

By: Senator(s) Fillingane

To: Finance

SENATE BILL NO. 2218

1 AN ACT TO AMEND SECTION 25-11-103, MISSISSIPPI CODE OF 1972,
2 TO REVISE CERTAIN DEFINITIONS RELATING TO THE LAWS GOVERNING THE
3 PUBLIC EMPLOYEES' RETIREMENT SYSTEM; TO REVISE THE DEFINITION OF
4 THE TERM "BENEFICIARY" TO MAKE IT CLEAR THAT, IN THE EVENT THAT A
5 MEMBER OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM DIES BEFORE
6 RETIREMENT AND THE SPOUSE AND/OR CHILDREN ARE NOT ENTITLED TO A
7 RETIREMENT ALLOWANCE ON THE BASIS THAT THE DECEASED MEMBER DID NOT
8 HAVE THE REQUISITE NUMBER OF YEARS OF SERVICE, THE TYPE OF SERVICE
9 TO WHICH IS REFERRED IS MEMBERSHIP SERVICE; TO REVISE THE
10 DEFINITION OF THE TERM "CHILD" TO CLARIFY THAT A NATURAL CHILD OF
11 A MEMBER OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM IS ONE THAT IS
12 CONCEIVED BEFORE THE DEATH OF THE MEMBER; TO REVISE THE DEFINITION
13 OF THE TERM "EARNED COMPENSATION" TO EXCLUDE FROM EARNED
14 COMPENSATION THE VALUE OF MAINTENANCE FURNISHED AND TO EXCLUDE THE
15 VALUE OF ANY IN-KIND BENEFITS FROM THE COMPUTATION OF EARNED
16 COMPENSATION; TO AMEND SECTION 25-11-109, MISSISSIPPI CODE OF
17 1972, TO PROVIDE THAT CREDITABLE SERVICE FOR MEMBERS OF THE PUBLIC
18 EMPLOYEES' RETIREMENT SYSTEM FOR PERIODS OF TIME AFTER JULY 1,
19 2013, SHALL BE AWARDED IN MONTHLY INCREMENTS; TO PROVIDE THAT THE
20 COMPUTATION OF UNUSED LEAVE FOR CREDITABLE SERVICE FOR MEMBERS WHO
21 RETIRE ON OR AFTER JULY 1, 2013, SHALL BE CALCULATED IN MONTHLY
22 INCREMENTS; TO MAKE IT CLEAR THAT LEAVE CREDIT FOR ELECTED
23 OFFICIALS WHO ARE MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT
24 SYSTEM IS IN LIEU OF, AND NOT IN ADDITION TO, LEAVE EARNED WHILE
25 SIMULTANEOUSLY EMPLOYED IN A NONELECTED POSITION IN THE SYSTEM; TO
26 AMEND SECTION 25-11-113, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
27 A MEMBER OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO APPLIES
28 FOR A DISABILITY RETIREMENT ALLOWANCE MUST PROVIDE SUFFICIENT
29 OBJECTIVE MEDICAL EVIDENCE IN SUPPORT OF THE CLAIM AND TO DEFINE
30 "OBJECTIVE MEDICAL EVIDENCE"; TO AMEND SECTION 25-11-114,
31 MISSISSIPPI CODE OF 1972, TO MAKE IT CLEAR THAT IF A MEMBER OF THE
32 PUBLIC EMPLOYEES' RETIREMENT SYSTEM DIES BEFORE BEING QUALIFIED
33 FOR A FULL, UNREDUCED RETIREMENT ALLOWANCE, THE REDUCTION FACTOR
34 FOR THE ANNUITY OF THE SURVIVING SPOUSE SHALL BE BASED ON THE
35 NUMBER OF YEARS THAT WOULD HAVE BEEN REQUIRED FOR THE DECEASED
36 MEMBER TO QUALIFY FOR A FULL, UNREDUCED RETIREMENT ALLOWANCE; TO
37 MAKE IT CLEAR THAT IN ORDER FOR BENEFITS FOR A DEATH OR DISABILITY
38 THAT OCCURS IN THE PERFORMANCE OF DUTY TO BE PAYABLE, THE DEATH OR
39 DISABILITY MUST HAVE BEEN AS A DIRECT RESULT OF A PHYSICAL INJURY
40 SUSTAINED FROM AN ACCIDENT OR A TRAUMATIC EVENT CAUSED BY EXTERNAL
41 VIOLENCE OR PHYSICAL FORCE OCCURRING IN THE PERFORMANCE OF DUTY;
42 TO AMEND SECTION 25-11-119, MISSISSIPPI CODE OF 1972, TO AUTHORIZE
43 DISCLOSURE OF CERTAIN CONFIDENTIAL MEMBER INFORMATION TO THE
44 MEMBER'S CURRENT OR FORMER EMPLOYER; TO AMEND SECTION 25-11-121,
45 MISSISSIPPI CODE OF 1972, TO REVISE THE INVESTMENT OPTIONS FOR
46 EXCESS FUNDS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO REFLECT



47 THE CURRENT INVESTMENT ENVIRONMENT; TO AMEND SECTION 25-13-11,
48 MISSISSIPPI CODE OF 1972, TO REVISE THE EARLY RETIREMENT FORMULA
49 FOR THE MISSISSIPPI HIGHWAY SAFETY PATROL RETIREMENT SYSTEM TO
50 PROVIDE THAT THE RETIREMENT ANNUITY SHALL BE REDUCED BY AN
51 ACTUARIALLY DETERMINED PERCENTAGE OR FACTOR, RATHER THAN 3% AS IN
52 CURRENT LAW, FOR EACH YEAR OF AGE BELOW 55 OR FOR EACH YEAR OF
53 SERVICE BELOW 25, WHICHEVER IS THE LESSER; TO AMEND SECTIONS
54 25-11-111.1, 25-13-11.1 AND 21-29-325, MISSISSIPPI CODE OF 1972,
55 TO AUTHORIZE THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO MAKE
56 PAYMENTS OF RETIREMENT BENEFITS TO MEMBERS OF THE PUBLIC
57 EMPLOYEES' RETIREMENT SYSTEM, THE MISSISSIPPI HIGHWAY SAFETY
58 PATROL RETIREMENT SYSTEM AND THE MUNICIPAL RETIREMENT SYSTEMS IT
59 ADMINISTERS, BY WHATEVER MEANS IT DEEMS MOST APPROPRIATE AND TO
60 AUTHORIZE ALTERNATE MEANS OF PAYMENT IF THE MEMBER OR BENEFICIARY
61 CAN DEMONSTRATE THAT PAYMENT BY THE PRESCRIBED MEANS WILL CAUSE
62 UNDUE HARDSHIP; TO AMEND SECTION 25-9-120, MISSISSIPPI CODE OF
63 1972, TO EXEMPT ACTUARIAL OR INVESTMENT MANAGEMENT SERVICES
64 CONTRACTS ENTERED INTO BY THE BOARD OF TRUSTEES OF THE PUBLIC
65 EMPLOYEES' RETIREMENT SYSTEM FROM THE RULES AND REGULATIONS OF THE
66 PERSONAL SERVICE CONTRACT REVIEW BOARD THAT GOVERN SOLICITATION
67 AND SELECTION OF CONTRACTUAL SERVICES PERSONNEL; AND FOR RELATED
68 PURPOSES.

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

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

72 25-11-103. The following words and phrases as used in
73 Articles 1 and 3, unless a different meaning is plainly required
74 by the context, have the following meanings:

75 (a) "Accumulated contributions" means the sum of all
76 the amounts deducted from the compensation of a member and
77 credited to his or her individual account in the annuity savings
78 account, together with regular interest as provided in Section
79 25-11-123.

