

## House Amendments to Senate Bill No. 2821

TO THE SECRETARY OF THE SENATE:

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

### AMENDMENT NO. 1

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

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

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

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

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

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

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

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

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

46 consecutive months of earned compensation reported for an  
47 employee. The four (4) years need not be successive or joined  
48 years of service. In no case shall the average compensation so  
49 determined be in excess of One Hundred Fifty Thousand Dollars  
50 (\$150,000.00). In computing the average compensation, any amount  
51 lawfully paid in a lump sum for personal leave or major medical  
52 leave shall be included in the calculation to the extent that the  
53 amount does not exceed an amount that is equal to thirty (30) days  
54 of earned compensation and to the extent that it does not cause  
55 the employees' earned compensation to exceed the maximum  
56 reportable amount specified in Section 25-11-103(k); however, this  
57 thirty-day limitation shall not prevent the inclusion in the  
58 calculation of leave earned under federal regulations before July  
59 1, 1976, and frozen as of that date as referred to in Section  
60 25-3-99. Only the amount of lump-sum pay for personal leave due  
61 and paid upon the death of a member attributable for up to one  
62 hundred fifty (150) days shall be used in the deceased member's  
63 average compensation calculation in determining the beneficiary's  
64 benefits. In computing the average compensation, no amounts shall  
65 be used that are in excess of the amount on which contributions  
66 were required and paid, and no nontaxable amounts paid by the  
67 employer for health or life insurance premiums for the employee  
68 shall be used. If any member who is or has been granted any  
69 increase in annual salary or compensation of more than eight  
70 percent (8%) retires within twenty-four (24) months from the date  
71 that the increase becomes effective, then the board shall exclude  
72 that part of the increase in salary or compensation that exceeds  
73 eight percent (8%) in calculating that member's average  
74 compensation for retirement purposes. The board may enforce this  
75 provision by rule or regulation. However, increases in  
76 compensation in excess of eight percent (8%) per year granted  
77 within twenty-four (24) months of the date of retirement may be  
78 included in the calculation of average compensation if  
79 satisfactory proof is presented to the board showing that the  
80 increase in compensation was the result of an actual change in the

81 position held or services rendered, or that the compensation  
82 increase was authorized by the State Personnel Board or was  
83 increased as a result of statutory enactment, and the employer  
84 furnishes an affidavit stating that the increase granted within  
85 the last twenty-four (24) months was not contingent on a promise  
86 or agreement of the employee to retire. Nothing in Section  
87 25-3-31 shall affect the calculation of the average compensation  
88 of any member for the purposes of this article. The average  
89 compensation of any member who retires before July 1, 1992, shall  
90 not exceed the annual salary of the Governor.

91 (g) "Beneficiary" means any person entitled to receive  
92 a retirement allowance, an annuity or other benefit as provided by  
93 Articles 1 and 3. The term "beneficiary" may also include an  
94 organization, estate, trust or entity; however, a beneficiary  
95 designated or entitled to receive monthly payments under an  
96 optional settlement based on life contingency or under a statutory  
97 monthly benefit may only be a natural person. In the event of the  
98 death before retirement of any member who became a member of the  
99 system before July 1, 2007, and whose spouse and/or children are  
100 not entitled to a retirement allowance on the basis that the  
101 member has less than four (4) years of service credit, or who  
102 became a member of the system on or after July 1, 2007, and whose  
103 spouse and/or children are not entitled to a retirement allowance  
104 on the basis that the member has less than eight (8) years of  
105 service credit, and/or has not been married for a minimum of one  
106 (1) year or the spouse has waived his or her entitlement to a  
107 retirement allowance under Section 25-11-114, the lawful spouse of  
108 a member at the time of the death of the member shall be the  
109 beneficiary of the member unless the member has designated another  
110 beneficiary after the date of marriage in writing, and filed that  
111 writing in the office of the executive director of the board of  
112 trustees. No designation or change of beneficiary shall be made  
113 in any other manner.

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

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

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

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

149 regulations, who is also employed by another covered agency or  
150 political subdivision shall have the earnings of that additional  
151 employment reported to the Public Employees' Retirement System  
152 regardless of whether the additional employment is sufficient in  
153 itself to be a covered position. In addition, computation of  
154 earned compensation shall be governed by the following:

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

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

163 (iii) In the case of members of the State  
164 Legislature, all remuneration or amounts paid, except mileage  
165 allowance, shall apply.

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

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

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

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

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

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

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

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

201 (p) "Medical board" means the board of physicians or  
202 any governmental or nongovernmental disability determination  
203 service designated by the board of trustees that is qualified to  
204 make disability determinations as provided for in Section  
205 25-11-119.

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

217 member shall be considered to have become a member of the system  
218 on or after July 1, 2007, subject to the eight (8) year membership  
219 service requirement, as applicable in those sections.

220 (r) "Membership service" means service as an employee  
221 in a covered position rendered while a contributing member of the  
222 retirement system.

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

242 (t) "Prior service" means:

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

250 (ii) For persons who became members of the system  
251 on or after July 1, 2007, service rendered before February 1,

252 1953, for which credit is allowable under Sections 25-11-105 and  
253 25-11-109, and which shall allow prior service for any person who  
254 is now or becomes a member of the Public Employees' Retirement  
255 System and who does contribute to the system for a minimum period  
256 of eight (8) years.

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

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

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

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

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

278 (z) "State service" means all offices and positions of  
279 trust or employment in the employ of the state, or any political  
280 subdivision or instrumentality of the state, that elect to  
281 participate as provided by Section 25-11-105(f), including the  
282 position of elected or fee officials of the counties and their  
283 deputies and employees performing public services or any  
284 department, independent agency, board or commission thereof, and  
285 also includes all offices and positions of trust or employment in  
286 the employ of joint state and federal agencies administering state



287 and federal funds and service rendered by employees of the public  
288 schools. Effective July 1, 1973, all nonprofessional public  
289 school employees, such as bus drivers, janitors, maids,  
290 maintenance workers and cafeteria employees, shall have the option  
291 to become members in accordance with Section 25-11-105(b), and  
292 shall be eligible to receive credit for services before July 1,  
293 1973, provided that the contributions and interest are paid by the  
294 employee in accordance with that section; in addition, the county  
295 or municipal separate school district may pay the employer  
296 contribution and pro rata share of interest of the retroactive  
297 service from available funds. From and after July 1, 1998,  
298 retroactive service credit shall be purchased at the actuarial  
299 cost in accordance with Section 25-11-105(b).

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

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

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

307 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

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

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

316 (ii) From and after July 1, 2002, any individual  
317 who is employed by a governmental entity to perform professional  
318 services shall become a member of the system if the individual is  
319 paid regular periodic compensation for those services that is  
320 subject to payroll taxes, is provided all other employee benefits  
321 and meets the membership criteria established by the regulations

322 adopted by the board of trustees that apply to all other members  
323 of the system; however, any active member employed in such a  
324 position on July 1, 2002, will continue to be an active member for  
325 as long as they are employed in any such position.

326 (b) All persons who become employees in the state  
327 service after January 31, 1953, except those specifically excluded  
328 or as to whom election is provided in Articles 1 and 3, unless  
329 they file with the board before the lapse of sixty (60) days of  
330 employment or sixty (60) days after the effective date of the  
331 cited articles, whichever is later, on a form prescribed by the  
332 board, a notice of election not to be covered by the membership of  
333 the retirement system and a duly executed waiver of all present  
334 and prospective benefits that would otherwise inure to them on  
335 account of their participation in the system, shall become members  
336 of the retirement system; however, no credit for prior service  
337 will be granted to members who became members of the system before  
338 July 1, 2007, until they have contributed to Article 3 of the  
339 retirement system for a minimum period of at least four (4) years,  
340 or to members who became members of the system on or after July 1,  
341 2007, until they have contributed to Article 3 of the retirement  
342 system for a minimum period of at least eight (8) years. Those  
343 members shall receive credit for services performed before January  
344 1, 1953, in employment now covered by Article 3, but no credit  
345 shall be granted for retroactive services between January 1, 1953,  
346 and the date of their entry into the retirement system, unless the  
347 employee pays into the retirement system both the employer's and  
348 the employee's contributions on wages paid him during the period  
349 from January 31, 1953, to the date of his becoming a contributing  
350 member, together with interest at the rate determined by the board  
351 of trustees. Members reentering after withdrawal from service  
352 shall qualify for prior service under the provisions of Section  
353 25-11-117. From and after July 1, 1998, upon eligibility as noted  
354 above, the member may receive credit for such retroactive service  
355 provided:

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

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

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

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

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

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

391 person shall receive prior service credit unless he becomes a  
392 member on or before February 1, 1953.

