity equal to one and
370 seven-eighths percent (1-7/8%) of the average compensation for
371 each year of state service up to and including twenty-five (25)
372 years of prior service, and two and one-fourth percent (2-1/4%) of
373 the average compensation for each year of state service exceeding
374 twenty-five (25) years of prior service for which the member is
375 allowed credit. However, after the board of trustees has begun
376 implementing the changes in the computation of the retirement
377 allowance as provided in subsection (e), the prior service annuity
378 shall be equal to:

379 (i) One and seven-eighths percent (1-7/8%) of the
380 average compensation for each year of prior service up to and
381 including the number of years specified in Column A of the table
382 in subsection (e) for the latest phase that has been implemented,
383 and

384 (ii) Two percent (2%) of the average compensation
385 for each year of prior service exceeding the number of years
386 specified in Column A of the table in subsection (e) for the
387 latest phase that has been implemented up to and including
388 twenty-five (25) years, and

389 (iii) The percentage of the average compensation
390 specified in Column B of the table in subsection (e) for the
391 latest phase that has been implemented for each year of prior
392 service exceeding twenty-five (25) years.

393 (4) Any retired member or beneficiary thereof who was
394 eligible to receive a retirement allowance before July 1, 1991,
395 and who is still receiving a retirement allowance on July 1, 1992,

396 shall receive an increase in the annual retirement allowance of
397 the retired member equal to one-eighth of one percent (1/8 of 1%)
398 of the average compensation for each year of state service in
399 excess of twenty-five (25) years of membership service up to and
400 including thirty (30) years. The maximum increase shall be
401 five-eighths of one percent (5/8 of 1%). In no case shall a
402 member who has been retired prior to July 1, 1987, receive less
403 than Ten Dollars (\$10.00) per month for each year of creditable
404 service and proportionately for each quarter year thereof.
405 Persons retired on or after July 1, 1987, shall receive at least
406 Ten Dollars (\$10.00) per month for each year of service and
407 proportionately for each quarter year thereof reduced for the
408 option selected. However, such Ten Dollars (\$10.00) minimum per
409 month for each year of creditable service shall not apply to a
410 retirement allowance computed under Section 25-11-114 based on a
411 percentage of the member's average compensation.

412 (5) The board shall recalculate the retirement
413 allowance of any member or the beneficiary of such a member, if
414 the member or beneficiary is eligible to receive a retirement
415 allowance before July 1, 1999, by using the criteria in paragraphs
416 (2) and (3) of this subsection (d) that provides for two and
417 one-fourth percent (2-1/4%) of the average compensation for each
418 year of service exceeding twenty-five (25) years.

419 (6) (i) Any member who became a member of the system
420 before July 1, 2007, upon withdrawal from service upon or after
421 attaining the age of sixty (60) years who has completed at least
422 four (4) years of creditable service, or any member who became a
423 member of the system before July 1, 2007, upon withdrawal from
424 service regardless of age who has completed at least twenty-five
425 (25) years of creditable service, shall be entitled to receive a
426 retirement allowance computed in accordance with the formula set
427 forth in this section.

428 (ii) Any member who became a member of the system
429 on or after July 1, 2007, upon withdrawal from service upon or
430 after attaining the age of sixty (60) years who has completed at
431 least ten (10) years of creditable service, or any member who
432 became a member of the system on or after July 1, 2007, upon
433 withdrawal from service regardless of age who has completed at
434 least thirty (30) years of creditable service, shall be entitled
435 to receive a retirement allowance computed in accordance with the
436 formula set forth in this section.

437 (iii) The retirement allowance otherwise payable
438 may be converted into a retirement allowance of equivalent
439 actuarial value in such an amount that, with the member's benefit
440 under Title II of the federal Social Security Act, the member will
441 receive, so far as possible, approximately the same amount
442 annually before and after the earliest age at which the member
443 becomes eligible to receive a social security benefit.

444 (e) Beginning on July 1, 2000, the board of trustees shall
445 implement changes in the computation of the amount of the annual
446 retirement allowance, which changes shall be implemented in phases
447 as set forth in the table in this subsection. The board of
448 trustees shall implement the phases systematically upon July 1
449 after the board's actuary certifies that implementation of a phase
450 will not cause the unfunded accrued actuarial liability
451 amortization period for the retirement system to exceed twenty-two
452 (22) years. The board of trustees shall have the exclusive
453 authority to set the assumptions that are used in the actuarial
454 evaluation in accordance with Section 25-11-119(9). The board of
455 trustees shall recalculate the retirement allowance of any retired
456 member or beneficiary of such a member as each phase is
457 implemented.

458 RETIREMENT ALLOWANCE COMPUTATION

459 IMPLEMENTATION TABLE

460 (A)

(B)

461 PHASE 2% FOR YEARS PERCENTAGE
 462 ABOVE THIS FOR YEARS
 463 NUMBER AND ABOVE 25
 464 ≤25 YEARS YEARS

466	Phase 1	20 years	2.250%
467	Phase 2	15 years	2.250%
468	Phase 3	10 years	2.250%
469	Phase 4	5 years	2.250%
470	Phase 5	0 years	2.250%
471	Phase 6	0 years	2.375%
472	Phase 7	0 years	2.500%

473 Column A shows the years to which two percent (2%) is
 474 applicable in computing the retirement allowance, which are all
 475 the years of service exceeding the number specified in Column A
 476 for the phase that has been implemented up to and including
 477 twenty-five (25) years.

478 Column B shows the percentage that is applicable to the
 479 number of years of service exceeding twenty-five (25) years in
 480 computing the retirement allowance.

481 (f) No member, except members excluded by the Age
 482 Discrimination in Employment Act Amendments of 1986 (Public Law
 483 99-592), under either Article 1 or Article 3 in state service
 484 shall be required to retire because of age.

485 (g) No payment on account of any benefit granted under the
 486 provisions of this section shall become effective or begin to
 487 accrue until January 1, 1953.

488 (h) (1) A retiree or beneficiary may, on a form prescribed
 489 by and filed with the retirement system, irrevocably waive all or
 490 a portion of any benefits from the retirement system to which the
 491 retiree or beneficiary is entitled. Such waiver shall be binding
 492 on the heirs and assigns of any retiree or beneficiary and the
 493 same must agree to forever hold harmless the Public Employees'

494 Retirement System of Mississippi from any claim to such waived
495 retirement benefits.

496 (2) Any waiver pursuant to this subsection shall apply
497 only to the person executing the waiver. A beneficiary shall be
498 entitled to benefits according to the option selected by the
499 member at the time of retirement. However, a beneficiary may, at
500 the option of the beneficiary, execute a waiver of benefits
501 pursuant to this subsection.

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

505 (4) The board of trustees may provide rules and
506 regulations for the administration of waivers under this
507 subsection.

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

510 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

511 The membership of this retirement system shall be composed as
512 follows:

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

519 (ii) From and after July 1, 2002, any individual
520 who is employed by a governmental entity to perform professional
521 services shall become a member of the system if the individual is
522 paid regular periodic compensation for those services that is
523 subject to payroll taxes, is provided all other employee benefits
524 and meets the membership criteria established by the regulations
525 adopted by the board of trustees that apply to all other members
526 of the system; however, any active member employed in such a

527 position on July 1, 2002, will continue to be an active member for
528 as long as they are employed in any such position.