80 (b) "Actuarial cost" means the amount of funds
81 presently required to provide future benefits as determined by the
82 board based on applicable tables and formulas provided by the
83 actuary.

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



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

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

93 (f) "Average compensation" means the average of the
94 four (4) highest years of earned compensation reported for an
95 employee in a fiscal or calendar year period, or combination
96 thereof that do not overlap, or the last forty-eight (48)
97 consecutive months of earned compensation reported for an
98 employee. The four (4) years need not be successive or joined
99 years of service. In computing the average compensation for
100 retirement, disability or survivor benefits, any amount lawfully
101 paid in a lump sum for personal leave or major medical leave shall
102 be included in the calculation to the extent that the amount does
103 not exceed an amount that is equal to thirty (30) days of earned
104 compensation and to the extent that it does not cause the
105 employee's earned compensation to exceed the maximum reportable
106 amount specified in paragraph (k) of this section; however, this
107 thirty-day limitation shall not prevent the inclusion in the
108 calculation of leave earned under federal regulations before July
109 1, 1976, and frozen as of that date as referred to in Section
110 25-3-99. In computing the average compensation, no amounts shall
111 be used that are in excess of the amount on which contributions
112 were required and paid, and no nontaxable amounts paid by the
113 employer for health or life insurance premiums for the employee
114 shall be used. If any member who is or has been granted any
115 increase in annual salary or compensation of more than eight
116 percent (8%) retires within twenty-four (24) months from the date
117 that the increase becomes effective, then the board shall exclude
118 that part of the increase in salary or compensation that exceeds
119 eight percent (8%) in calculating that member's average
120 compensation for retirement purposes. The board may enforce this



121 provision by rule or regulation. However, increases in
122 compensation in excess of eight percent (8%) per year granted
123 within twenty-four (24) months of the date of retirement may be
124 included in the calculation of average compensation if
125 satisfactory proof is presented to the board showing that the
126 increase in compensation was the result of an actual change in the
127 position held or services rendered, or that the compensation
128 increase was authorized by the State Personnel Board or was
129 increased as a result of statutory enactment, and the employer
130 furnishes an affidavit stating that the increase granted within
131 the last twenty-four (24) months was not contingent on a promise
132 or agreement of the employee to retire. Nothing in Section
133 25-3-31 shall affect the calculation of the average compensation
134 of any member for the purposes of this article. The average
135 compensation of any member who retires before July 1, 1992, shall
136 not exceed the annual salary of the Governor.

137 (g) "Beneficiary" means any person entitled to receive
138 a retirement allowance, an annuity or other benefit as provided by
139 Articles 1 and 3. The term "beneficiary" may also include an
140 organization, estate, trust or entity; however, a beneficiary
141 designated or entitled to receive monthly payments under an
142 optional settlement based on life contingency or under a statutory
143 monthly benefit may only be a natural person. In the event of the
144 death before retirement of any member who became a member of the
145 system before July 1, 2007, and whose spouse and/or children are
146 not entitled to a retirement allowance on the basis that the
147 member has less than four (4) years of membership service credit,
148 or who became a member of the system on or after July 1, 2007, and
149 whose spouse and/or children are not entitled to a retirement
150 allowance on the basis that the member has less than eight (8)
151 years of membership service credit, and/or has not been married
152 for a minimum of one (1) year or the spouse has waived his or her
153 entitlement to a retirement allowance under Section 25-11-114, the



154 lawful spouse of a member at the time of the death of the member
155 shall be the beneficiary of the member unless the member has
156 designated another beneficiary after the date of marriage in
157 writing, and filed that writing in the office of the executive
158 director of the board of trustees. No designation or change of
159 beneficiary shall be made in any other manner.

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

163 (i) "Creditable service" means "prior service,"
164 "retroactive service" and all lawfully credited unused leave not
165 exceeding the accrual rates and limitations provided in Section
166 25-3-91 et seq., as of the date of withdrawal from service plus
167 "membership service" and other service for which credit is
168 allowable as provided in Section 25-11-109. Except to limit
169 creditable service reported to the system for the purpose of
170 computing an employee's retirement allowance or annuity or
171 benefits provided in this article, nothing in this paragraph shall
172 limit or otherwise restrict the power of the governing authority
173 of a municipality or other political subdivision of the state to
174 adopt such vacation and sick leave policies as it deems necessary.

175 (j) "Child" means either a natural child of the member,
176 a child that has been made a child of the member by applicable
177 court action before the death of the member, or a child under the
178 permanent care of the member at the time of the latter's death,
179 which permanent care status shall be determined by evidence
180 satisfactory to the board. For purposes of this paragraph, a
181 natural child of the member is a child of the member that is
182 conceived before the death of the member.

183 (k) "Earned compensation" means the full amount earned
184 during a fiscal year by an employee * * * not to exceed the
185 employee compensation limit set pursuant to Section 401(a)(17) of
186 the Internal Revenue Code for the calendar year in which the



187 fiscal year begins and proportionately for less than one (1) year
188 of service. The value of maintenance furnished to an employee
189 shall not be included in earned compensation. * * * Earned
190 compensation shall not include any * * * amounts paid by the
191 employer for health or life insurance premiums for an
192 employee. * * * Earned compensation shall be limited to the
193 regular periodic compensation paid, exclusive of litigation fees,
194 bond fees, performance based incentive payments, and other similar
195 extraordinary nonrecurring payments. In addition, any member in a
196 covered position, as defined by Public Employees' Retirement
197 System laws and regulations, who is also employed by another
198 covered agency or political subdivision shall have the earnings of
199 that additional employment reported to the Public Employees'
200 Retirement System regardless of whether the additional employment
201 is sufficient in itself to be a covered position. In addition,
202 computation of earned compensation shall be governed by the
203 following:

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

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

212 (iii) In the case of members of the State
213 Legislature, all remuneration or amounts paid, except mileage
214 allowance, shall apply.

215 (iv) The amount by which an eligible employee's
216 salary is reduced under a salary reduction agreement authorized
217 under Section 25-17-5 shall be included as earned compensation
218 under this paragraph, provided this inclusion does not conflict
219 with federal law, including federal regulations and federal



220 administrative interpretations under the federal law, pertaining
221 to the Federal Insurance Contributions Act or to Internal Revenue
222 Code Section 125 cafeteria plans.

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

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

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

234 (viii) Except as otherwise provided in this
235 paragraph, the value of any in-kind benefits provided by the
236 employer shall not be included in earned compensation. As used in
237 this subparagraph, "in-kind benefits" shall include, but not be
238 limited to, group life insurance premiums, health or dental
239 insurance premiums, nonpaid major medical and personal leave,
240 employer contributions for social security and retirement, tuition
241 reimbursement or educational funding, day care or transportation
242 benefits.

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

246 (m) "Employer" means the State of Mississippi or any of
247 its departments, agencies or subdivisions from which any employee
248 receives his or her compensation.

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



253 the term "Executive Secretary of the Public Employees' Retirement
254 System" or "executive secretary" appears in this article or in any
255 other provision of law, it shall be construed to mean the
256 Executive Director of the Public Employees' Retirement System.

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

259 (p) "Medical board" means the board of physicians or
260 any governmental or nongovernmental disability determination
261 service designated by the board of trustees that is qualified to
262 make disability determinations as provided for in Section
263 25-11-119.