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

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

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

425                   (iii) It provides for such methods of  
426 administration of the plan by the political subdivision or  
427 instrumentality as are found by the board of trustees to be  
428 necessary for the proper and efficient administration thereof;

429                   (iv) It provides that the political subdivision or  
430 instrumentality will make such reports, in such form and  
431 containing such information, as the board of trustees may from  
432 time to time require;

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

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

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

457                   3. Every political subdivision or  
458 instrumentality required to make payments under paragraph (f)(v)2  
459 of this section is authorized, in consideration of the employees'

460 retention in or entry upon employment after enactment of Articles  
461 1 and 3, to impose upon its employees, as to services that are  
462 covered by an approved plan, a contribution with respect to wages  
463 (as defined in Section 25-11-5) not exceeding the amount provided  
464 in Section 25-11-123(d) if those services constituted employment  
465 within the meaning of Articles 1 and 3, and to deduct the amount  
466 of the contribution from the wages as and when paid.

467 Contributions so collected shall be paid into the contribution  
468 fund as partial discharge of the liability of the political  
469 subdivisions or instrumentalities under paragraph (f)(v)2 of this  
470 section. Failure to deduct the contribution shall not relieve the  
471 employee or employer of liability for the contribution.

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

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

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

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

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

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

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

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

526 (k) Employees of a political subdivision or  
527 instrumentality who were employed by the political subdivision or  
528 instrumentality before an agreement between the entity and the  
529 Public Employees' Retirement System to extend the benefits of this

530 article to its employees, and which agreement provides for the  
531 establishment of retroactive service credit, and who became  
532 members of the retirement system before July 1, 2007, and have  
533 remained contributors to the retirement system for four (4) years,  
534 or who became members of the retirement system on or after July 1,  
535 2007, and have remained contributors to the retirement system for  
536 eight (8) years, may receive credit for that retroactive service  
537 with the political subdivision or instrumentality, provided that  
538 the employee and/or employer, as provided under the terms of the  
539 modification of the joinder agreement in allowing that coverage,  
540 pay into the retirement system the employer's and employee's  
541 contributions on wages paid the member during the previous  
542 employment, together with interest or actuarial cost as determined  
543 by the board covering the period from the date the service was  
544 rendered until the payment for the credit for the service was  
545 made. Those wages shall be verified by the Social Security  
546 Administration or employer payroll records. Effective July 1,  
547 1998, upon eligibility as noted above, a member may receive credit  
548 for that retroactive service with the political subdivision or  
549 instrumentality provided:

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

555           (ii) The member shall pay to the retirement system  
556 on the date he or she is eligible for that credit or at any time  
557 thereafter before the date of retirement the actuarial cost for  
558 each year of that creditable service. The provisions of this  
559 subparagraph (ii) shall be subject to the limitations of Section  
560 415 of the Internal Revenue Code and regulations promulgated under  
561 Section 415.

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



565 employer contributions plus applicable interest. Payment for that  
566 time shall be made in increments of not less than one-quarter  
567 (1/4) year of creditable service beginning with the most recent  
568 service. Upon the payment of all or part of the required  
569 contributions, plus interest or the actuarial cost as provided  
570 above, the member shall receive credit for the period of  
571 creditable service for which full payment has been made to the  
572 retirement system.

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

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

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

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

590 (a) Patient or inmate help in state charitable, penal  
591 or correctional institutions;

592 (b) Students of any state educational institution  
593 employed by any agency of the state for temporary, part-time or  
594 intermittent work;

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

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

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

602 **III. TERMINATION OF MEMBERSHIP**

603 Membership in this system shall cease by a member withdrawing  
604 his accumulated contributions, or by a member withdrawing from  
605 active service with a retirement allowance, or by a member's  
606 death.

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

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

629 (2) In the computation of creditable service under the  
630 provisions of this article, the total months of accumulative  
631 service during any fiscal year shall be calculated in accordance  
632 with the schedule as follows: ten (10) or more months of  
633 creditable service during any fiscal year shall constitute a year  
634 of creditable service; seven (7) months to nine (9) months

635 inclusive, three-quarters (3/4) of a year of creditable service;  
636 four (4) months to six (6) months inclusive, one-half-year of  
637 creditable service; one (1) month to three (3) months inclusive,  
638 one-quarter (1/4) of a year of creditable service. In no case  
639 shall credit be allowed for any period of absence without  
640 compensation except for disability while in receipt of a  
641 disability retirement allowance, nor shall less than fifteen (15)  
642 days of service in any month, or service less than the equivalent  
643 of one-half (1/2) of the normal working load for the position and  
644 less than one-half (1/2) of the normal compensation for the  
645 position in any month, constitute a month of creditable service,  
646 nor shall more than one (1) year of service be creditable for all  
647 services rendered in any one (1) fiscal year; however, for a  
648 school employee, substantial completion of the legal school term  
649 when and where the service was rendered shall constitute a year of  
650 service credit \* \* \*. Any state or local elected official shall  
651 be deemed a full-time employee for the purpose of creditable  
652 service \* \* \*. However, an appointed or elected official  
653 compensated on a per diem basis only shall not be allowed  
654 creditable service for terms of office.

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

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

670 unused leave, the system must receive certification from the  
671 governing authority.

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

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

679 (b) For service on and after July 1, 1984, the member  
680 shall receive credit for personal and major medical leave  
681 beginning July 1, 1984, at the rates authorized in Sections  
682 25-3-93 and 25-3-95, computed as a full-time employee.

683 (3) Subject to the above restrictions and to such other  
684 rules and regulations as the board may adopt, the board shall  
685 verify, as soon as practicable after the filing of such statements  
686 of service, the services therein claimed.

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

698 When membership ceases, such prior service certificates shall  
699 become void. Should the employee again become a member, he shall  
700 enter the system as an employee not entitled to prior service  
701 credit except as provided in Sections 25-11-105(I), 25-11-113 and  
702 25-11-117.

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

705 the membership service rendered by him since he last became a  
706 member, and also, if he has a prior service certificate that is in  
707 full force and effect, the amount of the service certified on his  
708 prior service certificate.

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

736 (7) (a) Any member of the Public Employees' Retirement  
737 System whose membership service is interrupted as a result of  
738 qualified military service within the meaning of Section 414(u)(5)  
739 of the Internal Revenue Code, and who has received the maximum

740 service credit available under subsection (6) of this section,  
741 shall receive creditable service for the period of qualified  
742 military service that does not qualify as creditable service under  
743 subsection (6) of this section upon reentering membership service  
744 in an amount not to exceed five (5) years if:

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

750 (ii) The member returns to membership service  
751 within ninety (90) days of the end of his qualified military  
752 service; and

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

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

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

768 (8) Any member of the Public Employees' Retirement System  
769 who became a member of the system before July 1, 2007, and who has  
770 at least four (4) years of membership service credit, or who  
771 became a member of the system on or after July 1, 2007, and who  
772 has at least eight (8) years of membership service credit, shall  
773 be entitled to receive a maximum of five (5) years creditable  
774 service for service rendered in another state as a public employee

775 of such other state, or a political subdivision, public education  
776 system or other governmental instrumentality thereof, or service  
777 rendered as a teacher in American overseas dependent schools  
778 conducted by the Armed Forces of the United States for children of  
779 citizens of the United States residing in areas outside the  
780 continental United States, provided that:

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

787 (b) The member is not receiving or will not be entitled  
788 to receive from the public retirement system of the other state or  
789 from any other retirement plan, including optional retirement  
790 plans, sponsored by the employer, a retirement allowance including  
791 such services; and

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

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

809 (a) The professional leave is performed with a public  
810 institution or public agency of this state, or another state or  
811 federal agency;

812 (b) The employer approves the professional leave  
813 showing the reason for granting the leave and makes a  
814 determination that the professional leave will benefit the  
815 employee and employer;

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

818 (d) The employee shall serve the employer on a  
819 full-time basis for a period of time equivalent to the  
820 professional leave period granted immediately following the  
821 termination of the leave period;

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

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

830 Any actively contributing member participating in the School  
831 Administrator Sabbatical Program established in Section 37-9-77  
832 shall qualify for continued participation under this subsection  
833 (9).