529 (b) All persons who become employees in the state
530 service after January 31, 1953, except those specifically excluded
531 or as to whom election is provided in Articles 1 and 3, unless
532 they file with the board before the lapse of sixty (60) days of
533 employment or sixty (60) days after the effective date of the
534 cited articles, whichever is later, on a form prescribed by the
535 board, a notice of election not to be covered by the membership of
536 the retirement system and a duly executed waiver of all present
537 and prospective benefits that would otherwise inure to them on
538 account of their participation in the system, shall become members
539 of the retirement system; however, no credit for prior service
540 will be granted to members who became members of the system before
541 July 1, 2007, until they have contributed to Article 3 of the
542 retirement system for a minimum period of at least four (4) years,
543 or to members who became members of the system on or after July 1,
544 2007, until they have contributed to Article 3 of the retirement
545 system for a minimum period of at least ten (10) years. Those
546 members shall receive credit for services performed before January
547 1, 1953, in employment now covered by Article 3, but no credit
548 shall be granted for retroactive services between January 1, 1953,
549 and the date of their entry into the retirement system, unless the
550 employee pays into the retirement system both the employer's and
551 the employee's contributions on wages paid him during the period
552 from January 31, 1953, to the date of his becoming a contributing
553 member, together with interest at the rate determined by the board
554 of trustees. Members reentering after withdrawal from service
555 shall qualify for prior service under the provisions of Section
556 25-11-117. From and after July 1, 1998, upon eligibility as noted
557 above, the member may receive credit for such retroactive service
558 provided:

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

562 (ii) The member shall pay to the retirement system
563 on the date he or she is eligible for that credit or at any time
564 thereafter before the date of retirement the actuarial cost for
565 each year of that creditable service. The provisions of this
566 subparagraph (ii) shall be subject to the limitations of Section
567 415 of the Internal Revenue Code and regulations promulgated under
568 Section 415.

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

573 (c) All persons who become employees in the state
574 service after January 31, 1953, and who are eligible for
575 membership in any other retirement system shall become members of
576 this retirement system as a condition of their employment, unless
577 they elect at the time of their employment to become a member of
578 that other system.

579 (d) All persons who are employees in the state service
580 on January 31, 1953, and who are members of any nonfunded
581 retirement system operated by the State of Mississippi, or any of
582 its departments or agencies, shall become members of this system
583 with prior service credit unless, before February 1, 1953, they
584 file a written notice with the board of trustees that they do not
585 elect to become members.

586 (e) All persons who are employees in the state service
587 on January 31, 1953, and who under existing laws are members of
588 any fund operated for the retirement of employees by the State of
589 Mississippi, or any of its departments or agencies, shall not be
590 entitled to membership in this retirement system unless, before
591 February 1, 1953, any such person indicates by a notice filed with

592 the board, on a form prescribed by the board, his individual
593 election and choice to participate in this system, but no such
594 person shall receive prior service credit unless he becomes a
595 member on or before February 1, 1953.

596 (f) Each political subdivision of the state and each
597 instrumentality of the state or a political subdivision, or both,
598 is authorized to submit, for approval by the board of trustees, a
599 plan for extending the benefits of this article to employees of
600 any such political subdivision or instrumentality. Each such plan
601 or any amendment to the plan for extending benefits thereof shall
602 be approved by the board of trustees if it finds that the plan, or
603 the plan as amended, is in conformity with such requirements as
604 are provided in Articles 1 and 3; however, upon approval of the
605 plan or any such plan previously approved by the board of
606 trustees, the approved plan shall not be subject to cancellation
607 or termination by the political subdivision or instrumentality,
608 except that any community hospital serving a municipality that
609 joined the Public Employees' Retirement System as of November 1,
610 1956, to offer social security coverage for its employees and
611 subsequently extended retirement annuity coverage to its employees
612 as of December 1, 1965, may, upon documentation of extreme
613 financial hardship, have future retirement annuity coverage
614 cancelled or terminated at the discretion of the board of
615 trustees. No such plan shall be approved unless:

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

623 (ii) It specifies the source or sources from which
624 the funds necessary to make the payments required by paragraph (d)

625 of Section 25-11-123 and of paragraph (f)(v)2 and 3 of this
626 section are expected to be derived and contains reasonable
627 assurance that those sources will be adequate for that purpose;

628 (iii) It provides for such methods of
629 administration of the plan by the political subdivision or
630 instrumentality as are found by the board of trustees to be
631 necessary for the proper and efficient administration thereof;

632 (iv) It provides that the political subdivision or
633 instrumentality will make such reports, in such form and
634 containing such information, as the board of trustees may from
635 time to time require;

636 (v) It authorizes the board of trustees to
637 terminate the plan in its entirety in the discretion of the board
638 if it finds that there has been a failure to comply substantially
639 with any provision contained in the plan, the termination to take
640 effect at the expiration of such notice and on such conditions as
641 may be provided by regulations of the board and as may be
642 consistent with applicable federal law.

643 1. The board of trustees shall not finally
644 refuse to approve a plan submitted under paragraph (f), and shall
645 not terminate an approved plan without reasonable notice and
646 opportunity for hearing to each political subdivision or
647 instrumentality affected by the board's decision. The board's
648 decision in any such case shall be final, conclusive and binding
649 unless an appeal is taken by the political subdivision or
650 instrumentality aggrieved by the decision to the Circuit Court of
651 Hinds County, Mississippi, in accordance with the provisions of
652 law with respect to civil causes by certiorari.

653 2. Each political subdivision or
654 instrumentality as to which a plan has been approved under this
655 section shall pay into the contribution fund, with respect to
656 wages (as defined in Section 25-11-5), at such time or times as
657 the board of trustees may by regulation prescribe, contributions

658 in the amounts and at the rates specified in the applicable
659 agreement entered into by the board.

660 3. Every political subdivision or
661 instrumentality required to make payments under paragraph (f)(v)2
662 of this section is authorized, in consideration of the employees'
663 retention in or entry upon employment after enactment of Articles
664 1 and 3, to impose upon its employees, as to services that are
665 covered by an approved plan, a contribution with respect to wages
666 (as defined in Section 25-11-5) not exceeding the amount provided
667 in Section 25-11-123(d) if those services constituted employment
668 within the meaning of Articles 1 and 3, and to deduct the amount
669 of the contribution from the wages as and when paid.

670 Contributions so collected shall be paid into the contribution
671 fund as partial discharge of the liability of the political
672 subdivisions or instrumentalities under paragraph (f)(v)2 of this
673 section. Failure to deduct the contribution shall not relieve the
674 employee or employer of liability for the contribution.

675 4. Any state agency, school, political
676 subdivision, instrumentality or any employer that is required to
677 submit contribution payments or wage reports under any section of
678 this chapter shall be assessed interest on delinquent payments or
679 wage reports as determined by the board of trustees in accordance
680 with rules and regulations adopted by the board and delinquent
681 payments, assessed interest and any other amount certified by the
682 board as owed by an employer, may be recovered by action in a
683 court of competent jurisdiction against the reporting agency
684 liable therefor or may, upon due certification of delinquency and
685 at the request of the board of trustees, be deducted from any
686 other monies payable to the reporting agency by any department or
687 agency of the state.

688 5. Each political subdivision of the state
689 and each instrumentality of the state or a political subdivision
690 or subdivisions that submit a plan for approval of the board, as

691 provided in this section, shall reimburse the board for coverage
692 into the expense account, its pro rata share of the total expense
693 of administering Articles 1 and 3 as provided by regulations of
694 the board.