264 (q) "Member" means any person included in the
265 membership of the system as provided in Section 25-11-105. For
266 purposes of Sections 25-11-103, 25-11-105, 25-11-109, 25-11-111,
267 25-11-113, 25-11-114, 25-11-115 and 25-11-117, if a member of the
268 system withdrew from state service and received a refund of the
269 amount of the accumulated contributions to the credit of the
270 member in the annuity savings account before July 1, 2007, and the
271 person reenters state service and becomes a member of the system
272 again on or after July 1, 2007, and repays all or part of the
273 amount received as a refund and interest in order to receive
274 creditable service for service rendered before July 1, 2007, the
275 member shall be considered to have become a member of the system
276 on or after July 1, 2007, subject to the eight-year membership
277 service requirement, as applicable in those sections. For
278 purposes of Sections 25-11-103, 25-11-111, 25-11-114 and
279 25-11-115, if a member of the system withdrew from state service
280 and received a refund of the amount of the accumulated
281 contributions to the credit of the member in the annuity savings
282 account before July 1, 2011, and the person reenters state service
283 and becomes a member of the system again on or after July 1, 2011,
284 and repays all or part of the amount received as a refund and
285 interest in order to receive creditable service for service



286 rendered before July 1, 2011, the member shall be considered to
287 have become a member of the system on or after July 1, 2011.

288 (r) "Membership service" means service as an employee
289 in a covered position rendered while a contributing member of the
290 retirement system.

291 (s) "Position" means any office or any employment in
292 the state service, or two (2) or more of them, the duties of which
293 call for services to be rendered by one (1) person, including
294 positions jointly employed by federal and state agencies
295 administering federal and state funds. The employer shall
296 determine upon initial employment and during the course of
297 employment of an employee who does not meet the criteria for
298 coverage in the Public Employees' Retirement System based on the
299 position held, whether the employee is or becomes eligible for
300 coverage in the Public Employees' Retirement System based upon any
301 other employment in a covered agency or political subdivision. If
302 or when the employee meets the eligibility criteria for coverage
303 in the other position, then the employer must withhold
304 contributions and report wages from the noncovered position in
305 accordance with the provisions for reporting of earned
306 compensation. Failure to deduct and report those contributions
307 shall not relieve the employee or employer of liability thereof.
308 The board shall adopt such rules and regulations as necessary to
309 implement and enforce this provision.

310 (t) "Prior service" means:

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



318 (ii) For persons who became members of the system
319 on or after July 1, 2007, service rendered before February 1,
320 1953, for which credit is allowable under Sections 25-11-105 and
321 25-11-109, and which shall allow prior service for any person who
322 is now or becomes a member of the Public Employees' Retirement
323 System and who does contribute to the system for a minimum period
324 of eight (8) years.

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

328 (v) "Retirement allowance" means an annuity for life as
329 provided in this article, payable each year in twelve (12) equal
330 monthly installments beginning as of the date fixed by the board.
331 The retirement allowance shall be calculated in accordance with
332 Section 25-11-111. However, any spouse who received a spouse
333 retirement benefit in accordance with Section 25-11-111(d) before
334 March 31, 1971, and those benefits were terminated because of
335 eligibility for a social security benefit, may again receive his
336 or her spouse retirement benefit from and after making application
337 with the board of trustees to reinstate the spouse retirement
338 benefit.

339 (w) "Retroactive service" means service rendered after
340 February 1, 1953, for which credit is allowable under Section
341 25-11-105(b) and Section 25-11-105(k).

342 (x) "System" means the Public Employees' Retirement
343 System of Mississippi established and described in Section
344 25-11-101.

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

347 (z) "State service" means all offices and positions of
348 trust or employment in the employ of the state, or any political
349 subdivision or instrumentality of the state, that elect to
350 participate as provided by Section 25-11-105(f), including the



351 position of elected or fee officials of the counties and their
352 deputies and employees performing public services or any
353 department, independent agency, board or commission thereof, and
354 also includes all offices and positions of trust or employment in
355 the employ of joint state and federal agencies administering state
356 and federal funds and service rendered by employees of the public
357 schools. Effective July 1, 1973, all nonprofessional public
358 school employees, such as bus drivers, janitors, maids,
359 maintenance workers and cafeteria employees, shall have the option
360 to become members in accordance with Section 25-11-105(b), and
361 shall be eligible to receive credit for services before July 1,
362 1973, provided that the contributions and interest are paid by the
363 employee in accordance with that section; in addition, the county
364 or municipal separate school district may pay the employer
365 contribution and pro rata share of interest of the retroactive
366 service from available funds. From and after July 1, 1998,
367 retroactive service credit shall be purchased at the actuarial
368 cost in accordance with Section 25-11-105(b).

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

372 (bb) The masculine pronoun, wherever used, includes the
373 feminine pronoun.

374 **SECTION 2.** Section 25-11-109, Mississippi Code of 1972, is
375 amended as follows:

376 25-11-109. (1) Under such rules and regulations as the
377 board of trustees shall adopt, each person who becomes a member of
378 this retirement system, as provided in Section 25-11-105, on or
379 before July 1, 1953, or who became a member of the system before
380 July 1, 2007, and contributes to the system for a minimum period
381 of four (4) years, or who became a member of the system on or
382 after July 1, 2007, and contributes to the system for a minimum
383 period of eight (8) years, shall receive credit for all state



384 service rendered before February 1, 1953. To receive that credit,
385 the member shall file a detailed statement of all services as an
386 employee rendered by him in the state service before February 1,
387 1953. For any member who joined the system after July 1, 1953,
388 and before July 1, 2007, any creditable service for which the
389 member is not required to make contributions shall not be credited
390 to the member until the member has contributed to the system for a
391 minimum period of at least four (4) years. For any member who
392 joined the system on or after July 1, 2007, any creditable service
393 for which the member is not required to make contributions shall
394 not be credited to the member until the member has contributed to
395 the system for a minimum period of at least eight (8) years.

396 (2) (a) (i) In the computation of creditable service for
397 service rendered before July 1, 2013, under the provisions of this
398 article, the total months of accumulative service during any
399 fiscal year shall be calculated in accordance with the schedule as
400 follows: ten (10) or more months of creditable service during any
401 fiscal year shall constitute a year of creditable service; seven
402 (7) months to nine (9) months inclusive, three-quarters (3/4) of a
403 year of creditable service; four (4) months to six (6) months
404 inclusive, one-half-year of creditable service; one (1) month to
405 three (3) months inclusive, one-quarter (1/4) of a year of
406 creditable service.

407 (ii) In the computation of creditable service for
408 service rendered on or after July 1, 2013, under the provisions of
409 this article, service credit shall be awarded in monthly
410 increments in a manner prescribed by regulations of the board.

411 (b) In no case shall credit be allowed for any period
412 of absence without compensation except for disability while in
413 receipt of a disability retirement allowance, nor shall less than
414 fifteen (15) days of service in any month, or service less than
415 the equivalent of one-half (1/2) of the normal working load for
416 the position and less than one-half (1/2) of the normal



417 compensation for the position in any month, constitute a month of
418 creditable service, nor shall more than one (1) year of service be
419 creditable for all services rendered in any one (1) fiscal year;
420 however, for a school employee, substantial completion of the
421 legal school term when and where the service was rendered shall
422 constitute a year of service credit. Any state or local elected
423 official shall be deemed a full-time employee for the purpose of
424 creditable service. However, an appointed or elected official
425 compensated on a per diem basis only shall not be allowed
426 creditable service for terms of office.

427 (c) In the computation of any retirement allowance or
428 any annuity or benefits provided in this article, any fractional
429 period of service of less than one (1) year shall be taken into
430 account and a proportionate amount of such retirement allowance,
431 annuity or benefit shall be granted for any such fractional period
432 of service.

433 (d) (i) In the computation of unused leave for
434 creditable service authorized in Section 25-11-103, the following
435 shall govern for members who retire before July 1, 2013:
436 twenty-one (21) days of unused leave shall constitute one (1)
437 month of creditable service and in no case shall credit be allowed
438 for any period of unused leave of less than fifteen (15) days.
439 The number of months of unused leave shall determine the number of
440 quarters or years of creditable service in accordance with the
441 above schedule for membership and prior service.