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

840 (a) Any service rendered as an employee of any  
841 political subdivision of this state, or any instrumentality  
842 thereof, that does not participate in the Public Employees'  
843 Retirement System; or



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

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

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

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

871 (2) Any member who became a member of the system on or  
872 after July 1, 2007, upon withdrawal from service upon or after  
873 attainment of the age of sixty (60) years who has completed at  
874 least eight (8) years of membership service, or any member who  
875 became a member of the system on or after July 1, 2007, upon  
876 withdrawal from service regardless of age who has completed at  
877 least twenty-five (25) years of creditable service, shall be  
878 entitled to receive a retirement allowance, which shall begin on

879 the first of the month following the date the member's application  
880 for the allowance is received by the board, but in no event before  
881 withdrawal from service.

882 (b) (1) Any member who became a member of the system before  
883 July 1, 2007, whose withdrawal from service occurs before  
884 attaining the age of sixty (60) years who has completed four (4)  
885 or more years of membership service and has not \* \* \* received a  
886 refund of his accumulated contributions, shall be entitled to  
887 receive a retirement allowance, beginning upon his attaining the  
888 age of sixty (60) years, of the amount earned and accrued at the  
889 date of withdrawal from service.

890 (2) Any member who became a member of the system on or  
891 after July 1, 2007, whose withdrawal from service occurs before  
892 attaining the age of sixty (60) years who has completed eight (8)  
893 or more years of membership service and has not received a refund  
894 of his accumulated contributions, shall be entitled to receive a  
895 retirement allowance, beginning upon his attaining the age of  
896 sixty (60) years, of the amount earned and accrued at the date of  
897 withdrawal from service.

898 (c) Any member in service who has qualified for retirement  
899 benefits may select any optional method of settlement of  
900 retirement benefits by notifying the Executive Director of the  
901 Board of Trustees of the Public Employees' Retirement System in  
902 writing, on a form prescribed by the board, of the option he has  
903 selected and by naming the beneficiary of the option and  
904 furnishing necessary proof of age. The option, once selected, may  
905 be changed at any time before actual retirement or death, but upon  
906 the death or retirement of the member, the optional settlement  
907 shall be placed in effect upon proper notification to the  
908 executive director.

909 (d) The annual amount of the retirement allowance shall  
910 consist of:

911 (1) A member's annuity, which shall be the actuarial  
912 equivalent of the accumulated contributions of the member at the

913 time of retirement computed according to the actuarial table in  
914 use by the system; and

915 (2) An employer's annuity, which, together with the  
916 member's annuity provided above, shall be equal to two percent  
917 (2%) of the average compensation for each year of \* \* \* service up  
918 to and including twenty-five (25) years of creditable service, and  
919 two and one-half percent (2-1/2%) of the average compensation for  
920 each year of \* \* \* service exceeding twenty-five (25) years of  
921 creditable service. \* \* \*

922 \* \* \*

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

942 \* \* \*

943 (e) No member, except members excluded by the Age  
944 Discrimination in Employment Act Amendments of 1986 (Public Law  
945 99-592), under either Article 1 or Article 3 in state service  
946 shall be required to retire because of age.

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

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

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

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

967               (4) The board of trustees may provide rules and  
968 regulations for the administration of waivers under this  
969 subsection.

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

972       25-11-113. (1) (a) Upon the application of a member or his  
973 employer, any active member in state service who became a member  
974 of the system before July 1, 2007, and who has at least four (4)  
975 years of membership service credit, or any active member in state  
976 service who became a member of the system on or after July 1,  
977 2007, who has at least eight (8) years of membership service  
978 credit, may be retired by the board of trustees on the first of  
979 the month following the date of filing the application on a  
980 disability retirement allowance, but in no event shall the  
981 disability retirement allowance begin before termination of state

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

1005 (b) Any inactive member who became a member of the  
1006 system before July 1, 2007, with four (4) or more years of  
1007 membership service credit, or any inactive member who became a  
1008 member of the system on or after July 1, 2007, with eight (8) or  
1009 more years of membership service credit, who has withdrawn from  
1010 active state service, is not eligible for a disability retirement  
1011 allowance unless the disability occurs within six (6) months of  
1012 the termination of active service and unless satisfactory proof is  
1013 presented to the board of trustees that the disability was the  
1014 direct cause of withdrawal from state service.

1015 (c) Any member who is or becomes eligible for service  
1016 retirement benefits under Section 25-11-111 while pursuing a

1017 disability retirement allowance under this section or Section  
1018 25-11-114 may elect to receive a service retirement allowance  
1019 pending a final determination on eligibility for a disability  
1020 retirement allowance or withdrawal of the application for the  
1021 disability retirement allowance. In such a case, an application  
1022 for a disability retirement allowance must be on file with the  
1023 system before the beginning of a service retirement allowance. If  
1024 the application is approved, the option selected and beneficiary  
1025 designated on the retirement application shall be used to  
1026 determine the disability retirement allowance. If the application  
1027 is not approved or if the application is withdrawn, the service  
1028 retirement allowance shall continue to be paid in accordance with  
1029 the option selected. No person may apply for a disability  
1030 retirement allowance after the person begins to receive a service  
1031 retirement allowance.

1032 (d) If the medical board certifies that the member is  
1033 not mentally or physically incapacitated for the future  
1034 performance of duty, the member may request, within sixty (60)  
1035 days, a hearing before the hearing officer as provided in Section  
1036 25-11-120. All hearings shall be held in accordance with rules  
1037 and regulations adopted by the board to govern those hearings.  
1038 The hearing may be closed upon the request of the member.

1039 (e) The medical board may request additional medical  
1040 evidence and/or other physicians to conduct an evaluation of the  
1041 member's condition. If the medical board requests additional  
1042 medical evidence and the member refuses the request, the  
1043 application shall be considered void.

1044 (2) Allowance on disability retirement.

1045 (a) Upon retirement for disability, an eligible member  
1046 shall receive a retirement allowance if he has attained the age of  
1047 sixty (60) years.

1048 (b) Except as provided in paragraph (c) of this  
1049 subsection (2), an eligible member who is retired for disability  
1050 and who has not attained sixty (60) years of age shall receive a

1051 disability benefit as computed in Section 25-11-111(d)(1) through  
1052 (d)(4), which shall consist of:

1053 (i) A member's annuity, which shall be the  
1054 actuarial equivalent of his accumulated contributions at the time  
1055 of retirement; and

1056 (ii) An employer's annuity equal to the amount  
1057 that would have been payable as a retirement allowance for  
1058 eligible creditable service if the member had continued in service  
1059 to the age of sixty (60) years, which shall apply to the allowance  
1060 for disability retirement paid to retirees receiving such  
1061 allowance upon and after April 12, 1977. This employer's annuity  
1062 shall be computed on the basis of the average "earned  
1063 compensation" as defined in Section 25-11-103.

1064 (c) For persons who become members after June 30, 1992,  
1065 and for active members on June 30, 1992, who elect benefits under  
1066 this paragraph (c) instead of those provided under paragraph (b)  
1067 of this subsection (2), the disability allowance shall consist of  
1068 two (2) parts: a temporary allowance and a deferred allowance.

1069 The temporary allowance shall equal the greater of (i) forty  
1070 percent (40%) of average compensation at the time of disability,  
1071 plus ten percent (10%) of average compensation for each of the  
1072 first two (2) dependent children, as defined in Sections 25-11-103  
1073 and 25-11-114, or (ii) the accrued benefit based on actual  
1074 service. It shall be payable for a period of time based on the  
1075 member's age at disability, as follows:

1076	Age at Disability	Duration
1077	60 and earlier	to age 65
1078	61	to age 66
1079	62	to age 66
1080	63	to age 67
1081	64	to age 67
1082	65	to age 68
1083	66	to age 68
1084	67	to age 69
1085	68	to age 70

1086 69 and over

one year

1087 The deferred allowance shall begin when the temporary  
1088 allowance ends and shall be payable for life. The deferred  
1089 allowance shall equal the greater of (i) the allowance that would  
1090 have been payable had the member continued in service to the  
1091 termination age of the temporary allowance, but no more than forty  
1092 percent (40%) of average compensation, or (ii) the accrued benefit  
1093 based on actual service at the time of disability. The deferred  
1094 allowance as determined at the time of disability shall be  
1095 adjusted in accordance with Section 25-11-112 for the period  
1096 during which the temporary annuity is payable. In no case shall a  
1097 member receive less than Ten Dollars (\$10.00) per month for each  
1098 year of service and proportionately for each quarter year thereof  
1099 reduced for the option selected.

1100 (d) The member may elect to receive the actuarial  
1101 equivalent of the disability retirement allowance in a reduced  
1102 allowance payable throughout life under any of the provisions of  
1103 the options provided under Section 25-11-115.