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

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

707 (i) If any member of this system changes his employment
708 to any agency of the state having an actuarially funded retirement
709 system, the board of trustees may authorize the transfer of the
710 member's creditable service and of the present value of the
711 member's employer's accumulation account and of the present value
712 of the member's accumulated membership contributions to that other
713 system, provided that the employee agrees to the transfer of his
714 accumulated membership contributions and provided that the other
715 system is authorized to receive and agrees to make the transfer.

716 If any member of any other actuarially funded system
717 maintained by an agency of the state changes his employment to an
718 agency covered by this system, the board of trustees may authorize
719 the receipt of the transfer of the member's creditable service and
720 of the present value of the member's employer's accumulation
721 account and of the present value of the member's accumulated
722 membership contributions from the other system, provided that the
723 employee agrees to the transfer of his accumulated membership

724 contributions to this system and provided that the other system is
725 authorized and agrees to make the transfer.

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

729 (k) Employees of a political subdivision or
730 instrumentality who were employed by the political subdivision or
731 instrumentality before an agreement between the entity and the
732 Public Employees' Retirement System to extend the benefits of this
733 article to its employees, and which agreement provides for the
734 establishment of retroactive service credit, and who have been
735 members of the retirement system who became members of the system
736 before July 1, 2007, and have remained contributors to the
737 retirement system for four (4) years, or who became members of the
738 system on or after July 1, 2007, and have remained contributors to
739 the retirement system for ten (10) years, may receive credit for
740 that retroactive service with the political subdivision or
741 instrumentality, provided that the employee and/or employer, as
742 provided under the terms of the modification of the joinder
743 agreement in allowing that coverage, pay into the retirement
744 system the employer's and employee's contributions on wages paid
745 the member during the previous employment, together with interest
746 or actuarial cost as determined by the board covering the period
747 from the date the service was rendered until the payment for the
748 credit for the service was made. Those wages shall be verified by
749 the Social Security Administration or employer payroll records.
750 Effective July 1, 1998, upon eligibility as noted above, a member
751 may receive credit for that retroactive service with the political
752 subdivision or instrumentality provided:

753 (i) The member shall furnish proof satisfactory to
754 the board of trustees of certification of those services from the
755 political subdivision or instrumentality where the services were

756 rendered or verification by the Social Security Administration;
757 and

758 (ii) The member shall pay to the retirement system
759 on the date he or she is eligible for that credit or at any time
760 thereafter before the date of retirement the actuarial cost for
761 each year of that creditable service. The provisions of this
762 subparagraph (ii) shall be subject to the limitations of Section
763 415 of the Internal Revenue Code and regulations promulgated under
764 Section 415.

765 Nothing contained in this paragraph (k) shall be construed to
766 limit the authority of the board to allow the correction of
767 reporting errors or omissions based on the payment of employee and
768 employer contributions plus applicable interest. Payment for that
769 time shall be made in increments of not less than one-quarter
770 (1/4) year of creditable service beginning with the most recent
771 service. Upon the payment of all or part of the required
772 contributions, plus interest or the actuarial cost as provided
773 above, the member shall receive credit for the period of
774 creditable service for which full payment has been made to the
775 retirement system.

776 (1) Through June 30, 1998, any state service eligible
777 for retroactive service credit, no part of which has ever been
778 reported, and requiring the payment of employee and employer
779 contributions plus interest, or, from and after July 1, 1998, any
780 state service eligible for retroactive service credit, no part of
781 which has ever been reported to the retirement system, and
782 requiring the payment of the actuarial cost for that creditable
783 service, may, at the member's option, be purchased in quarterly
784 increments as provided above at the time that its purchase is
785 otherwise allowed.

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

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

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

793 (a) Patient or inmate help in state charitable, penal
794 or correctional institutions;

795 (b) Students of any state educational institution
796 employed by any agency of the state for temporary, part-time or
797 intermittent work;

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

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

805 **III. TERMINATION OF MEMBERSHIP**

806 Membership in this system shall cease by a member withdrawing
807 his accumulated contributions, or by a member withdrawing from
808 active service with a retirement allowance, or by a member's
809 death.

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

812 25-11-109. (1) Under such rules and regulations as the
813 board of trustees shall adopt, each person who becomes a member of
814 this retirement system, as provided in Section 25-11-105, on or
815 prior to July 1, 1953, or who became a member of the system before
816 July 1, 2007, and contributes to the system for a minimum period
817 of four (4) years, or who became a member of the system on or
818 after July 1, 2007, and contributes to the system for a minimum
819 period of ten (10) years, shall receive credit for all state
820 service rendered before February 1, 1953. To receive such credit,
821 such member shall file a detailed statement of all services as an

822 employee rendered by him in the state service before February 1,
823 1953. For any member who joined the system after July 1, 1953,
824 any creditable service for which the member is not required to
825 make contributions shall not be credited to the member until the
826 member has contributed to the system for a minimum period of at
827 least four (4) years.

828 (2) In the computation of membership service or prior
829 service under the provisions of this article, the total months of
830 accumulative service during any fiscal year shall be calculated in
831 accordance with the schedule as follows: ten (10) or more months
832 of creditable service during any fiscal year shall constitute a
833 year of creditable service; seven (7) months to nine (9) months
834 inclusive, three-quarters (3/4) of a year of creditable service;
835 four (4) months to six (6) months inclusive, one-half-year of
836 creditable service; one (1) month to three (3) months inclusive,
837 one-quarter (1/4) of a year of creditable service. In no case
838 shall credit be allowed for any period of absence without
839 compensation except for disability while in receipt of a
840 disability retirement allowance, nor shall less than fifteen (15)
841 days of service in any month, or service less than the equivalent
842 of one-half (1/2) of the normal working load for the position and
843 less than one-half (1/2) of the normal compensation for the
844 position in any month, constitute a month of creditable service,
845 nor shall more than one (1) year of service be creditable for all
846 services rendered in any one (1) fiscal year; however, for a
847 school employee, substantial completion of the legal school term
848 when and where the service was rendered shall constitute a year of
849 service credit for both prior service and membership service. Any
850 state or local elected official shall be deemed a full-time
851 employee for the purpose of creditable service for prior service
852 or membership service. However, an appointed or elected official
853 compensated on a per diem basis only shall not be allowed
854 creditable service for terms of office.

855 In the computation of any retirement allowance or any annuity
856 or benefits provided in this article, any fractional period of
857 service of less than one (1) year shall be taken into account and
858 a proportionate amount of such retirement allowance, annuity or
859 benefit shall be granted for any such fractional period of
860 service.

861 In the computation of unused leave for creditable service
862 authorized in Section 25-11-103, the following shall govern:
863 twenty-one (21) days of unused leave shall constitute one (1)
864 month of creditable service and in no case shall credit be allowed
865 for any period of unused leave of less than fifteen (15) days.
866 The number of months of unused leave shall determine the number of
867 quarters or years of creditable service in accordance with the
868 above schedule for membership and prior service. In order for the
869 member to receive creditable service for the number of days of
870 unused leave, the system must receive certification from the
871 governing authority.

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

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

879 (b) For service on and after July 1, 1984, the member
880 shall receive credit for personal and major medical leave
881 beginning July 1, 1984, at the rates authorized in Sections
882 25-3-93 and 25-3-95, computed as a full-time employee.

883 (3) Subject to the above restrictions and to such other
884 rules and regulations as the board may adopt, the board shall
885 verify, as soon as practicable after the filing of such statements
886 of service, the services therein claimed.