442 (ii) In the computation of unused leave for
443 creditable service authorized in Section 25-11-103, the following
444 shall govern for members who retire on or after July 1, 2013:
445 creditable service for unused leave shall be calculated in monthly
446 increments in which one (1) month of service credit shall be
447 awarded for each twenty-one (21) days of unused leave, except that
448 the first fifteen (15) days of leave shall constitute three (3)



449 months of service for those who became a member of the system
450 before July 1, 2013.

451 (iii) In order for the member to receive
452 creditable service for the number of days of unused leave under
453 this paragraph, the system must receive certification from the
454 governing authority.

455 (e) For the purposes of this subsection, members of the
456 system who retire on or after July 1, 2010, shall receive credit
457 for one-half-day of leave for each full year of membership service
458 accrued after June 30, 2010. The amount of leave received by a
459 member under this paragraph shall be added to the lawfully
460 credited unused leave for which creditable service is provided
461 under Section 25-11-103(i).

462 (f) For the purpose of this subsection, for members of
463 the system who are elected officers and who retire on or after
464 July 1, 1987, the following shall govern:

465 (i) For service before July 1, 1984, the members
466 shall receive credit for leave (combined personal and major
467 medical) for service as an elected official before that date at
468 the rate of thirty (30) days per year.

469 (ii) For service on and after July 1, 1984, the
470 member shall receive credit for personal and major medical leave
471 beginning July 1, 1984, at the rates authorized in Sections
472 25-3-93 and 25-3-95, computed as a full-time employee.

473 (iii) If a member is employed in a covered
474 nonelected position and a covered elected position simultaneously,
475 that member may not receive service credit for accumulated unused
476 leave for both positions at retirement for the period during which
477 the member was dually employed. During the period during which
478 the member is dually employed, the member shall only receive
479 credit for leave as provided for in this paragraph for an elected
480 official.



481 (3) Subject to the above restrictions and to such other
482 rules and regulations as the board may adopt, the board shall
483 verify, as soon as practicable after the filing of such statements
484 of service, the services therein claimed.

485 (4) Upon verification of the statement of prior service, the
486 board shall issue a prior service certificate certifying to each
487 member the length of prior service for which credit shall have
488 been allowed on the basis of his statement of service. So long as
489 membership continues, a prior service certificate shall be final
490 and conclusive for retirement purposes as to such service,
491 provided that any member may within five (5) years from the date
492 of issuance or modification of such certificate request the board
493 of trustees to modify or correct his prior service certificate.
494 Any modification or correction authorized shall only apply
495 prospectively.

496 When membership ceases, such prior service certificates shall
497 become void. Should the employee again become a member, he shall
498 enter the system as an employee not entitled to prior service
499 credit except as provided in Sections 25-11-105(I), 25-11-113 and
500 25-11-117.

501 (5) Creditable service at retirement, on which the
502 retirement allowance of a member shall be based, shall consist of
503 the membership service rendered by him since he last became a
504 member, and also, if he has a prior service certificate that is in
505 full force and effect, the amount of the service certified on his
506 prior service certificate.

507 (6) Any member who served on active duty in the Armed Forces
508 of the United States, who served in the Commissioned Corps of the
509 United States Public Health Service before 1972 or who served in
510 maritime service during periods of hostility in World War II,
511 shall be entitled to creditable service at no cost for his service
512 on active duty in the Armed Forces, in the Commissioned Corps of
513 the United States Public Health Service before 1972 or in such



514 maritime service, provided he entered state service after his
515 discharge from the Armed Forces or entered state service after he
516 completed such maritime service. The maximum period for such
517 creditable service for all military service as defined in this
518 subsection (6) shall not exceed four (4) years unless positive
519 proof can be furnished by such person that he was retained in the
520 Armed Forces during World War II or in maritime service during
521 World War II by causes beyond his control and without opportunity
522 of discharge. The member shall furnish proof satisfactory to the
523 board of trustees of certification of military service or maritime
524 service records showing dates of entrance into active duty service
525 and the date of discharge. From and after July 1, 1993, no
526 creditable service shall be granted for any military service or
527 maritime service to a member who qualifies for a retirement
528 allowance in another public retirement system administered by the
529 Board of Trustees of the Public Employees' Retirement System
530 based, in whole or in part, on such military or maritime service.
531 In no case shall the member receive creditable service if the
532 member received a dishonorable discharge from the Armed Forces of
533 the United States.

534 (7) (a) Any member of the Public Employees' Retirement
535 System whose membership service is interrupted as a result of
536 qualified military service within the meaning of Section 414(u) (5)
537 of the Internal Revenue Code, and who has received the maximum
538 service credit available under subsection (6) of this section,
539 shall receive creditable service for the period of qualified
540 military service that does not qualify as creditable service under
541 subsection (6) of this section upon reentering membership service
542 in an amount not to exceed five (5) years if:

543 (i) The member pays the contributions he would
544 have made to the retirement system if he had remained in
545 membership service for the period of qualified military service



546 based upon his salary at the time his membership service was
547 interrupted;

548 (ii) The member returns to membership service
549 within ninety (90) days of the end of his qualified military
550 service; and

551 (iii) The employer at the time the member's
552 service was interrupted and to which employment the member returns
553 pays the contributions it would have made into the retirement
554 system for such period based on the member's salary at the time
555 the service was interrupted.

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

561 (c) The member shall furnish proof satisfactory to the
562 board of trustees of certification of military service showing
563 dates of entrance into qualified service and the date of discharge
564 as well as proof that the member has returned to active employment
565 within the time specified.

566 (8) Any member of the Public Employees' Retirement System
567 who became a member of the system before July 1, 2007, and who has
568 at least four (4) years of membership service credit, or who
569 became a member of the system on or after July 1, 2007, and who
570 has at least eight (8) years of membership service credit, shall
571 be entitled to receive a maximum of five (5) years' creditable
572 service for service rendered in another state as a public employee
573 of such other state, or a political subdivision, public education
574 system or other governmental instrumentality thereof, or service
575 rendered as a teacher in American overseas dependent schools
576 conducted by the Armed Forces of the United States for children of
577 citizens of the United States residing in areas outside the
578 continental United States, provided that:



579 (a) The member shall furnish proof satisfactory to the
580 board of trustees of certification of such services from the
581 state, public education system, political subdivision or
582 retirement system of the state where the services were performed
583 or the governing entity of the American overseas dependent school
584 where the services were performed; and

585 (b) The member is not receiving or will not be entitled
586 to receive from the public retirement system of the other state or
587 from any other retirement plan, including optional retirement
588 plans, sponsored by the employer, a retirement allowance including
589 such services; and

590 (c) The member shall pay to the retirement system on
591 the date he or she is eligible for credit for such out-of-state
592 service or at any time thereafter before the date of retirement
593 the actuarial cost as determined by the actuary for each year of
594 out-of-state creditable service. The provisions of this
595 subsection are subject to the limitations of Section 415 of the
596 Internal Revenue Code and regulations promulgated under that
597 section.

598 (9) Any member of the Public Employees' Retirement System
599 who became a member of the system before July 1, 2007, and has at
600 least four (4) years of membership service credit, or who became a
601 member of the system on or after July 1, 2007, and has at least
602 eight (8) years of membership service credit, and who receives, or
603 has received, professional leave without compensation for
604 professional purposes directly related to the employment in state
605 service shall receive creditable service for the period of
606 professional leave without compensation provided:

607 (a) The professional leave is performed with a public
608 institution or public agency of this state, or another state or
609 federal agency;

610 (b) The employer approves the professional leave
611 showing the reason for granting the leave and makes a



612 determination that the professional leave will benefit the
613 employee and employer;

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

616 (d) The employee shall serve the employer on a
617 full-time basis for a period of time equivalent to the
618 professional leave period granted immediately following the
619 termination of the leave period;

620 (e) The contributing member shall pay to the retirement
621 system the actuarial cost as determined by the actuary for each
622 year of professional leave. The provisions of this subsection are
623 subject to the regulations of the Internal Revenue Code
624 limitations;

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

628 Any actively contributing member participating in the School
629 Administrator Sabbatical Program established in Section 37-9-77
630 shall qualify for continued participation under this subsection
631 (9).