1104 (e) If a disability retiree who has not selected an  
1105 option under Section 25-11-115 dies before being repaid in  
1106 disability benefits the sum of his total contributions, then his  
1107 named beneficiary shall receive the difference in cash, which  
1108 shall apply to all deceased disability retirees from and after  
1109 January 1, 1953.

1110 (3) Reexamination of retirees retired on account of  
1111 disability. Except as otherwise provided in this section, once  
1112 each year during the first five (5) years following retirement of  
1113 a member on a disability retirement allowance, and once in every  
1114 period of three (3) years thereafter, the board of trustees may,  
1115 and upon his application shall, require any disability retiree who  
1116 has not yet attained the age of sixty (60) years or the  
1117 termination age of the temporary allowance under subsection (2)(c)  
1118 of this section to undergo a medical examination, the examination  
1119 to be made at the place of residence of the retiree or other place  
1120 mutually agreed upon by a physician or physicians designated by



1121 the board. The board, however, in its discretion, may authorize  
1122 the medical board to establish reexamination schedules appropriate  
1123 to the medical condition of individual disability retirees. If  
1124 any disability retiree who has not yet attained the age of sixty  
1125 (60) years or the termination age of the temporary allowance under  
1126 subsection (2)(c) of this section refuses to submit to any medical  
1127 examination provided in this section, his allowance may be  
1128 discontinued until his withdrawal of that refusal; and if his  
1129 refusal continues for one (1) year, all his rights to a disability  
1130 benefit shall be revoked by the board of trustees.

1131 (4) If the medical board reports and certifies to the board  
1132 of trustees, after a comparable job analysis or other similar  
1133 study, that the disability retiree is engaged in, or is able to  
1134 engage in, a gainful occupation paying more than the difference  
1135 between his disability allowance, exclusive of cost of living  
1136 adjustments, and the average compensation, and if the board of  
1137 trustees concurs in the report, the disability benefit shall be  
1138 reduced to an amount that, together with the amount earnable by  
1139 him, equals the amount of his average compensation. If his  
1140 earning capacity is later changed, the amount of the benefit may  
1141 be further modified, provided that the revised benefit shall not  
1142 exceed the amount originally granted. A retiree receiving a  
1143 disability benefit who is restored to active service at a salary  
1144 less than the average compensation shall not become a member of  
1145 the retirement system.

1146 (5) If a disability retiree under the age of sixty (60)  
1147 years or the termination age of the temporary allowance under  
1148 subsection (2)(c) of this section is restored to active service at  
1149 a compensation not less than his average compensation, his  
1150 disability benefit shall end, he shall again become a member of  
1151 the retirement system, and contributions shall be withheld and  
1152 reported. Any such prior service certificate, on the basis of  
1153 which his service was computed at the time of retirement, shall be  
1154 restored to full force and effect. In addition, upon his later  
1155 retirement he shall be credited with all creditable service as a

1156 member, but the total retirement allowance paid to the retired  
1157 member in his previous retirement shall be deducted from his  
1158 retirement reserve and taken into consideration in recalculating  
1159 the retirement allowance under a new option selected.

1160 (6) If following reexamination in accordance with the  
1161 provisions contained in this section, the medical board determines  
1162 that a retiree retired on account of disability is physically and  
1163 mentally able to return to the employment from which he is  
1164 retired, the board of trustees, upon certification of those  
1165 findings from the medical board, shall, after a reasonable period  
1166 of time, terminate the disability allowance, whether or not the  
1167 retiree is reemployed or seeks that reemployment. In addition, if  
1168 the board of trustees determines that the retiree is no longer  
1169 sustaining a loss of income as established by documented evidence  
1170 of the retiree's earned income, the eligibility for a disability  
1171 allowance shall terminate and the allowance terminated within a  
1172 reasonable period of time. If the retirement allowance is  
1173 terminated under the provisions of this section, the retiree may  
1174 later qualify for a retirement allowance under Section 25-11-111  
1175 based on actual years of service credit plus credit for the period  
1176 during which a disability allowance was paid.

1177 (7) Any current member as of June 30, 1992, who retires on a  
1178 disability retirement allowance after June 30, 1992, and who has  
1179 not elected to receive benefits under subsection (2)(c) of this  
1180 section, shall relinquish all rights under the Age Discrimination  
1181 in Employment Act of 1967, as amended, with regard to the benefits  
1182 payable under this section.

1183 **SECTION 6.** Section 25-11-114, Mississippi Code of 1972, is  
1184 amended as follows:

1185 25-11-114. (1) The applicable benefits provided in  
1186 subsections (2) and (3) of this section shall be paid to eligible  
1187 beneficiaries of any member who became a member of the system  
1188 before July 1, 2007, and has completed four (4) or more years of  
1189 membership service, or who became a member of the system on or  
1190 after July 1, 2007, and has completed eight (8) or more years of

1191 membership service, and who dies before retirement and who has not  
1192 filed a Pre-Retirement Optional Retirement Form as provided in  
1193 Section 25-11-111.

1194 (2) (a) The member's surviving spouse who has been married  
1195 to the member for not less than one (1) year immediately preceding  
1196 his death shall receive an annuity computed in accordance with  
1197 paragraph (d) of this subsection (2) as if the member:

1198 (i) Had retired on the date of his death with  
1199 entitlement to an annuity provided for in Section 25-11-111,  
1200 notwithstanding that he might not have attained age sixty (60) or  
1201 acquired twenty-five (25) years of creditable service;

1202 (ii) Had nominated his spouse as beneficiary; and

1203 (b) If, at the time of the member's death, there are no  
1204 dependent children, and the surviving spouse, who otherwise would  
1205 receive the annuity under this subsection (2), has filed with the  
1206 system a signed written waiver of his or her rights to the annuity  
1207 and that waiver was in effect at the time of the member's death, a  
1208 lump sum distribution of the deceased member's accumulated  
1209 contributions shall be refunded in accordance with Section  
1210 25-11-117.

1211 (c) The spouse annuity shall begin on the first day of  
1212 the month following the date of the member's death, but in case of  
1213 late filing, retroactive payments will be made for a period of not  
1214 more than one (1) year.

1215 (d) The spouse annuity shall be payable for life and  
1216 shall be the greater of twenty percent (20%) of the deceased  
1217 member's average compensation as defined in Section 25-11-103 at  
1218 the time of death or Fifty Dollars (\$50.00) monthly. Surviving  
1219 spouses of deceased members who previously received spouse  
1220 retirement benefits under this paragraph (d) from and after July  
1221 1, 1992, and whose benefits were terminated before July 1, 2004,  
1222 because of remarriage, may again receive the retirement benefits  
1223 authorized under this paragraph (d) by making application with the  
1224 board to reinstate those benefits. Any reinstatement of the  
1225 benefits shall be prospective only and shall begin after the first

1226 of the month following the date of the application for  
1227 reinstatement, but no earlier than July 1, 2004.

1228 (e) However, the spouse may elect by an irrevocable  
1229 agreement on a form prescribed by the board of trustees to receive  
1230 a monthly allowance as computed under either paragraph (d) or this  
1231 paragraph. The irrevocable agreement shall constitute a waiver by  
1232 the spouse to any current and future monthly allowance under the  
1233 paragraph not elected, and the waiver shall be a complete and full  
1234 discharge of all obligations of the retirement system under that  
1235 paragraph.

1236 Any member who has completed the requisite minimum number of  
1237 years of membership service to qualify for a retirement allowance  
1238 at age sixty (60) and who dies before retirement and leaves a  
1239 spouse who has been married to the member for not less than one  
1240 (1) year immediately preceding his death and has not exercised any  
1241 other option shall be deemed to have exercised Option 2 under  
1242 Section 25-11-115 for the benefit of his spouse, which spouse  
1243 shall be paid Option 2 settlement benefits under this article  
1244 beginning on the first of the month following the date of death,  
1245 but in case of late filing, retroactive payments will be made for  
1246 a period of not more than one (1) year. The method of calculating  
1247 the retirement benefits shall be on the same basis as provided in  
1248 Section 25-11-111(d). However, if the member dies before being  
1249 qualified for full unreduced benefits, then the benefits shall be  
1250 reduced by three percent (3%) per year for the lesser of either  
1251 the years of service or age required for full unreduced benefits  
1252 in Section 25-11-111(d).

1253 (3) (a) Subject to the maximum limitation provided in this  
1254 paragraph, the member's dependent children each shall receive an  
1255 annuity of the greater of ten percent (10%) of the member's  
1256 average compensation as defined in Section 25-11-103 at the time  
1257 of the death of the member or Fifty Dollars (\$50.00) monthly;  
1258 however, if there are more than three (3) dependent children, each  
1259 dependent child shall receive an equal share of a total annuity  
1260 equal to thirty percent (30%) of the member's average

1261 compensation, provided that the total annuity shall not be less  
1262 than One Hundred Fifty Dollars (\$150.00) per month for all  
1263 children.