887 (4) Upon verification of the statement of prior service, the
888 board shall issue a prior service certificate certifying to each
889 member the length of prior service for which credit shall have
890 been allowed on the basis of his statement of service. So long as
891 membership continues, a prior service certificate shall be final
892 and conclusive for retirement purposes as to such service,
893 provided that any member may within five (5) years from the date
894 of issuance or modification of such certificate request the board
895 of trustees to modify or correct his prior service certificate.
896 Any modification or correction authorized shall only apply
897 prospectively.

898 When membership ceases, such prior service certificates shall
899 become void. Should the employee again become a member, he shall
900 enter the system as an employee not entitled to prior service
901 credit except as provided in Sections 25-11-105(I), 25-11-113 and
902 25-11-117.

903 (5) Creditable service at retirement, on which the
904 retirement allowance of a member shall be based, shall consist of
905 the membership service rendered by him since he last became a
906 member, and also, if he has a prior service certificate which is
907 in full force and effect, the amount of the service certified on
908 his prior service certificate.

909 (6) Any member who served on active duty in the Armed Forces
910 of the United States, who served in the Commissioned Corps of the
911 United States Public Health Service prior to 1972 or who served in
912 maritime service during periods of hostility in World War II,
913 shall be entitled to creditable service at no cost for his service
914 on active duty in the Armed Forces, in the Commissioned Corps of
915 the United States Public Health Service prior to 1972 or in such
916 maritime service, provided he entered state service after his
917 discharge from the Armed Forces or entered state service after he
918 completed such maritime service. The maximum period for such
919 creditable service for all military service as defined in this

920 subsection (6) shall not exceed four (4) years unless positive
921 proof can be furnished by such person that he was retained in the
922 Armed Forces during World War II or in maritime service during
923 World War II by causes beyond his control and without opportunity
924 of discharge. The member shall furnish proof satisfactory to the
925 board of trustees of certification of military service or maritime
926 service records showing dates of entrance into active duty service
927 and the date of discharge. From and after July 1, 1993, no
928 creditable service shall be granted for any military service or
929 maritime service to a member who qualifies for a retirement
930 allowance in another public retirement system administered by the
931 Board of Trustees of the Public Employees' Retirement System based
932 in whole or in part on such military or maritime service. In no
933 case shall the member receive creditable service if the member
934 received a dishonorable discharge from the Armed Forces of the
935 United States.

936 (7) (a) Any member of the Public Employees' Retirement
937 System whose membership service is interrupted as a result of
938 qualified military service within the meaning of Section 414(u)(5)
939 of the Internal Revenue Code, and who has received the maximum
940 service credit available under subsection (6) of this section,
941 shall receive creditable service for the period of qualified
942 military service that does not qualify as creditable service under
943 subsection (6) of this section upon reentering membership service
944 in an amount not to exceed five (5) years if:

945 (i) The member pays the contributions he would
946 have made to the retirement system if he had remained in
947 membership service for the period of qualified military service
948 based upon his salary at the time his membership service was
949 interrupted;

950 (ii) The member returns to membership service
951 within ninety (90) days of the end of his qualified military
952 service; and

953 (iii) The employer at the time the member's
954 service was interrupted and to which employment the member returns
955 pays the contributions it would have made into the retirement
956 system for such period based on the member's salary at the time
957 the service was interrupted.

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

963 (c) The member shall furnish proof satisfactory to the
964 board of trustees of certification of military service showing
965 dates of entrance into qualified service and the date of discharge
966 as well as proof that the member has returned to active employment
967 within the time specified.

968 (8) Any member of the Public Employees' Retirement System
969 who became a member of the system before July 1, 2007, and who has
970 at least four (4) years of membership service credit, or who
971 became a member of the system on or after July 1, 2007, and who
972 has at least ten (10) years of membership service credit, shall be
973 entitled to receive a maximum of five (5) years creditable service
974 for service rendered in another state as a public employee of such
975 other state, or a political subdivision, public education system
976 or other governmental instrumentality thereof, or service rendered
977 as a teacher in American overseas dependent schools conducted by
978 the Armed Forces of the United States for children of citizens of
979 the United States residing in areas outside the continental United
980 States, provided that:

981 (a) The member shall furnish proof satisfactory to the
982 board of trustees of certification of such services from the
983 state, public education system, political subdivision or
984 retirement system of the state where the services were performed

985 or the governing entity of the American overseas dependent school
986 where the services were performed; and

987 (b) The member is not receiving or will not be entitled
988 to receive from the public retirement system of the other state or
989 from any other retirement plan, including optional retirement
990 plans, sponsored by the employer, a retirement allowance including
991 such services; and

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

999 (9) Any member of the Public Employees' Retirement System
1000 who became a member of the system before July 1, 2007, and has at
1001 least four (4) years of membership service credit, or who became a
1002 member of the system on or after July 1, 2007, and has at least
1003 ten (10) years of membership service credit, and who receives, or
1004 has received, professional leave without compensation for
1005 professional purposes directly related to the employment in state
1006 service shall receive creditable service for the period of
1007 professional leave without compensation provided:

1008 (a) The professional leave is performed with a public
1009 institution or public agency of this state, or another state or
1010 federal agency;

1011 (b) The employer approves the professional leave
1012 showing the reason for granting the leave and makes a
1013 determination that the professional leave will benefit the
1014 employee and employer;

1015 (c) Such professional leave shall not exceed two (2)
1016 years during any ten-year period of state service;

1017 (d) The employee shall serve the employer on a
1018 full-time basis for a period of time equivalent to the
1019 professional leave period granted immediately following the
1020 termination of the leave period;

1021 (e) The contributing member shall pay to the retirement
1022 system the actuarial cost as determined by the actuary for each
1023 year of professional leave. The provisions of this subsection are
1024 subject to the regulations of the Internal Revenue Code
1025 limitations;

1026 (f) Such other rules and regulations consistent
1027 herewith as the board may adopt and in case of question, the board
1028 shall have final power to decide the questions.

1029 Any actively contributing member participating in the School
1030 Administrator Sabbatical Program established in Section 37-9-77
1031 shall qualify for continued participation under this subsection
1032 (9).

1033 (10) Any member of the Public Employees' Retirement System
1034 who became a member of the system before July 1, 2007, and has at
1035 least four (4) years of credited membership service, or who became
1036 a member of the system on or after July 1, 2007, and has at least
1037 ten (10) years of credited membership service shall be entitled to
1038 receive a maximum of ten (10) years creditable service for:

1039 (a) Any service rendered as an employee of any
1040 political subdivision of this state, or any instrumentality
1041 thereof, which does not participate in the Public Employees'
1042 Retirement System; or

1043 (b) Any service rendered as an employee of any
1044 political subdivision of this state, or any instrumentality
1045 thereof, which participates in the Public Employees' Retirement
1046 System but did not elect retroactive coverage; or

1047 (c) Any service rendered as an employee of any
1048 political subdivision of this state, or any instrumentality
1049 thereof, for which coverage of the employee's position was or is

1050 excluded; provided that the member pays into the retirement system
1051 the actuarial cost as determined by the actuary for each year, or
1052 portion thereof, of such service. Payment for such service may be
1053 made in increments of one-quarter-year of creditable service.
1054 After a member has made full payment to the retirement system for
1055 all or any part of such service, the member shall receive
1056 creditable service for the period of such service for which full
1057 payment has been made to the retirement system.