632 (10) Any member of the Public Employees' Retirement System
633 who became a member of the system before July 1, 2007, and has at
634 least four (4) years of credited membership service, or who became
635 a member of the system on or after July 1, 2007, and has at least
636 eight (8) years of credited membership service, shall be entitled
637 to receive a maximum of ten (10) years creditable service for:

638 (a) Any service rendered as an employee of any
639 political subdivision of this state, or any instrumentality
640 thereof, that does not participate in the Public Employees'
641 Retirement System; or

642 (b) Any service rendered as an employee of any
643 political subdivision of this state, or any instrumentality



644 thereof, that participates in the Public Employees' Retirement
645 System but did not elect retroactive coverage; or

646 (c) Any service rendered as an employee of any
647 political subdivision of this state, or any instrumentality
648 thereof, for which coverage of the employee's position was or is
649 excluded; provided that the member pays into the retirement system
650 the actuarial cost as determined by the actuary for each year, or
651 portion thereof, of such service. Payment for such service may be
652 made in increments of one-quarter-year of creditable service.
653 After a member has made full payment to the retirement system for
654 all or any part of such service, the member shall receive
655 creditable service for the period of such service for which full
656 payment has been made to the retirement system.

657 **SECTION 3.** Section 25-11-113, Mississippi Code of 1972, is
658 amended as follows:

659 25-11-113. (1) (a) Upon the application of a member or his
660 employer, any active member in state service who became a member
661 of the system before July 1, 2007, and who has at least four (4)
662 years of membership service credit, or any active member in state
663 service who became a member of the system on or after July 1,
664 2007, who has at least eight (8) years of membership service
665 credit, may be retired by the board of trustees on the first of
666 the month following the date of filing the application on a
667 disability retirement allowance, but in no event shall the
668 disability retirement allowance begin before termination of state
669 service, provided that the medical board, after an evaluation of
670 medical evidence that may or may not include an actual physical
671 examination by the medical board, certifies that the member is
672 mentally or physically incapacitated for the further performance
673 of duty, that the incapacity is likely to be permanent, and that
674 the member should be retired; however, the board of trustees may
675 accept a disability medical determination from the Social Security
676 Administration in lieu of a certification from the medical board.



677 For the purposes of disability determination, the medical board
678 shall apply the following definition of disability: the inability
679 to perform the usual duties of employment or the incapacity to
680 perform such lesser duties, if any, as the employer, in its
681 discretion, may assign without material reduction in compensation,
682 or the incapacity to perform the duties of any employment covered
683 by the Public Employees' Retirement System (Section 25-11-101 et
684 seq.) that is actually offered and is within the same general
685 territorial work area, without material reduction in compensation.
686 The employer shall be required to furnish the job description and
687 duties of the member. The employer shall further certify whether
688 the employer has offered the member other duties and has complied
689 with the applicable provisions of the Americans With Disabilities
690 Act in affording reasonable accommodations that would allow the
691 employee to continue employment.

692 (b) Any member applying for a disability retirement
693 allowance must provide sufficient objective medical evidence in
694 support of his or her claim. All disability determinations,
695 whether the initial examination or reexamination, shall be based
696 on objective medical evidence. "Objective medical evidence" means
697 reports of examinations or treatments; medical signs which are
698 anatomical, physiological, or psychological abnormalities that are
699 observed and documented by medical professionals; psychiatric
700 signs which are medically demonstrable phenomena indicating
701 specific abnormalities of behavior, affect, thought, memory,
702 orientation, or contact with reality; or laboratory findings which
703 are anatomical, physiological, or psychological phenomena that are
704 shown by medically acceptable laboratory diagnostic techniques,
705 including, but not limited to, chemical tests, electrocardiograms,
706 electroencephalograms, X-rays, and psychological tests.
707 Nonmedical information not documented by test results, such as an
708 applicant's description of pain, shall not be considered objective
709 medical evidence.



710 (c) Any inactive member who became a member of the
711 system before July 1, 2007, with four (4) or more years of
712 membership service credit, or any inactive member who became a
713 member of the system on or after July 1, 2007, with eight (8) or
714 more years of membership service credit, who has withdrawn from
715 active state service, is not eligible for a disability retirement
716 allowance unless the disability occurs within six (6) months of
717 the termination of active service and unless satisfactory proof is
718 presented to the board of trustees that the disability was the
719 direct cause of withdrawal from state service.

720 (d) Any member who is or becomes eligible for service
721 retirement benefits under Section 25-11-111 while pursuing a
722 disability retirement allowance under this section or Section
723 25-11-114 may elect to receive a service retirement allowance
724 pending a final determination on eligibility for a disability
725 retirement allowance or withdrawal of the application for the
726 disability retirement allowance. In such a case, an application
727 for a disability retirement allowance must be on file with the
728 system before the beginning of a service retirement allowance. If
729 the application is approved, the option selected and beneficiary
730 designated on the retirement application shall be used to
731 determine the disability retirement allowance. If the application
732 is not approved or if the application is withdrawn, the service
733 retirement allowance shall continue to be paid in accordance with
734 the option selected. No person may apply for a disability
735 retirement allowance after the person begins to receive a service
736 retirement allowance.

737 (e) If the medical board certifies that the member is
738 not mentally or physically incapacitated for the future
739 performance of duty, the member may request, within sixty (60)
740 days, a hearing before the hearing officer as provided in Section
741 25-11-120. All hearings shall be held in accordance with rules



742 and regulations adopted by the board to govern those hearings.
743 The hearing may be closed upon the request of the member.

744 (f) The medical board may request additional medical
745 evidence and/or other physicians to conduct an evaluation of the
746 member's condition. If the medical board requests additional
747 medical evidence and the member refuses the request, the
748 application shall be considered void.

749 (2) Allowance on disability retirement.

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

753 (b) Except as provided in paragraph (c) of this
754 subsection (2), an eligible member who is retired for disability
755 and who has not attained sixty (60) years of age shall receive a
756 disability benefit as computed in Section 25-11-111(d), which
757 shall consist of:

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

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

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



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

781	Age at Disability	Duration
782	60 and earlier	to age 65
783	61	to age 66
784	62	to age 66
785	63	to age 67
786	64	to age 67
787	65	to age 68
788	66	to age 68
789	67	to age 69
790	68	to age 70
791	69 and over	one year

792 The deferred allowance shall begin when the temporary
793 allowance ends and shall be payable for life. The deferred
794 allowance shall equal the greater of (i) the allowance that would
795 have been payable had the member continued in service to the
796 termination age of the temporary allowance, but no more than forty
797 percent (40%) of average compensation, or (ii) the accrued benefit
798 based on actual service at the time of disability. The deferred
799 allowance as determined at the time of disability shall be
800 adjusted in accordance with Section 25-11-112 for the period
801 during which the temporary annuity is payable. In no case shall a
802 member receive less than Ten Dollars (\$10.00) per month for each
803 year of service and proportionately for each quarter year thereof
804 reduced for the option selected.

805 (d) The member may elect to receive the actuarial
806 equivalent of the disability retirement allowance in a reduced



807 allowance payable throughout life under any of the provisions of
808 the options provided under Section 25-11-115.