1264 (b) A child shall be considered to be a dependent child  
1265 until marriage, or the attainment of age nineteen (19), whichever  
1266 comes first; however, this age limitation shall be extended beyond  
1267 age nineteen (19), but in no event beyond the attainment of age  
1268 twenty-three (23), as long as the child is a student regularly  
1269 pursuing a full-time course of resident study or training in an  
1270 accredited high school, trade school, technical or vocational  
1271 institute, junior or community college, college, university or  
1272 comparable recognized educational institution duly licensed by a  
1273 state. A student child whose birthday falls during the school  
1274 year (September 1 through June 30) is considered not to reach age  
1275 twenty-three (23) until the July 1 following the actual  
1276 twenty-third birthday. A full-time course of resident study or  
1277 training means a day or evening noncorrespondence course that  
1278 includes school attendance at the rate of at least thirty-six (36)  
1279 weeks per academic year or other applicable period with a subject  
1280 load sufficient, if successfully completed, to attain the  
1281 educational or training objective within the period generally  
1282 accepted as minimum for completion, by a full-time day student, of  
1283 the academic or training program concerned. Any child who is  
1284 physically or mentally incompetent, as adjudged by either a  
1285 Mississippi court of competent jurisdiction or by the board, shall  
1286 receive benefits for as long as the incompetency exists.

1287 (c) If there are more than three (3) dependent  
1288 children, upon a child's ceasing to be a dependent child, his  
1289 annuity shall terminate and there shall be a redetermination of  
1290 the amounts payable to any remaining dependent children.

1291 (d) Annuities payable under this subsection (3) shall  
1292 begin the first day of the month following the date of the  
1293 member's death or in case of late filing, retroactive payments  
1294 will be made for a period of not more than one (1) year. Those  
1295 benefits may be paid to a surviving parent or the lawful custodian

1296 of a dependent child for the use and benefit of the child without  
1297 the necessity of appointment as guardian.

1298 (4) (a) Death benefits in the line of duty. Regardless of  
1299 the number of years of the member's creditable service, the spouse  
1300 and/or the dependent children of an active member who is killed in  
1301 the line of performance of duty or dies as a direct result of an  
1302 accident occurring in the line of performance of duty shall  
1303 qualify, on approval of the board, for a retirement allowance on  
1304 the first of the month following the date of death, but in the  
1305 case of late filing, retroactive payments will be made for a  
1306 period of not more than one (1) year. The spouse shall receive a  
1307 retirement allowance for life equal to one-half (1/2) of the  
1308 average compensation as defined in Section 25-11-103. In addition  
1309 to the retirement allowance for the spouse, or if there is no  
1310 surviving spouse, the member's dependent child shall receive a  
1311 retirement allowance in the amount of one-fourth (1/4) of the  
1312 member's average compensation as defined in Section 25-11-103;  
1313 however, if there are two (2) or more dependent children, each  
1314 dependent child shall receive an equal share of a total annuity  
1315 equal to one-half (1/2) of the member's average compensation. If  
1316 there are more than two (2) dependent children, upon a child's  
1317 ceasing to be a dependent child, his annuity shall terminate and  
1318 there shall be a redetermination of the amounts payable to any  
1319 remaining dependent children. Those benefits shall cease to be  
1320 paid for the support and maintenance of each child upon the child  
1321 attaining the age of nineteen (19) years; however, the spouse  
1322 shall continue to be eligible for the aforesaid retirement  
1323 allowance. Those benefits may be paid to a surviving parent or  
1324 lawful custodian of the children for the use and benefit of the  
1325 children without the necessity of appointment as guardian. Any  
1326 spouse who received spouse retirement benefits under this  
1327 paragraph (a) from and after April 4, 1984, and whose benefits  
1328 were terminated before July 1, 2004, because of remarriage, may  
1329 again receive the retirement benefits authorized under this  
1330 paragraph (a) by making application with the board to reinstate

1331 those benefits. Any reinstatement of the benefits shall be  
1332 prospective only and shall begin after the first of the month  
1333 following the date of the application for reinstatement, but not  
1334 earlier than July 1, 2004.

1335 (b) A child shall be considered to be a dependent child  
1336 until marriage, or the attainment of age nineteen (19), whichever  
1337 comes first; however, this age limitation shall be extended beyond  
1338 age nineteen (19), but in no event beyond the attainment of age  
1339 twenty-three (23), as long as the child is a student regularly  
1340 pursuing a full-time course of resident study or training in an  
1341 accredited high school, trade school, technical or vocational  
1342 institute, junior or community college, college, university or  
1343 comparable recognized educational institution duly licensed by a  
1344 state. A student child whose birthday falls during the school  
1345 year (September 1 through June 30) is considered not to reach age  
1346 twenty-three (23) until the July 1 following the actual  
1347 twenty-third birthday. A full-time course of resident study or  
1348 training means a day or evening noncorrespondence course that  
1349 includes school attendance at the rate of at least thirty-six (36)  
1350 weeks per academic year or other applicable period with a subject  
1351 load sufficient, if successfully completed, to attain the  
1352 educational or training objective within the period generally  
1353 accepted as minimum for completion, by a full-time day student, of  
1354 the academic or training program concerned. Any child who is  
1355 physically or mentally incompetent, as adjudged by either a  
1356 Mississippi court of competent jurisdiction or by the board, shall  
1357 receive benefits for as long as the incompetency exists.

1358 (5) If all the annuities provided for in this section  
1359 payable on account of the death of a member terminate before there  
1360 has been paid an aggregate amount equal to the member's  
1361 accumulated contributions standing to the member's credit in the  
1362 annuity savings account at the time of the member's death, the  
1363 difference between the accumulated contributions and the aggregate  
1364 amount of annuity payments shall be paid to the person that the  
1365 member has nominated by written designation duly executed and

1366 filed with the board. If there is no designated beneficiary  
1367 surviving at termination of benefits, the difference shall be  
1368 payable under Section 25-11-117.1(1).

1369 (6) Regardless of the number of years of creditable service  
1370 upon the application of a member or employer, any active member  
1371 who becomes disabled as a direct result of an accident or  
1372 traumatic event resulting in a physical injury occurring in the  
1373 line of performance of duty, provided that the medical board or  
1374 other designated governmental agency after a medical examination  
1375 certifies that the member is mentally or physically incapacitated  
1376 for the further performance of duty and the incapacity is likely  
1377 to be permanent, may be retired by the board of trustees on the  
1378 first of the month following the date of filing the application  
1379 but in no event shall the retirement allowance begin before the  
1380 termination of state service. The retirement allowance shall  
1381 equal the allowance on disability retirement as provided in  
1382 Section 25-11-113 but shall not be less than fifty percent (50%)  
1383 of average compensation.

1384 Permanent and total disability resulting from a  
1385 cardiovascular, pulmonary or musculo-skeletal condition that was  
1386 not a direct result of a traumatic event occurring in the  
1387 performance of duty shall be deemed an ordinary disability. A  
1388 mental disability based exclusively on employment duties occurring  
1389 on an ongoing basis shall be deemed an ordinary disability.

1390 (7) If the deceased or disabled member has less than four  
1391 (4) years of membership service, the average compensation as  
1392 defined in Section 25-11-103 shall be the average of all annual  
1393 earned compensation in state service for the purposes of benefits  
1394 provided in this section.

1395 (8) In case of death or total and permanent disability under  
1396 subsection (4) or subsection (6) of this section and before the  
1397 board shall consider any application for a retirement allowance,  
1398 the employer must certify to the board that the member's death or  
1399 disability was a direct result of an accident or a traumatic event  
1400 occurring during and as a result of the performance of the regular



1401 and assigned duties of the employee and that the death or  
1402 disability was not the result of the willful negligence of the  
1403 employee.

1404 (9) The application for the retirement allowance must be  
1405 filed within one (1) year after death of an active member who is  
1406 killed in the line of performance of duty or dies as a direct  
1407 result of an accident occurring in the line of performance of duty  
1408 or traumatic event; but the board of trustees may consider an  
1409 application for disability filed after the one-year period if it  
1410 can be factually demonstrated to the satisfaction of the board of  
1411 trustees that the disability is due to the accident and that the  
1412 filing was not accomplished within the one-year period due to a  
1413 delayed manifestation of the disability or to circumstances beyond  
1414 the control of the member. However, in case of late filing,  
1415 retroactive payments will be made for a period of not more than  
1416 one (1) year only.