1058 **SECTION 5.** Section 25-11-113, Mississippi Code of 1972, is
1059 amended as follows:

1060 25-11-113. (1) (a) Upon the application of a member or his
1061 employer, any active member in state service who became a member
1062 of the system before July 1, 2007, and who has at least four (4)
1063 years of membership service credit, or any active member in state
1064 service who became a member of the system on or after July 1,
1065 2007, who has at least ten (10) years of membership service
1066 credit, may be retired by the board of trustees on the first of
1067 the month following the date of filing such application on a
1068 disability retirement allowance, but in no event shall the
1069 disability retirement allowance commence before termination of
1070 state service, provided that the medical board, after an
1071 evaluation of medical evidence that may or may not include an
1072 actual physical examination by the medical board, shall certify
1073 that the member is mentally or physically incapacitated for the
1074 further performance of duty, that such incapacity is likely to be
1075 permanent, and that the member should be retired; however, the
1076 board of trustees may accept a disability medical determination
1077 from the Social Security Administration in lieu of a certification
1078 from the medical board. For the purposes of disability
1079 determination, the medical board shall apply the following
1080 definition of disability: the inability to perform the usual
1081 duties of employment or the incapacity to perform such lesser
1082 duties, if any, as the employer, in its discretion, may assign

1083 without material reduction in compensation, or the incapacity to
1084 perform the duties of any employment covered by the Public
1085 Employees' Retirement System (Section 25-11-101 et seq.) that is
1086 actually offered and is within the same general territorial work
1087 area, without material reduction in compensation. The employer
1088 shall be required to furnish the job description and duties of the
1089 member. The employer shall further certify whether the employer
1090 has offered the member other duties and has complied with the
1091 applicable provisions of the Americans With Disabilities Act in
1092 affording reasonable accommodations which would allow the employee
1093 to continue employment.

1094 (b) Any inactive member who became a member of the
1095 system before July 1, 2007, with four (4) or more years of
1096 membership service credit, or any inactive member who became a
1097 member of the system on or after July 1, 2007, with ten (10) or
1098 more years of membership service credit, who has withdrawn from
1099 active state service, is not eligible for a disability retirement
1100 allowance unless the disability occurs within six (6) months of
1101 the termination of active service and unless satisfactory proof is
1102 presented to the board of trustees that the disability was the
1103 direct cause of withdrawal from state service.

1104 (c) Any member who is or becomes eligible for service
1105 retirement benefits under Section 25-11-111 while pursuing a
1106 disability retirement allowance under this section or Section
1107 25-11-114 may elect to receive a service retirement allowance
1108 pending a final determination on eligibility for a disability
1109 retirement allowance or withdrawal of the application for the
1110 disability retirement allowance. In such a case, an application
1111 for a disability retirement allowance must be on file with the
1112 system before the commencement of a service retirement allowance.
1113 If the application is approved, the option selected and
1114 beneficiary designated on the retirement application shall be used
1115 to determine the disability retirement allowance. If the

1116 application is not approved or if the application is withdrawn,
1117 the service retirement allowance shall continue to be paid in
1118 accordance with the option selected. No person may apply for a
1119 disability retirement allowance after the person begins to receive
1120 a service retirement allowance.

1121 (d) If the medical board certifies that the member is
1122 not mentally or physically incapacitated for the future
1123 performance of duty, the member may request, within sixty (60)
1124 days, a hearing before the hearing officer as provided in Section
1125 25-11-120. All hearings shall be held in accordance with rules
1126 and regulations adopted by the board to govern such hearings.
1127 Such hearing may be closed upon the request of the member.

1128 (e) The medical board may request additional medical
1129 evidence and/or other physicians to conduct an evaluation of the
1130 member's condition. If the medical board requests additional
1131 medical evidence and the member refuses the request, the
1132 application shall be considered void.

1133 (2) Allowance on disability retirement.

1134 (a) Upon retirement for disability, an eligible member
1135 shall receive a retirement allowance if he has attained the age of
1136 sixty (60) years.

1137 (b) Except as provided in paragraph (c) of this
1138 subsection (2), an eligible member who is retired for disability
1139 and who has not attained sixty (60) years of age shall receive a
1140 disability benefit as computed in Section 25-11-111(d)(1) through
1141 (d)(4) which shall consist of:

1142 (i) A member's annuity which shall be the
1143 actuarial equivalent of his accumulated contributions at the time
1144 of retirement; and

1145 (ii) An employer's annuity equal to the amount
1146 that would have been payable as a retirement allowance for both
1147 membership service and prior service had the member continued in
1148 service to the age of sixty (60) years, which shall apply to the

1149 allowance for disability retirement paid to retirees receiving
1150 such allowance upon and after April 12, 1977. This employer's
1151 annuity shall be computed on the basis of the average "earned
1152 compensation" as defined in Section 25-11-103.

1153 (c) For persons who become members after June 30, 1992,
1154 and for active members on June 30, 1992, who elect benefits under
1155 this paragraph (c) instead of those provided under paragraph (b)
1156 of this subsection (2), the disability allowance shall consist of
1157 two (2) parts: a temporary allowance and a deferred allowance.

1158 The temporary allowance shall equal the greater of (i) forty
1159 percent (40%) of average compensation at the time of disability,
1160 plus ten percent (10%) of average compensation for each of the
1161 first two (2) dependent children, as defined in Sections 25-11-103
1162 and 25-11-114, or (ii) the accrued benefit based on actual
1163 service. It shall be payable for a period of time based on the
1164 member's age at disability, as follows:

1165	Age at Disability	Duration
1166	60 and earlier	to age 65
1167	61	to age 66
1168	62	to age 66
1169	63	to age 67
1170	64	to age 67
1171	65	to age 68
1172	66	to age 68
1173	67	to age 69
1174	68	to age 70
1175	69 and over	one year

1176 The deferred allowance shall commence when the temporary
1177 allowance ceases and shall be payable for life. The deferred
1178 allowance shall equal the greater of (i) the allowance that would
1179 have been payable had the member continued in service to the
1180 termination age of the temporary allowance, but no more than forty
1181 percent (40%) of average compensation, or (ii) the accrued benefit

1182 based on actual service at the time of disability. The deferred
1183 allowance as determined at the time of disability shall be
1184 adjusted in accordance with Section 25-11-112 for the period
1185 during which the temporary annuity is payable. In no case shall a
1186 member receive less than Ten Dollars (\$10.00) per month for each
1187 year of service and proportionately for each quarter year thereof
1188 reduced for the option selected.

1189 (d) The member may elect to receive the actuarial
1190 equivalent of the disability retirement allowance in a reduced
1191 allowance payable throughout life under any of the provisions of
1192 the options provided under Section 25-11-115.

1193 (e) Should a disability retiree who has not selected an
1194 option under Section 25-11-115 die before being repaid in
1195 disability benefits the sum of his total contributions, then his
1196 named beneficiary shall receive the difference in cash, which
1197 shall apply to all deceased disability retirees from and after
1198 January 1, 1953.

1199 (3) Reexamination of retirees retired on account of
1200 disability. Except as otherwise provided in this section, once
1201 each year during the first five (5) years following retirement of
1202 a member on a disability retirement allowance, and once in every
1203 period of three (3) years thereafter, the board of trustees may,
1204 and upon his application shall, require any disability retiree who
1205 has not yet attained the age of sixty (60) years or the
1206 termination age of the temporary allowance under subsection (2)(c)
1207 of this section to undergo a medical examination, such examination
1208 to be made at the place of residence of the retiree or other place
1209 mutually agreed upon by a physician or physicians designated by
1210 the board. The board, however, in its discretion, may authorize
1211 the medical board to establish reexamination schedules appropriate
1212 to the medical condition of individual disability retirees.