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

815 (3) Reexamination of retirees retired on account of
816 disability. Except as otherwise provided in this section, once
817 each year during the first five (5) years following retirement of
818 a member on a disability retirement allowance, and once in every
819 period of three (3) years thereafter, the board of trustees may,
820 and upon his application shall, require any disability retiree who
821 has not yet attained the age of sixty (60) years or the
822 termination age of the temporary allowance under subsection (2)(c)
823 of this section to undergo a medical examination, the examination
824 to be made at the place of residence of the retiree or other place
825 mutually agreed upon by a physician or physicians designated by
826 the board. The board, however, in its discretion, may authorize
827 the medical board to establish reexamination schedules appropriate
828 to the medical condition of individual disability retirees. If
829 any disability retiree who has not yet attained the age of sixty
830 (60) years or the termination age of the temporary allowance under
831 subsection (2)(c) of this section refuses to submit to any medical
832 examination provided in this section, his allowance may be
833 discontinued until his withdrawal of that refusal; and if his
834 refusal continues for one (1) year, all his rights to a disability
835 benefit shall be revoked by the board of trustees.

836 (4) If the medical board reports and certifies to the board
837 of trustees, after a comparable job analysis or other similar
838 study, that the disability retiree is engaged in, or is able to
839 engage in, a gainful occupation paying more than the difference



840 between his disability allowance, exclusive of cost-of-living
841 adjustments, and the average compensation, and if the board of
842 trustees concurs in the report, the disability benefit shall be
843 reduced to an amount that, together with the amount earnable by
844 him, equals the amount of his average compensation. If his
845 earning capacity is later changed, the amount of the benefit may
846 be further modified, provided that the revised benefit shall not
847 exceed the amount originally granted. A retiree receiving a
848 disability benefit who is restored to active service at a salary
849 less than the average compensation shall not become a member of
850 the retirement system.

851 (5) If a disability retiree under the age of sixty (60)
852 years or the termination age of the temporary allowance under
853 subsection (2)(c) of this section is restored to active service at
854 a compensation not less than his average compensation, his
855 disability benefit shall end, he shall again become a member of
856 the retirement system, and contributions shall be withheld and
857 reported. Any such prior service certificate, on the basis of
858 which his service was computed at the time of retirement, shall be
859 restored to full force and effect. In addition, upon his later
860 retirement he shall be credited with all creditable service as a
861 member, but the total retirement allowance paid to the retired
862 member in his previous retirement shall be deducted from his
863 retirement reserve and taken into consideration in recalculating
864 the retirement allowance under a new option selected.

865 (6) If following reexamination in accordance with the
866 provisions contained in this section, the medical board determines
867 that a retiree retired on account of disability is physically and
868 mentally able to return to the employment from which he is
869 retired, the board of trustees, upon certification of those
870 findings from the medical board, shall, after a reasonable period
871 of time, terminate the disability allowance, whether or not the
872 retiree is reemployed or seeks that reemployment. In addition, if



873 the board of trustees determines that the retiree is no longer
874 sustaining a loss of income as established by documented evidence
875 of the retiree's earned income, the eligibility for a disability
876 allowance shall terminate and the allowance terminated within a
877 reasonable period of time. If the retirement allowance is
878 terminated under the provisions of this section, the retiree may
879 later qualify for a retirement allowance under Section 25-11-111
880 based on actual years of service credit plus credit for the period
881 during which a disability allowance was paid.

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

888 **SECTION 4.** Section 25-11-114, Mississippi Code of 1972, is
889 amended as follows:

890 25-11-114. (1) The applicable benefits provided in
891 subsections (2) and (3) of this section shall be paid to eligible
892 beneficiaries of any member who became a member of the system
893 before July 1, 2007, and has completed four (4) or more years of
894 membership service, or who became a member of the system on or
895 after July 1, 2007, and has completed eight (8) or more years of
896 membership service, and who dies before retirement and who has not
897 filed a Pre-Retirement Optional Retirement Form as provided in
898 Section 25-11-111.

899 (2) (a) The surviving spouse of a member who dies before
900 retirement shall receive a monthly benefit computed in accordance
901 with paragraph (d) of this subsection (2) as if the member had
902 nominated his spouse as beneficiary if:

903 (i) The member completed the requisite minimum
904 number of years of membership service to qualify for a retirement
905 allowance at age sixty (60);



906 (ii) The spouse has been married to the member for
907 not less than one (1) year preceding the death of the member;

908 (iii) The member has not exercised any other
909 option.

910 (b) If, at the time of the member's death, there are no
911 dependent children, and the surviving spouse, who otherwise would
912 receive the annuity under this subsection (2), has filed with the
913 system a signed written waiver of his or her rights to the annuity
914 and that waiver was in effect at the time of the member's death, a
915 lump-sum distribution of the deceased member's accumulated
916 contributions shall be refunded in accordance with Section
917 25-11-117.

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

922 (d) The spouse of a member who is eligible to receive a
923 monthly benefit under paragraph (a) of this subsection (2) shall
924 receive a benefit for life equal to the higher of the following:

925 (i) The greater of twenty percent (20%) of the
926 deceased member's average compensation as defined in Section
927 25-11-103 at the time of death or Fifty Dollars (\$50.00) monthly;
928 or

929 (ii) Benefits calculated under Option 2 of Section
930 25-11-115. The method of calculating the retirement benefits
931 shall be on the same basis as provided in Section 25-11-111(d) or
932 (e), as applicable. However, if the member dies before being
933 qualified for a full, unreduced retirement allowance, then the
934 benefits shall be reduced by an actuarially determined percentage
935 or factor based on the lesser of either the number of years of
936 service credit or the number of years in age required to qualify
937 for a full, unreduced retirement allowance in Section 25-11-111(d)
938 or (e), as applicable.



939 (e) The surviving spouse of a deceased member who
940 previously received spouse retirement benefits under paragraph
941 (d)(i) of this subsection from and after July 1, 1992, and whose
942 benefits were terminated before July 1, 2004, because of
943 remarriage, may again receive the retirement benefits authorized
944 under paragraph (d)(i) of this subsection by making application
945 with the board to reinstate those benefits. Any reinstatement of
946 the benefits shall be prospective only and shall begin after the
947 first of the month following the date of the application for
948 reinstatement, but no earlier than July 1, 2004. From and after
949 July 1, 2010, any spouse who chose Option 2 from and after July 1,
950 1992, but before July 1, 2004, where the benefit, although payable
951 for life, was less than the benefit available under the
952 calculation in paragraph (d)(i) of this subsection shall have his
953 or her benefit increased to the amount which provides the greater
954 benefit.

955 (3) (a) Subject to the maximum limitation provided in this
956 paragraph, the member's dependent children each shall receive an
957 annuity of the greater of ten percent (10%) of the member's
958 average compensation as defined in Section 25-11-103 at the time
959 of the death of the member or Fifty Dollars (\$50.00) monthly;
960 however, if there are more than three (3) dependent children, each
961 dependent child shall receive an equal share of a total annuity
962 equal to thirty percent (30%) of the member's average
963 compensation, provided that the total annuity shall not be less
964 than One Hundred Fifty Dollars (\$150.00) per month for all
965 children.