1417 (10) Notwithstanding any other section of this article and  
1418 in lieu of any payments to a designated beneficiary for a refund  
1419 of contributions under Section 25-11-117, the spouse and/or  
1420 children shall be eligible for the benefits payable under this  
1421 section, and the spouse may elect, for both the spouse and/or  
1422 children, to receive benefits in accordance with either  
1423 subsections (2) and (3) or subsection (4) of this section;  
1424 otherwise, the contributions to the credit of the deceased member  
1425 shall be refunded in accordance with Section 25-11-117.

1426 (11) If the member has previously received benefits from the  
1427 system to which he was not entitled and has not repaid in full all  
1428 amounts payable by him to the system, the annuity amounts  
1429 otherwise provided by this section shall be withheld and used to  
1430 effect repayment until the total of the withholdings repays in  
1431 full all amounts payable by him to the system.

1432 **SECTION 7.** Section 25-11-115, Mississippi Code of 1972, is  
1433 amended as follows:

1434 25-11-115. (1) Upon application for superannuation or  
1435 disability retirement, any member may elect to receive his benefit

1436 in a retirement allowance payable throughout life with no further  
1437 payments to anyone at his death, except that if his total  
1438 retirement payments under this article do not equal his total  
1439 contributions under this article, his named beneficiary shall  
1440 receive the difference in cash at his death. Or he may elect upon  
1441 retirement, or upon becoming eligible for retirement, to receive  
1442 the actuarial equivalent subject to the provisions of subsection  
1443 (3) of this section of his retirement allowance in a reduced  
1444 retirement allowance payable throughout life with the provision  
1445 that:

1446       **Option 1.** If he dies before he has received in annuity  
1447 payment the value of the member's annuity savings account as it  
1448 was at the time of his retirement, the balance shall be paid to  
1449 his legal representative or to such person as he has nominated by  
1450 written designation duly acknowledged and filed with the  
1451 board; \* \* \*

1452       **Option 2.** Upon his death, his reduced retirement allowance  
1453 shall be continued throughout the life of, and paid to, such  
1454 person as he has nominated by written designation duly  
1455 acknowledged and filed with the board of trustees at the time of  
1456 his retirement;

1457       **Option 3.** Upon his death, one-half (1/2) of his reduced  
1458 retirement allowance shall be continued throughout the life of,  
1459 and paid to, such person as he has nominated by written  
1460 designation duly acknowledged and filed with the board of trustees  
1461 at the time of his retirement, and the other one-half (1/2) of his  
1462 reduced retirement allowance to some other designated beneficiary;

1463       **Option 4-A.** Upon his death, one-half (1/2) of his reduced  
1464 retirement allowance, or such other specified amount, shall be  
1465 continued throughout the life of, and paid to, such person as he  
1466 has nominated by written designation duly acknowledged and filed  
1467 with the board of trustees at the time of his retirement; \* \* \*

1468       **Option 4-B.** A reduced retirement allowance shall be  
1469 continued throughout the life of the retirant, but with the  
1470 further guarantee of payments to the named beneficiary,

1471 beneficiaries or to the estate for a specified number of years  
1472 certain. If the retired member or the last designated beneficiary  
1473 receiving annuity payments dies before receiving all guaranteed  
1474 payments due, the actuarial equivalent of the remaining payments  
1475 shall be paid under Section 25-11-117.1(1);

1476 \* \* \*

1477 **Option 6.** Any member who became a member of the system  
1478 before July 1, 2007, and who has at least twenty-eight (28) years  
1479 of creditable service at the time of retirement or who is at least  
1480 sixty-three (63) years of age and eligible to retire, may select  
1481 the maximum retirement benefit or an optional benefit as provided  
1482 in this subsection together with a partial lump-sum distribution.  
1483 Any member who became a member of the system on or after July 1,  
1484 2007, and who has at least twenty-eight (28) years of creditable  
1485 service at the time of retirement may select the maximum  
1486 retirement benefit or any optional benefit as provided in this  
1487 subsection together with a partial lump-sum distribution. The  
1488 amount of the lump-sum distribution under this option shall be  
1489 equal to the maximum monthly benefit multiplied by twelve (12),  
1490 twenty-four (24) or thirty-six (36) as selected by the member.  
1491 The maximum retirement benefit shall be actuarially reduced to  
1492 reflect the amount of the lump-sum distribution selected and  
1493 further reduced for any other optional benefit selected. The  
1494 annuity and lump-sum distribution shall be computed to result in  
1495 no actuarial loss to the system. The lump-sum distribution shall  
1496 be made as a single payment payable at the time the first monthly  
1497 annuity payment is paid to the retiree. The amount of the  
1498 lump-sum distribution shall be deducted from the member's annuity  
1499 savings account in computing what contributions remain at the  
1500 death of the retiree and/or a beneficiary. The lump-sum  
1501 distribution option may be elected only once by a member upon  
1502 initial retirement, and may not be elected by a retiree, by  
1503 members applying for a disability retirement annuity, or by  
1504 survivors \* \* \*.

1505           (2) No change in the option selected shall be permitted  
1506 after the member's death or after the member has received his  
1507 first retirement check except as provided in subsections (3) and  
1508 (4) of this section and in Section 25-11-127. Members who are  
1509 pursuing a disability retirement allowance and simultaneously or  
1510 later elect to begin to receive a service retirement allowance  
1511 while continuing to pursue a disability retirement allowance,  
1512 shall not be eligible to select \* \* \* Option 6 and that option may  
1513 not be selected at a later time if the application for a  
1514 disability retirement allowance is voided or denied. However, any  
1515 retired member who is receiving a retirement allowance under  
1516 Option 2 or Option 4-A upon July 1, 1992, and whose designated  
1517 beneficiary predeceased him or whose marriage to a spouse who is  
1518 his designated beneficiary is terminated by divorce or other  
1519 dissolution, upon written notification to the retirement system of  
1520 the death of the designated beneficiary or of the termination of  
1521 his marriage to his designated beneficiary, the retirement  
1522 allowance payable to the member after receipt of that notification  
1523 by the retirement system shall be equal to the retirement  
1524 allowance that would have been payable if the member had not  
1525 elected the option. In addition, any retired member who is  
1526 receiving the maximum retirement allowance for life, a retirement  
1527 allowance under Option 1 or who is receiving a retirement  
1528 allowance under Option 2 or Option 4-A on July 1, 1992, may elect  
1529 to provide survivor benefits under Option 2 or Option 4-A to a  
1530 spouse who was not previously the member's beneficiary and whom  
1531 the member married before July 1, 1992.

1532           (3) Any retired member who is receiving a reduced retirement  
1533 allowance under Option 2 or Option 4-A whose designated  
1534 beneficiary predeceases him, or whose marriage to a spouse who is  
1535 his designated beneficiary is terminated by divorce or other  
1536 dissolution, may elect to cancel his reduced retirement allowance  
1537 and receive the maximum retirement allowance for life in an amount  
1538 equal to the amount that would have been payable if the member had  
1539 not elected Option 2 or Option 4-A. That election must be made in

1540 writing to the office of the executive director of the system on a  
1541 form prescribed by the board. Any such election shall be  
1542 effective the first of the month following the date the election  
1543 is received by the system.

1544 (4) Any retired member who is receiving the maximum  
1545 retirement allowance for life, or a retirement allowance under  
1546 Option 1, and who marries after his retirement may elect to cancel  
1547 his maximum retirement allowance and receive a reduced retirement  
1548 allowance under Option 2 or Option 4-A to provide continuing  
1549 lifetime benefits to his spouse. That election must be made in  
1550 writing to the office of the executive director of the system on a  
1551 form prescribed by the board not earlier than the date of the  
1552 marriage. Any such election shall be effective the first of the  
1553 month following the date the election is received by the system.

1554 (5) If the election of an optional benefit is made after the  
1555 member has attained the age of sixty-five (65) years, the  
1556 actuarial equivalent factor shall be used to compute the reduced  
1557 retirement allowance as if the election had been made on his  
1558 sixty-fifth birthday; however, from and after January 1, 2003, if  
1559 there is an election of Option 6 after the member has attained the  
1560 age of sixty-five (65) years, the actuarial equivalent factor  
1561 based on the retiree's age at the time of retirement shall be used  
1562 to compute the reduced maximum monthly retirement allowance.  
1563 However, if a retiree marries or remarries after retirement and  
1564 elects either Option 2 or Option 4-A as provided in subsection (2)  
1565 or (4) of this section, the actuarial equivalent factor used to  
1566 compute the reduced retirement allowance shall be the factor for  
1567 the age of the retiree and his or her beneficiary at the time such  
1568 election for recalculation of benefits is made.