1213 Should any disability retiree who has not yet attained the age of
1214 sixty (60) years or the termination age of the temporary allowance

1215 under subsection (2)(c) of this section refuse to submit to any
1216 medical examination provided herein, his allowance may be
1217 discontinued until his withdrawal of such refusal; and should his
1218 refusal continue for one (1) year, all his rights to a disability
1219 benefit shall be revoked by the board of trustees.

1220 (4) If the medical board reports and certifies to the board
1221 of trustees, after a comparable job analysis or other similar
1222 study, that such disability retiree is engaged in, or is able to
1223 engage in, a gainful occupation paying more than the difference
1224 between his disability allowance, exclusive of cost of living
1225 adjustments, and the average compensation, and if the board of
1226 trustees concurs in such report, the disability benefit shall be
1227 reduced to an amount which, together with the amount earnable by
1228 him, shall equal the amount of his average compensation. If his
1229 earning capacity be later changed, the amount of the benefit may
1230 be further modified, provided that the revised benefit shall not
1231 exceed the amount originally granted. A retiree receiving a
1232 disability benefit who is restored to active service at a salary
1233 less than the average compensation shall not become a member of
1234 the retirement system.

1235 (5) Should a disability retiree under the age of sixty (60)
1236 years or the termination age of the temporary allowance under
1237 subsection (2)(c) of this section be restored to active service at
1238 a compensation not less than his average compensation, his
1239 disability benefit shall cease, he shall again become a member of
1240 the retirement system, and contributions shall be withheld and
1241 reported. Any such prior service certificate, on the basis of
1242 which his service was computed at the time of retirement, shall be
1243 restored to full force and effect. In addition, upon his
1244 subsequent retirement he shall be credited with all creditable
1245 service as a member, but the total retirement allowance paid to
1246 the retired member in his previous retirement shall be deducted
1247 from his retirement reserve and taken into consideration in

1248 recalculating the retirement allowance under a new option
1249 selected.

1250 (6) If following reexamination in accordance with the
1251 provisions contained in this section, the medical board determines
1252 that a retiree retired on account of disability is physically and
1253 mentally able to return to the employment from which he is
1254 retired, the board of trustees, upon certification of such
1255 findings from the medical board, shall, after a reasonable period
1256 of time, terminate the disability allowance, whether or not the
1257 retiree is reemployed or seeks such reemployment. In addition, if
1258 the board of trustees determines that the retiree is no longer
1259 sustaining a loss of income as established by documented evidence
1260 of the retiree's earned income, the eligibility for a disability
1261 allowance shall terminate and the allowance terminated within a
1262 reasonable period of time. In the event the retirement allowance
1263 is terminated under the provisions of this section, the retiree
1264 may subsequently qualify for a retirement allowance under Section
1265 25-11-111 based on actual years of service credit plus credit for
1266 the period during which a disability allowance was paid.

1267 (7) Any current member as of June 30, 1992, who retires on a
1268 disability retirement allowance after June 30, 1992, and who has
1269 not elected to receive benefits under subsection (2)(c) of this
1270 section, shall relinquish all rights under the Age Discrimination
1271 in Employment Act of 1967, as amended, with regard to the benefits
1272 payable under this section.

1273 **SECTION 6.** Section 25-11-114, Mississippi Code of 1972, is
1274 amended as follows:

1275 25-11-114. (1) The applicable benefits provided in
1276 subsections (2) and (3) of this section shall be paid to eligible
1277 beneficiaries of any member who became a member of the system
1278 before July 1, 2007, and has completed four (4) or more years of
1279 creditable service, or who became a member of the system on or
1280 after July 1, 2007, and has completed ten (10) or more years of

1281 creditable service, and who dies before retirement and who has not
1282 filed a Pre-Retirement Optional Retirement Form as provided in
1283 Section 25-11-111.

1284 (2) (a) The member's surviving spouse who has been married
1285 to the member for not less than one (1) year immediately preceding
1286 his death shall receive an annuity computed in accordance with
1287 paragraph (d) of this subsection (2) as if the member:

1288 (i) Had retired on the date of his death with
1289 entitlement to an annuity provided for in Section 25-11-111,
1290 notwithstanding that he might not have attained age sixty (60) or
1291 acquired twenty-five (25) years of creditable service;

1292 (ii) Had nominated his spouse as beneficiary; and

1293 (b) If, at the time of the member's death, there are no
1294 dependent children, and the surviving spouse, who otherwise would
1295 receive the annuity under this subsection (2), has filed with the
1296 system a signed written waiver of his or her rights to the annuity
1297 and that waiver was in effect at the time of the member's death, a
1298 lump sum distribution of the deceased member's accumulated
1299 contributions shall be refunded in accordance with Section
1300 25-11-117.

1301 (c) The spouse annuity shall begin on the first day of
1302 the month following the date of the member's death, but in case of
1303 late filing, retroactive payments will be made for a period of not
1304 more than one (1) year.

1305 (d) The spouse annuity shall be payable for life and
1306 shall be the greater of twenty percent (20%) of the deceased
1307 member's average compensation as defined in Section 25-11-103 at
1308 the time of death or Fifty Dollars (\$50.00) monthly. Surviving
1309 spouses of deceased members who previously received spouse
1310 retirement benefits under this paragraph (d) from and after July
1311 1, 1992, and whose benefits were terminated before July 1, 2004,
1312 because of remarriage, may again receive the retirement benefits
1313 authorized under this paragraph (d) by making application with the

1314 board to reinstate those benefits. Any reinstatement of the
1315 benefits shall be prospective only and shall begin after the first
1316 of the month following the date of the application for
1317 reinstatement, but no earlier than July 1, 2004.

1318 (e) However, the spouse may elect by an irrevocable
1319 agreement on a form prescribed by the board of trustees to receive
1320 a monthly allowance as computed under either paragraph (d) or this
1321 paragraph. The irrevocable agreement shall constitute a waiver by
1322 the spouse to any current and future monthly allowance under the
1323 paragraph not elected, and the waiver shall be a complete and full
1324 discharge of all obligations of the retirement system under that
1325 paragraph.

1326 Any member who has completed four (4) or more years of
1327 creditable service and who dies before retirement and leaves a
1328 spouse who has been married to the member for not less than one
1329 (1) year immediately preceding his death and has not exercised any
1330 other option shall be deemed to have exercised Option 2 under
1331 Section 25-11-115 for the benefit of his spouse, which spouse
1332 shall be paid Option 2 settlement benefits under this article
1333 beginning on the first of the month following the date of death,
1334 but in case of late filing, retroactive payments will be made for
1335 a period of not more than one (1) year. The method of calculating
1336 the retirement benefits shall be on the same basis as provided in
1337 Section 25-11-111(d). However, if the member dies before being
1338 qualified for full unreduced benefits, then the benefits shall be
1339 reduced by three percent (3%) per year for the lesser of either
1340 the years of service or age required for full unreduced benefits
1341 in Section 25-11-111(d).

1342 (3) (a) Subject to the maximum limitation provided in this
1343 paragraph, the member's dependent children each shall receive an
1344 annuity of the greater of ten percent (10%) of the member's
1345 average compensation as defined in Section 25-11-103 at the time
1346 of the death of the member or Fifty Dollars (\$50.00) monthly;

1347 however, if there are more than three (3) dependent children, each
1348 dependent child shall receive an equal share of a total annuity
1349 equal to thirty percent (30%) of the member's average
1350 compensation, provided that the total annuity shall not be less
1351 than One Hundred Fifty Dollars (\$150.00) per month for all
1352 children.