966 (b) A child shall be considered to be a dependent child
967 until marriage, or the attainment of age nineteen (19), whichever
968 comes first; however, this age limitation shall be extended beyond
969 age nineteen (19), but in no event beyond the attainment of age
970 twenty-three (23), as long as the child is a student regularly
971 pursuing a full-time course of resident study or training in an



972 accredited high school, trade school, technical or vocational
973 institute, junior or community college, college, university or
974 comparable recognized educational institution duly licensed by a
975 state. A student child whose birthday falls during the school
976 year (September 1 through June 30) is considered not to reach age
977 twenty-three (23) until the July 1 following the actual
978 twenty-third birthday. A full-time course of resident study or
979 training means a day or evening noncorrespondence course that
980 includes school attendance at the rate of at least thirty-six (36)
981 weeks per academic year or other applicable period with a subject
982 load sufficient, if successfully completed, to attain the
983 educational or training objective within the period generally
984 accepted as minimum for completion, by a full-time day student, of
985 the academic or training program concerned. Any child who is
986 physically or mentally incompetent, as adjudged by either a
987 Mississippi court of competent jurisdiction or by the board, shall
988 receive benefits for as long as the incompetency exists.

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

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

1000 (4) (a) Death benefits in the line of duty. Regardless of
1001 the number of years of the member's creditable service, the spouse
1002 and/or the dependent children of an active member who is
1003 killed * * * or dies as a direct result of a physical injury
1004 sustained from an accident or a traumatic event caused by external



1005 violence or physical force occurring in the line of performance of
1006 duty shall qualify, on approval of the board, for a retirement
1007 allowance on the first of the month following the date of death,
1008 but in the case of late filing, retroactive payments will be made
1009 for a period of not more than one (1) year. The spouse shall
1010 receive a retirement allowance for life equal to one-half (1/2) of
1011 the average compensation as defined in Section 25-11-103. In
1012 addition to the retirement allowance for the spouse, or if there
1013 is no surviving spouse, the member's dependent child shall receive
1014 a retirement allowance in the amount of one-fourth (1/4) of the
1015 member's average compensation as defined in Section 25-11-103;
1016 however, if there are two (2) or more dependent children, each
1017 dependent child shall receive an equal share of a total annuity
1018 equal to one-half (1/2) of the member's average compensation. If
1019 there are more than two (2) dependent children, upon a child's
1020 ceasing to be a dependent child, his annuity shall terminate and
1021 there shall be a redetermination of the amounts payable to any
1022 remaining dependent children. Those benefits shall cease to be
1023 paid for the support and maintenance of each child upon the child
1024 attaining the age of nineteen (19) years; however, the spouse
1025 shall continue to be eligible for the aforesaid retirement
1026 allowance. Those benefits may be paid to a surviving parent or
1027 lawful custodian of the children for the use and benefit of the
1028 children without the necessity of appointment as guardian. Any
1029 spouse who received spouse retirement benefits under this
1030 paragraph (a) from and after April 4, 1984, and whose benefits
1031 were terminated before July 1, 2004, because of remarriage, may
1032 again receive the retirement benefits authorized under this
1033 paragraph (a) by making application with the board to reinstate
1034 those benefits. Any reinstatement of the benefits shall be
1035 prospective only and shall begin after the first of the month
1036 following the date of the application for reinstatement, but not
1037 earlier than July 1, 2004.



1038 (b) A child shall be considered to be a dependent child
1039 until marriage, or the attainment of age nineteen (19), whichever
1040 comes first; however, this age limitation shall be extended beyond
1041 age nineteen (19), but in no event beyond the attainment of age
1042 twenty-three (23), as long as the child is a student regularly
1043 pursuing a full-time course of resident study or training in an
1044 accredited high school, trade school, technical or vocational
1045 institute, junior or community college, college, university or
1046 comparable recognized educational institution duly licensed by a
1047 state. A student child whose birthday falls during the school
1048 year (September 1 through June 30) is considered not to reach age
1049 twenty-three (23) until the July 1 following the actual
1050 twenty-third birthday. A full-time course of resident study or
1051 training means a day or evening noncorrespondence course that
1052 includes school attendance at the rate of at least thirty-six (36)
1053 weeks per academic year or other applicable period with a subject
1054 load sufficient, if successfully completed, to attain the
1055 educational or training objective within the period generally
1056 accepted as minimum for completion, by a full-time day student, of
1057 the academic or training program concerned. Any child who is
1058 physically or mentally incompetent, as adjudged by either a
1059 Mississippi court of competent jurisdiction or by the board, shall
1060 receive benefits for as long as the incompetency exists.

1061 (5) If all the annuities provided for in this section
1062 payable on account of the death of a member terminate before there
1063 has been paid an aggregate amount equal to the member's
1064 accumulated contributions standing to the member's credit in the
1065 annuity savings account at the time of the member's death, the
1066 difference between the accumulated contributions and the aggregate
1067 amount of annuity payments shall be paid to the person that the
1068 member has nominated by written designation duly executed and
1069 filed with the board. If there is no designated beneficiary



1070 surviving at termination of benefits, the difference shall be
1071 payable under Section 25-11-117.1(1).

1072 (6) Regardless of the number of years of creditable service,
1073 upon the application of a member or employer, any active member
1074 who becomes disabled as a direct result of a physical injury
1075 sustained from an accident or a traumatic event caused by external
1076 violence or physical force occurring in the line of performance of
1077 duty, provided that the medical board or other designated
1078 governmental agency after a medical examination certifies that the
1079 member is mentally or physically incapacitated for the further
1080 performance of duty and the incapacity is likely to be permanent,
1081 may be retired by the board of trustees on the first of the month
1082 following the date of filing the application but in no event shall
1083 the retirement allowance begin before the termination of state
1084 service. The retirement allowance shall equal the allowance on
1085 disability retirement as provided in Section 25-11-113 but shall
1086 not be less than fifty percent (50%) of average compensation.
1087 Line of duty disability benefits under this section shall be
1088 administered in accordance with the provisions of Section
1089 25-11-113(1) (b), (c), (d), (e) and (f), (3), (4), (5) and (6).

1090 (7) For purposes of determining death or disability benefits
1091 under this section, the following shall apply:

1092 (a) Death or permanent and total disability resulting
1093 from a cardiovascular, pulmonary or musculoskeletal condition that
1094 was not a direct result of a physical injury sustained from an
1095 accident or a traumatic event caused by external violence or
1096 physical force occurring in the performance of duty shall be
1097 deemed a natural death or an ordinary disability.

1098 (b) A mental disability based exclusively on employment
1099 duties occurring on an ongoing basis shall be deemed an ordinary
1100 disability.

1101 (8) If the deceased or disabled member has less than four
1102 (4) years of membership service, the average compensation as



1103 defined in Section 25-11-103 shall be the average of all annual
1104 earned compensation in state service for the purposes of benefits
1105 provided in this section.

1106 (9) In case of death or total and permanent disability under
1107 subsection (4) or subsection (6) of this section and before the
1108 board shall consider any application for a retirement allowance,
1109 the employer must certify to the board that the member's death or
1110 disability was a direct result of an accident or a traumatic event
1111 occurring during and as a result of the performance of the regular
1112 and assigned duties of the employee and that the death or
1113 disability was not the result of the willful negligence of the
1114 employee.

1115 (10) The application for the retirement allowance must be
1116 filed within one (1) year after death of an active member who is
1117 killed in the line of performance of duty or dies as a direct
1118 result of an accident occurring in the line of performance of duty
1119 or traumatic event; but the board of trustees may consider an
1120 application for disability filed after the one-year period if it
1121 can be factually demonstrated to the satisfaction of the board of
1122 trustees that the disability is due to the accident and that the
1123 filing was not accomplished within the one-year period due to a
1124 delayed manifestation of the disability or to circumstances beyond
1125 the control of the member. However, in case of late filing,
1126 retroactive payments will be made for a period of not more than
1127 one (1) year only.

1128 (11) (a) Notwithstanding any other section of this article
1129 and in lieu of any payments to a designated beneficiary for a
1130 refund of contributions under Section 25-11-117, the spouse and/or
1131 children shall be eligible for the benefits payable under this
1132 section, and the spouse may elect, for both the spouse and/or
1133 children, to receive benefits in accordance with either
1134 subsections (2) and (3) or subsection (4) of this section;



1135 otherwise, the contributions to the credit of the deceased member
1136 shall be refunded in accordance with Section 25-11-117.