1569 (6) Notwithstanding any provision of Section 25-11-1 et  
1570 seq., no payments may be made for a retirement allowance on a  
1571 monthly basis for a period of time in excess of that allowed by  
1572 federal law.

1573 (7) If a retirant and his eligible beneficiary, if any, both  
1574 die before they have received in annuity payments a total amount

1575 equal to the accumulated contributions standing to the retirant's  
1576 credit in the annuity savings account at the time of his  
1577 retirement, the difference between the accumulated contributions  
1578 and the total amount of annuities received by them shall be paid  
1579 to such persons as the retirant has nominated by written  
1580 designation duly executed and filed in the office of the executive  
1581 director. If no designated person survives the retirant and his  
1582 beneficiary, the difference, if any, shall be paid under Section  
1583 25-11-117.1(1).

1584 (8) Any retired member who retired on Option 2(5) or 4-A(5)  
1585 before July 1, 1992, who is still receiving a retirement allowance  
1586 on July 1, 1994, shall receive an increase in the annual  
1587 retirement allowance effective July 1, 1994, equal to the amount  
1588 they would have received under Option 2 or Option 4-A without a  
1589 reduction for Option 5 based on the ages at retirement of the  
1590 retiree and beneficiary and option factors in effect on July 1,  
1591 1992. That increase shall be prospective only.

1592 **SECTION 8.** Section 25-11-117, Mississippi Code of 1972, is  
1593 amended as follows:

1594 25-11-117. (1) A member may be paid a refund of the amount  
1595 of accumulated contributions to the credit of the member in the  
1596 annuity savings account, provided that the member has withdrawn  
1597 from state service and has not returned to state service on the  
1598 date the refund of the accumulated contributions would be paid.  
1599 That refund of the contributions to the credit of the member in  
1600 the annuity savings account shall be paid within ninety (90) days  
1601 from receipt in the office of the retirement system of the  
1602 properly completed form requesting the payment. In the event of  
1603 death before retirement of any member whose spouse and/or children  
1604 are not entitled to a retirement allowance, the accumulated  
1605 contributions to the credit of the deceased member in the annuity  
1606 savings account shall be paid to the designated beneficiary on  
1607 file in writing in the office of the executive director of the  
1608 board of trustees within ninety (90) days from receipt of a  
1609 properly completed form requesting the payment. If there is no

1610 such designated beneficiary on file for the deceased member in the  
1611 office of the system, upon the filing of a proper request with the  
1612 board, the contributions to the credit of the deceased member in  
1613 the annuity savings account shall be refunded under Section  
1614 25-11-117.1(1). The payment of the refund shall discharge all  
1615 obligations of the retirement system to the member on account of  
1616 any creditable service rendered by the member before the receipt  
1617 of the refund. By the acceptance of the refund, the member shall  
1618 waive and relinquish all accrued rights in the system.

1619 (2) Under the Unemployment Compensation Amendments of 1992  
1620 (Public Law 102-318 (UCA)), a member or the spouse of a member who  
1621 is an eligible beneficiary entitled to a refund under this section  
1622 may elect, on a form prescribed by the board under rules and  
1623 regulations established by the board, to have an eligible rollover  
1624 distribution of accumulated contributions payable under this  
1625 section paid directly to an eligible retirement plan, as defined  
1626 under applicable federal law, or an individual retirement account.  
1627 If the member or the spouse of a member who is an eligible  
1628 beneficiary makes that election and specifies the eligible  
1629 retirement plan or individual retirement account to which the  
1630 distribution is to be paid, the distribution will be made in the  
1631 form of a direct trustee-to-trustee transfer to the specified  
1632 eligible retirement plan. Flexible rollovers under this  
1633 subsection shall not be considered assignments under Section  
1634 25-11-129.

1635 (3) (a) If any person who became a member of the system  
1636 before July 1, 2007, has received a refund reenters the state  
1637 service and again becomes a member of the system, the member may  
1638 repay all or part of the amounts previously received as a refund,  
1639 together with regular interest covering the period from the date  
1640 of refund to the date of repayment; however, the amounts that are  
1641 repaid by the member and the creditable service related thereto  
1642 shall not be used in any benefit calculation or determination  
1643 until the member has remained a contributor to the system for a  
1644 period of at least four (4) years after the member's reentry into

1645 state service. Repayment for that time shall be made in  
1646 increments of not less than one-quarter (1/4) year of creditable  
1647 service beginning with the most recent service for which refund  
1648 has been made. Upon the repayment of all or part of that refund  
1649 and interest, the member shall again receive credit for the period  
1650 of creditable service for which full repayment has been made to  
1651 the system.

1652 (b) If any person who became a member of the system on  
1653 or after July 1, 2007, has received a refund reenters the state  
1654 service and again becomes a member of the system, the member may  
1655 repay all or part of the amounts previously received as a refund,  
1656 together with regular interest covering the period from the date  
1657 of refund to the date of repayment; however, the amounts that are  
1658 repaid by the member and the creditable service related thereto  
1659 shall not be used in any benefit calculation or determination  
1660 until the member has remained a contributor to the system for a  
1661 period of at least eight (8) years after the member's reentry into  
1662 state service. Repayment for that time shall be made in  
1663 increments of not less than one-quarter (1/4) year of creditable  
1664 service beginning with the most recent service for which refund  
1665 has been made. Upon the repayment of all or part of that refund  
1666 and interest, the member shall again receive credit for the period  
1667 of creditable service for which full repayment has been made to  
1668 the system.

1669 (4) (a) In order to provide a source of income to members  
1670 who have applied for disability benefits under Section 25-11-113  
1671 or 25-11-114, the board may provide, at the employee's election, a  
1672 temporary benefit to be paid from the member's accumulated  
1673 contributions, if any, without forfeiting the right to pursue  
1674 disability benefits, provided that the member has exhausted all  
1675 personal and medical leave and has terminated his or her  
1676 employment. The board may prescribe rules and regulations for  
1677 carrying out the provisions of this subsection (4).

1678 (b) If a member who has elected to receive temporary  
1679 benefits under this subsection later applies for a refund of his



1680 or her accumulated contributions, all amounts paid under this  
1681 subsection shall be deducted from the accumulated contributions  
1682 and the balance will be paid to the member. If a member who has  
1683 elected to receive temporary benefits under this subsection is  
1684 later approved for a disability retirement allowance, and a  
1685 service retirement allowance or survivor benefits are paid on the  
1686 account, the board shall adjust the benefits in such a manner that  
1687 no more than the actuarial equivalent of the benefits to which the  
1688 member or beneficiary was or is entitled shall be paid.

1689 (c) The board may study, develop and propose a  
1690 disability benefit structure, including short and long term  
1691 disability benefits, provided that it is the actuarial equivalent  
1692 of the benefits currently provided in Section 25-11-113 or  
1693 25-11-114.

1694 **SECTION 9.** Section 25-11-311, Mississippi Code of 1972, is  
1695 amended as follows:

1696 25-11-311. (1) A member may be paid a refund of the amount  
1697 of accumulated contributions to the credit of the member in the  
1698 annuity savings account, provided the member has withdrawn from  
1699 state service and further provided the member has not returned to  
1700 state service on the date the refund of the accumulated  
1701 contributions would be paid. The refund of the contributions to  
1702 the credit of the member in the annuity savings account shall be  
1703 paid within ninety (90) days from receipt in the office of the  
1704 retirement system of the properly completed form requesting that  
1705 payment. In the event of death before retirement of any member  
1706 whose spouse and/or children are not entitled to a retirement  
1707 allowance, the accumulated contributions to the credit of the  
1708 deceased member in the annuity savings account shall be paid to  
1709 the designated beneficiary on file in writing in the office of  
1710 executive secretary of the board of trustees within ninety (90)  
1711 days from receipt of a properly completed form requesting that  
1712 payment. If there is no such designated beneficiary on file for  
1713 the deceased member in the office of the system, upon the filing  
1714 of a proper request with the board, the contributions to the

1715 credit of the deceased member in the annuity savings account shall  
1716 be refunded under Section 25-11-311.1(1). The payment of the  
1717 refund shall discharge all obligations of the retirement system to  
1718 the member on account of any creditable service rendered by the  
1719 member before the receipt of the refund. By the acceptance of the  
1720 refund, the member shall waive and relinquish all accrued rights  
1721 in the plan.