1353 (b) A child shall be considered to be a dependent child
1354 until marriage, or the attainment of age nineteen (19), whichever
1355 comes first; however, this age limitation shall be extended beyond
1356 age nineteen (19), but in no event beyond the attainment of age
1357 twenty-three (23), as long as the child is a student regularly
1358 pursuing a full-time course of resident study or training in an
1359 accredited high school, trade school, technical or vocational
1360 institute, junior or community college, college, university or
1361 comparable recognized educational institution duly licensed by a
1362 state. A student child whose birthday falls during the school
1363 year (September 1 through June 30) is considered not to reach age
1364 twenty-three (23) until the July 1 following the actual
1365 twenty-third birthday. A full-time course of resident study or
1366 training means a day or evening noncorrespondence course that
1367 includes school attendance at the rate of at least thirty-six (36)
1368 weeks per academic year or other applicable period with a subject
1369 load sufficient, if successfully completed, to attain the
1370 educational or training objective within the period generally
1371 accepted as minimum for completion, by a full-time day student, of
1372 the academic or training program concerned. Any child who is
1373 physically or mentally incompetent, as adjudged by either a
1374 Mississippi court of competent jurisdiction or by the board, shall
1375 receive benefits for as long as the incompetency exists.

1376 (c) If there are more than three (3) dependent
1377 children, upon a child's ceasing to be a dependent child, his
1378 annuity shall terminate and there shall be a redetermination of
1379 the amounts payable to any remaining dependent children.

1380 (d) Annuities payable under this subsection (3) shall
1381 begin the first day of the month following the date of the
1382 member's death or in case of late filing, retroactive payments
1383 will be made for a period of not more than one (1) year. Those
1384 benefits may be paid to a surviving parent or the lawful custodian
1385 of a dependent child for the use and benefit of the child without
1386 the necessity of appointment as guardian.

1387 (4) (a) Death benefits in the line of duty. Regardless of
1388 the number of years of the member's creditable service, the spouse
1389 and/or the dependent children of an active member who is killed in
1390 the line of performance of duty or dies as a direct result of an
1391 accident occurring in the line of performance of duty shall
1392 qualify, on approval of the board, for a retirement allowance on
1393 the first of the month following the date of death, but in the
1394 case of late filing, retroactive payments will be made for a
1395 period of not more than one (1) year. The spouse shall receive a
1396 retirement allowance for life equal to one-half (1/2) of the
1397 average compensation as defined in Section 25-11-103. In addition
1398 to the retirement allowance for the spouse, or if there is no
1399 surviving spouse, the member's dependent child shall receive a
1400 retirement allowance in the amount of one-fourth (1/4) of the
1401 member's average compensation as defined in Section 25-11-103;
1402 however, if there are two (2) or more dependent children, each
1403 dependent child shall receive an equal share of a total annuity
1404 equal to one-half (1/2) of the member's average compensation. If
1405 there are more than two (2) dependent children, upon a child's
1406 ceasing to be a dependent child, his annuity shall terminate and
1407 there shall be a redetermination of the amounts payable to any
1408 remaining dependent children. Those benefits shall cease to be
1409 paid for the support and maintenance of each child upon the child
1410 attaining the age of nineteen (19) years; however, the spouse
1411 shall continue to be eligible for the aforesaid retirement
1412 allowance. Those benefits may be paid to a surviving parent or

1413 lawful custodian of the children for the use and benefit of the
1414 children without the necessity of appointment as guardian. Any
1415 spouse who received spouse retirement benefits under this
1416 paragraph (a) from and after April 4, 1984, and whose benefits
1417 were terminated before July 1, 2004, because of remarriage, may
1418 again receive the retirement benefits authorized under this
1419 paragraph (a) by making application with the board to reinstate
1420 those benefits. Any reinstatement of the benefits shall be
1421 prospective only and shall begin after the first of the month
1422 following the date of the application for reinstatement, but not
1423 earlier than July 1, 2004.

1424 (b) A child shall be considered to be a dependent child
1425 until marriage, or the attainment of age nineteen (19), whichever
1426 comes first; however, this age limitation shall be extended beyond
1427 age nineteen (19), but in no event beyond the attainment of age
1428 twenty-three (23), as long as the child is a student regularly
1429 pursuing a full-time course of resident study or training in an
1430 accredited high school, trade school, technical or vocational
1431 institute, junior or community college, college, university or
1432 comparable recognized educational institution duly licensed by a
1433 state. A student child whose birthday falls during the school
1434 year (September 1 through June 30) is considered not to reach age
1435 twenty-three (23) until the July 1 following the actual
1436 twenty-third birthday. A full-time course of resident study or
1437 training means a day or evening noncorrespondence course that
1438 includes school attendance at the rate of at least thirty-six (36)
1439 weeks per academic year or other applicable period with a subject
1440 load sufficient, if successfully completed, to attain the
1441 educational or training objective within the period generally
1442 accepted as minimum for completion, by a full-time day student, of
1443 the academic or training program concerned. Any child who is
1444 physically or mentally incompetent, as adjudged by either a

1445 Mississippi court of competent jurisdiction or by the board, shall
1446 receive benefits for as long as the incompetency exists.

1447 (5) If all the annuities provided for in this section
1448 payable on account of the death of a member terminate before there
1449 has been paid an aggregate amount equal to the member's
1450 accumulated contributions standing to the member's credit in the
1451 annuity savings account at the time of the member's death, the
1452 difference between the accumulated contributions and the aggregate
1453 amount of annuity payments shall be paid to the person that the
1454 member has nominated by written designation duly executed and
1455 filed with the board. If there is no designated beneficiary
1456 surviving at termination of benefits, the difference shall be
1457 payable pursuant to Section 25-11-117.1(1).

1458 (6) Regardless of the number of years of creditable service
1459 upon the application of a member or employer, any active member
1460 who becomes disabled as a direct result of an accident or
1461 traumatic event resulting in a physical injury occurring in the
1462 line of performance of duty, provided that the medical board or
1463 other designated governmental agency after a medical examination
1464 certifies that the member is mentally or physically incapacitated
1465 for the further performance of duty and the incapacity is likely
1466 to be permanent, may be retired by the board of trustees on the
1467 first of the month following the date of filing the application
1468 but in no event shall the retirement allowance begin before the
1469 termination of state service. The retirement allowance shall
1470 equal the allowance on disability retirement as provided in
1471 Section 25-11-113 but shall not be less than fifty percent (50%)
1472 of average compensation.

1473 Permanent and total disability resulting from a
1474 cardiovascular, pulmonary or musculo-skeletal condition that was
1475 not a direct result of a traumatic event occurring in the
1476 performance of duty shall be deemed an ordinary disability. A

1477 mental disability based exclusively on employment duties occurring
1478 on an ongoing basis shall be deemed an ordinary disability.

1479 (7) If the deceased or disabled member became a member of
1480 the system before July 1, 2007, and has less than four (4) years
1481 of creditable service, or became a member of the system on or
1482 after July 1, 2007, and has less than ten (10) years of creditable
1483 service, the average compensation as defined in Section 25-11-103
1484 shall be the average of all annual earned compensation in state
1485 service for the purposes of benefits provided in this section.

1486 (8) In case of death or total and permanent disability under
1487 subsection (4) or subsection (6) of this section and before the
1488 board shall consider any application for a retirement allowance,
1489 the employer must certify to the board that the member's death or
1490 disability was a direct result of an accident or a traumatic event
1491 occurring during and as a result of the performance of the regular
1492 and assigned duties of the employee and that the death or
1493 disability was not the result of the willful negligence of the
1494 employee.

1495 (9) The application for the retirement allowance must be
1496 filed within one (1) year after death of an active member who is
1497 killed in the line of performance of duty or dies as a direct
1498 result of an accident occurring in the line of performance of duty
1499 or traumatic event; but the board of trustees may consider an
1500 application for disability filed after the one-year period if it
1501 can be factually demonstrated to the satisfaction of the board of
1502 trustees that the disability is due to the accident and that the
1503 filing was not accomplished within the one-year period due to a
1504 delayed manifestation of the disability or to circumstances beyond
1505 the control of the member. However, in case of late filing,
1506 retroactive payments will be made for a period of not more than
1507 one (1) year only.

1508 (10) Notwithstanding any other section of this article and
1509 in lieu of any payments to a designated beneficiary for a refund

1510 of contributions under Section 25-11-117, the spouse and/or
1511 children shall be eligible for the benefits payable under this
1512 section, and the spouse may elect, for both the spouse and/or
1513 children, to receive benefits in accordance with either
1514 subsections (2) and (3) or subsection (4) of this section;
1515 otherwise, the contributions to the credit of the deceased member
1516 shall be refunded in accordance with Section 25-11-117.

1517 (11) If the member has previously received benefits from the
1518 system to which he was not entitled and has not repaid in full all
1519 amounts payable by him to the system, the annuity amounts
1520 otherwise provided by this section shall be withheld and used to
1521 effect repayment until the total of the withholdings repays in
1522 full all amounts payable by him to the system.

1523 **SECTION 7.** Section 25-11-117, Mississippi Code of 1972, is
1524 amended as follows:

1525 25-11-117. (1) A member may be paid a refund of the amount
1526 of accumulated contributions to the credit of the member in the
1527 annuity savings account, provided that the member has withdrawn
1528 from state service and has not returned to state service on the
1529 date the refund of the accumulated contributions would be paid.
1530 That refund of the contributions to the credit of the member in
1531 the annuity savings account shall be paid within ninety (90) days
1532 from receipt in the office of the retirement system of the
1533 properly completed form requesting the payment. In the event of
1534 death before retirement of any member whose spouse and/or children
1535 are not entitled to a retirement allowance, the accumulated
1536 contributions to the credit of the deceased member in the annuity
1537 savings account shall be paid to the designated beneficiary on
1538 file in writing in the office of the executive director of the
1539 board of trustees within ninety (90) days from receipt of a
1540 properly completed form requesting the payment. If there is no
1541 such designated beneficiary on file for the deceased member in the
1542 office of the system, upon the filing of a proper request with the

1543 board, the contributions to the credit of the deceased member in
1544 the annuity savings account shall be refunded pursuant to Section
1545 25-11-117.1(1). The payment of the refund shall discharge all
1546 obligations of the retirement system to the member on account of
1547 any creditable service rendered by the member prior to the receipt
1548 of the refund. By the acceptance of the refund, the member shall
1549 waive and relinquish all accrued rights in the system.

1550 (2) Under the Unemployment Compensation Amendments of 1992
1551 (Public Law 102-318 (UCA)), a member or the spouse of a member who
1552 is an eligible beneficiary entitled to a refund under this section
1553 may elect, on a form prescribed by the board under rules and
1554 regulations established by the board, to have an eligible rollover
1555 distribution of accumulated contributions payable under this
1556 section paid directly to an eligible retirement plan, as defined
1557 under applicable federal law, or an individual retirement account.
1558 If the member or the spouse of a member who is an eligible
1559 beneficiary makes that election and specifies the eligible
1560 retirement plan or individual retirement account to which the
1561 distribution is to be paid, the distribution will be made in the
1562 form of a direct trustee-to-trustee transfer to the specified
1563 eligible retirement plan. Flexible rollovers under this
1564 subsection shall not be considered assignments under Section
1565 25-11-129.

1566 (3) (a) If any person who became a member of the system
1567 before July 1, 2007, has received a refund reenters the state
1568 service and again becomes a member of the system, the member may
1569 repay all or part of the amounts previously received as a refund,
1570 together with regular interest covering the period from the date
1571 of refund to the date of repayment; however, the amounts that are
1572 repaid by the member and the creditable service related thereto
1573 shall not be used in any benefit calculation or determination
1574 until the member has remained a contributor to the system for a
1575 period of at least four (4) years after the member's reentry into

1576 state service. Repayment for that time shall be made in
1577 increments of not less than one-quarter (1/4) year of creditable
1578 service beginning with the most recent service for which refund
1579 has been made. Upon the repayment of all or part of that refund
1580 and interest, the member shall again receive credit for the period
1581 of creditable service for which full repayment has been made to
1582 the system.

1583 (b) If any person who became a member of the system on
1584 or after July 1, 2007, has received a refund reenters the state
1585 service and again becomes a member of the system, the member may
1586 repay all or part of the amounts previously received as a refund,
1587 together with regular interest covering the period from the date
1588 of refund to the date of repayment; however, the amounts that are
1589 repaid by the member and the creditable service related thereto
1590 shall not be used in any benefit calculation or determination
1591 until the member has remained a contributor to the system for a
1592 period of at least ten (10) years after the member's reentry into
1593 state service. Repayment for that time shall be made in
1594 increments of not less than one-quarter (1/4) year of creditable
1595 service beginning with the most recent service for which refund
1596 has been made. Upon the repayment of all or part of that refund
1597 and interest, the member shall again receive credit for the period
1598 of creditable service for which full repayment has been made to
1599 the system.

1600 (4) (a) In order to provide a source of income to members
1601 who have applied for disability benefits under Section 25-11-113
1602 or 25-11-114, the board may provide, at the employee's election, a
1603 temporary benefit to be paid from the member's accumulated
1604 contributions, if any, without forfeiting the right to pursue
1605 disability benefits, provided that the member has exhausted all
1606 personal and medical leave and has terminated his or her
1607 employment. The board may prescribe rules and regulations for
1608 carrying out the provisions of this subsection (4).

1609 (b) If a member who has elected to receive temporary
1610 benefits under this subsection later applies for a refund of his
1611 or her accumulated contributions, all amounts paid under this
1612 subsection shall be deducted from the accumulated contributions
1613 and the balance will be paid to the member. If a member who has
1614 elected to receive temporary benefits under this subsection is
1615 later approved for a disability retirement allowance, and a
1616 service retirement allowance or survivor benefits are paid on the
1617 account, the board shall adjust the benefits in such a manner that
1618 no more than the actuarial equivalent of the benefits to which the
1619 member or beneficiary was or is entitled shall be paid.

1620 (c) The board may study, develop and propose a
1621 disability benefit structure, including short and long term
1622 disability benefits, provided that it is the actuarial equivalent
1623 of the benefits currently provided in Section 25-11-113 or
1624 25-11-114.

1625 **SECTION 8.** For purposes of Sections 25-11-103, 25-11-105,
1626 25-11-109, 25-11-111, 25-11-113, 25-11-114 and 25-11-117, if a
1627 member of the system withdrew from state service and received a
1628 refund of the amount of the accumulated contributions to the
1629 credit of the member in the annuity savings account before July 1,
1630 2007, and the person reenters state service and becomes a member
1631 of the system again on or after July 1, 2007, and repays all or
1632 part of the amount received as a refund and interest in order to
1633 receive creditable service for service rendered before July 1,
1634 2007, the member shall be considered to have become a member of
1635 the system on or after July 1, 2007.

1636 **SECTION 9.** This act shall take effect and be in force from
1637 and after July 1, 2007.