1722 (2) Under the Unemployment Compensation Amendments of 1992  
1723 (Public Law 102-318 (USCS)), a member or eligible beneficiary  
1724 making application for a refund under this section may elect, on a  
1725 form prescribed by the board under rules and regulations  
1726 established by the board, to have an eligible rollover  
1727 distribution of accumulated contributions payable under this  
1728 section paid directly to an eligible retirement plan, as defined  
1729 under applicable federal law, or an individual retirement account.  
1730 If the member or eligible beneficiary makes that election and  
1731 specifies the eligible retirement plan or individual retirement  
1732 account to which the distribution is to be paid, the distribution  
1733 will be made in the form of a direct trustee-to-trustee transfer  
1734 to the specified eligible retirement plan. Flexible rollovers  
1735 under this subsection shall not be considered assignments under  
1736 Section 25-11-129.

1737 (3) (a) If any person who became a member of the system  
1738 before July 1, 2007, has received a refund is reelected to the  
1739 Legislature or as President of the Senate and again becomes a  
1740 member of the plan, the member may repay all or part of the  
1741 amounts previously received as a refund, together with regular  
1742 interest covering the period from the date of refund to the date  
1743 of repayment; however, the amounts that are repaid by the member  
1744 and the creditable service related thereto shall not be used in  
1745 any benefit calculation or determination until the member has  
1746 remained a contributor to the system for a period of at least four  
1747 (4) years after the member's reentry into state service.

1748 Repayment for that time shall be made in increments of not less  
1749 than one-quarter (1/4) year of creditable service beginning with

1750 the most recent service for which refund has been made. Upon the  
1751 repayment of all or part of that refund and interest, the member  
1752 shall again receive credit for the period of creditable service  
1753 for which full repayment has been made to the system.

1754 (b) If any person who became a member of the system on  
1755 or after July 1, 2007, has received a refund reenters the state  
1756 service and again becomes a member of the system, the member may  
1757 repay all or part of the amount previously received as a refund,  
1758 together with regular interest covering the period from the date  
1759 of refund to the date of repayment; however, the amounts that are  
1760 repaid by the member and the creditable service related thereto  
1761 shall not be used in any benefit calculation or determination  
1762 until the member has remained a contributor to the system for a  
1763 period of at least eight (8) years after the member's reentry into  
1764 state service. Repayment for that time shall be made in  
1765 increments of not less than one-quarter (1/4) year of creditable  
1766 service beginning with the most recent service for which refund  
1767 has been made. Upon the repayment of all or part of that refund  
1768 and interest, the member shall again receive credit for the period  
1769 of creditable service for which full repayment has been made to  
1770 the system.

1771 **SECTION 10.** Section 25-11-315, Mississippi Code of 1972, is  
1772 amended as follows:

1773 25-11-315. (1) Any member of the State Legislature or the  
1774 President of the Senate who becomes a member of the plan on July  
1775 1, 1989, shall be eligible for prior service as a member of the  
1776 State Legislature or as President of the Senate. Each member  
1777 shall submit to the board a verification of prior service as a  
1778 member of the State Legislature or as President of the Senate.  
1779 Upon receipt of that prior service statement, the board shall  
1780 issue a prior service certificate certifying to each member the  
1781 length of prior service for which credit has been allowed on the  
1782 basis of the statement of service. Additional prior service  
1783 regulations in force shall be those found in Section 25-11-101 et  
1784 seq.

1785           (2) (a) Any member of the State Legislature or the  
1786 President of the Senate who becomes a member of this plan after  
1787 July 1, 1989, but before July 1, 2007, shall not be allowed prior  
1788 service unless the member serves as a member of the State  
1789 Legislature or as President of the Senate for a minimum of four  
1790 (4) years and contributes to the plan for a minimum period of four  
1791 (4) years.

1792           (b) Any member of the State Legislature or the  
1793 President of the Senate who becomes a member of this plan on or  
1794 after July 1, 2007, shall not be allowed prior service unless the  
1795 member serves as a member of the State Legislature or as President  
1796 of the Senate for a minimum of eight (8) years and contributes to  
1797 the plan for a minimum period of eight (8) years.

1798           **SECTION 11.** (1) There is created a joint study committee on  
1799 the health insurance plan for retirees under the Public Employees'  
1800 Retirement System. The committee shall make a report of its  
1801 findings and recommendations to the Legislature before December 1,  
1802 2007, including any recommended legislation. After making its  
1803 report, the committee shall be dissolved.

1804           (2) The committee shall be composed of three (3) members of  
1805 the House of Representatives appointed by the Speaker of the House  
1806 and three (3) members of the Senate appointed by the Lieutenant  
1807 Governor. Appointments to the committee shall be made within  
1808 thirty (30) days after the effective date of this act.

1809           (3) Within fifteen (15) days after appointment of the  
1810 members of the committee, on a day to be designated jointly by the  
1811 Speaker of the House and the Lieutenant Governor, the committee  
1812 shall meet and organize by selecting from its membership a  
1813 chairman and a vice chairman. The vice chairman shall also serve  
1814 as secretary and shall be responsible for keeping all records of  
1815 the committee. A majority of the members of the committee shall  
1816 constitute a quorum. In the selection of its officers and the  
1817 adoption of rules, resolutions and reports, an affirmative vote of  
1818 a majority of the committee shall be required. All members shall  
1819 be notified in writing of all meetings, the notices to be mailed

1820 at least fifteen (15) days before the date on which a meeting is  
1821 to be held.

1822 (4) The committee shall study the health insurance plan for  
1823 retirees under the Public Employees' Retirement System established  
1824 under Sections 25-11-143 and 25-11-145 to determine how to revise  
1825 the plan so that it could be implemented at an earlier date than  
1826 it otherwise would be implemented under the current statutory  
1827 structure, and make recommendations for legislation necessary to  
1828 make those revisions.

1829 (5) Members of the committee shall be compensated at the per  
1830 diem rate authorized by Section 25-3-69 and shall receive mileage  
1831 and the expense allowance authorized under Section 5-1-47.

1832 Members of the committee shall be paid from the contingent expense  
1833 funds of their respective houses in the same manner as provided  
1834 for committee meetings when the Legislature is not in session.  
1835 However, no per diem or expense for attending meetings of the  
1836 committee will be paid to members of the committee while the  
1837 Legislature is in session. No committee member may incur per  
1838 diem, travel or other expenses unless previously authorized by  
1839 vote, at a meeting of the committee, which action shall be  
1840 recorded in the official minutes of the meeting.

1841 **SECTION 12.** This act shall take effect and be in force from  
1842 and after July 1, 2007, except for Section 11, which shall take  
1843 effect and be in force from and after the passage of this act.

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

1 AN ACT TO AMEND SECTIONS 25-11-103, 25-11-105, 25-11-109,  
2 25-11-111, 25-11-113, 25-11-114, 25-11-115, 25-11-117, 25-11-311  
3 AND 25-11-315, MISSISSIPPI CODE OF 1972, TO INCREASE THE NUMBER OF  
4 YEARS OF MEMBERSHIP SERVICE REQUIRED TO VEST IN THE PUBLIC  
5 EMPLOYEES' RETIREMENT SYSTEM FROM FOUR YEARS TO EIGHT YEARS FOR  
6 PERSONS WHO BECOME MEMBERS OF THE SYSTEM ON OR AFTER JULY 1, 2007;  
7 TO LIMIT THE SELECTION OF THE PARTIAL LUMP-SUM DISTRIBUTION OPTION  
8 TO THOSE WHO HAVE 28 OR MORE YEARS OF CREDITABLE SERVICE AT THE  
9 TIME OF RETIREMENT FOR PERSONS WHO BECOME MEMBERS OF THE SYSTEM ON  
10 OR AFTER JULY 1, 2007; TO CONFORM THE USE OF THE TERMS "MEMBERSHIP  
11 SERVICE" AND "CREDITABLE SERVICE"; TO DELETE OBSOLETE LANGUAGE  
12 REGARDING THE PHASE-IN OF THE NEW RETIREMENT FORMULA AND  
13 REFERENCES TO OPTION 4-C, WHICH IS NO LONGER AVAILABLE; TO CREATE  
14 A JOINT STUDY COMMITTEE TO STUDY THE HEALTH INSURANCE PLAN FOR  
15 RETIREES UNDER THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO  
16 DETERMINE HOW TO REVISE THE PLAN SO THAT IT COULD BE IMPLEMENTED

17 AT AN EARLIER DATE THAN IT OTHERWISE WOULD BE IMPLEMENTED UNDER  
18 THE CURRENT STATUTORY STRUCTURE; AND FOR RELATED PURPOSES.

HR40\SB2821A.J

Don Richardson  
Clerk of the House of Representatives