1137 (b) Notwithstanding any other section of this article,
1138 a spouse who is entitled to receive a monthly benefit under either
1139 subsection (2) or (4) of this section and who is also the named
1140 beneficiary for a refund of accumulated contributions in the
1141 member's annuity savings account, may, after the death of the
1142 member, elect to receive a refund of accumulated contributions in
1143 lieu of a monthly allowance, provided that there are no dependent
1144 children entitled to benefits under subsection (3) of this
1145 section.

1146 (12) If the member has previously received benefits from the
1147 system to which he was not entitled and has not repaid in full all
1148 amounts payable by him to the system, the annuity amounts
1149 otherwise provided by this section shall be withheld and used to
1150 effect repayment until the total of the withholdings repays in
1151 full all amounts payable by him to the system.

1152 **SECTION 5.** Section 25-11-119, Mississippi Code of 1972, is
1153 amended as follows:

1154 25-11-119. (1) The board shall keep such data as shall be
1155 necessary for actuarial valuation of the assets and liabilities of
1156 the system and for checking its operating experience.

1157 (2) The board shall keep minutes which shall be open to
1158 public inspection. It shall have the accounts of the system
1159 audited annually by the State Audit Department and shall publish
1160 as of the end of each fiscal year a report showing the fiscal
1161 transactions of the system for the preceding fiscal year, the
1162 amount of the accumulated cash and securities of the system, a
1163 statement of income and expenditures, a statement of investments
1164 acquired and disposed of, and a balance sheet showing the
1165 financial condition of the system by means of an actuarial
1166 valuation of its assets and liabilities. It shall also publish a
1167 synopsis of the report.



1168 (3) The board shall establish a general office for the
1169 meeting of the board and for the administrative personnel; provide
1170 for the installation of an adequate system of books, accounts, and
1171 records which will give effect to all requirements of Articles 1
1172 and 3; and credit all assets received by the funds according to
1173 the purposes for which they are held. All books, accounts and
1174 records shall be kept in the general office of the board and shall
1175 be public records except for individual member records. The
1176 system shall not disclose the name, address or contents of any
1177 individual member records without the prior written consent of the
1178 individual to whom the record pertains, except to the member's
1179 current or former employer as authorized by regulations of the
1180 board.

1181 (4) The board shall hold regular meetings at least quarterly
1182 in each year and such special meetings as may be deemed necessary.
1183 All meetings shall be open to the public.

1184 (5) The board shall have power to make contracts, and to sue
1185 and be sued, under the name of the Board of Trustees of the Public
1186 Employees' Retirement System of Mississippi.

1187 (6) Legal advisor. The Attorney General shall be the legal
1188 advisor of the board; and the board may employ counsel when
1189 needed.

1190 (7) Medical board. The board may designate a medical board
1191 to be composed of three (3) physicians or may contract with
1192 another governmental agency or nongovernmental disability
1193 determination service that is qualified to make disability
1194 determinations. If required, other physicians may be engaged to
1195 report on special cases. The medical board or other governmental
1196 or nongovernmental disability determination service agency so
1197 designated shall arrange for, and pass upon, all medical
1198 examinations required under the provisions of this article; shall
1199 investigate all essential statements and certificates by or on
1200 behalf of a member in connection with an application for



1201 disability retirement; and shall report in writing to the board of
1202 trustees its conclusions and recommendations upon all the matters
1203 referred to it.

1204 (8) Duties of actuary. The board of trustees shall
1205 designate an actuary who shall be the technical advisor of the
1206 board on matters regarding the operation of the system, and shall
1207 perform such other duties as are required in connection therewith.

1208 (9) At least once in each two-year period, the actuary shall
1209 make an actuarial survey of the mortality, service, withdrawal and
1210 compensation experience of the members and beneficiaries of the
1211 retirement system, and shall make a valuation of the assets and
1212 liabilities of the system. Taking into account the result of such
1213 investigation and valuation, the board of trustees shall adopt for
1214 the retirement system such mortality, service, and other tables as
1215 shall be deemed necessary. On the basis of such tables as the
1216 board of trustees shall adopt, the actuary shall make valuations
1217 of the assets and liabilities of the funds of the system.

1218 **SECTION 6.** Section 25-11-121, Mississippi Code of 1972, is
1219 amended as follows:

1220 25-11-121. (1) The board shall, from time to time,
1221 determine the current requirements for benefit payments and
1222 administrative expense which shall be maintained as a cash working
1223 balance, except that such cash working balance shall not exceed at
1224 any time an amount necessary to meet the current obligations of
1225 the system for a period of ninety (90) days. Any amounts in
1226 excess of such cash working balance shall be invested, as
1227 follows * * *:

1228 * * *

1229 (a) Funds may be deposited in any institution insured
1230 by the Federal Deposit Insurance Corporation that maintains a
1231 facility that takes deposits in the State of Mississippi or a
1232 custodial bank;



1233 (b) Corporate bonds and taxable municipal bonds * * *;
1234 or corporate short-term obligations of corporations or of wholly
1235 owned subsidiaries of corporations, whose short-term obligations
1236 are rated A-2 or better by Standard and Poor's, rated P-2 or
1237 better by Moody's Investment Service, F-2 or better by Fitch
1238 Ratings, Ltd., or the equivalent of these ratings if assigned by
1239 another United States Securities and Exchange Commission
1240 designated Nationally Recognized Statistical Rating Organization;

1241 (c) Agency and nonagency residential and commercial
1242 mortgage-backed securities and collateralized mortgage
1243 obligations;

1244 (d) Asset-backed securities;

1245 (e) Bank loans;

1246 (f) Convertible bonds;

1247 (g) Bonds of the Tennessee Valley Authority;

1248 (h) Bonds, notes, certificates and other valid
1249 obligations of the United States, and other valid obligations of
1250 any federal instrumentality that issues securities under authority
1251 of an act of Congress and are exempt from registration with the
1252 Securities and Exchange Commission;

1253 (i) Bonds, notes, debentures and other securities
1254 issued by any federal instrumentality and fully guaranteed by the
1255 United States;

1256 (j) Interest-bearing revenue bonds or notes or bonds or
1257 notes which are general obligations of any * * * state in the
1258 United States or of any city or county therein * * *;

1259 (k) Bonds of established non-United States companies
1260 and foreign government securities * * *. The board may take
1261 requisite action to effectuate or hedge transactions or invest in
1262 currency through foreign or domestic banks, including the purchase
1263 and sale, transfer, exchange, or otherwise disposal of, and
1264 generally deal in foreign exchange through the use of foreign
1265 currency, interbank forward contracts, futures contracts, options



1266 contracts, swaps and other related derivative instruments,
1267 notwithstanding any other provisions of this article to the
1268 contrary;

1269 (1) Shares of stocks, common and/or preferred, of
1270 corporations created by or existing under the laws of the United
1271 States or any state, district or territory thereof and shares of
1272 stocks, common and/or preferred, and convertible securities of
1273 non-United States companies; provided:

1274 (i) The maximum investments in stocks shall not
1275 exceed eighty percent (80%) of the total book value of the total
1276 investment fund of the system;

1277 (ii) The stock of such corporation shall:

- 1278 1. Be listed on a national stock exchange; or
- 1279 2. Be traded in the over-the-counter

1280 market * * *;

1281 (iii) The outstanding shares of such corporation
1282 shall have a total market value of not less than Fifty Million
1283 Dollars (\$50,000,000.00);

1284 (iv) The amount of investment in any one (1)
1285 corporation shall not exceed three percent (3%) of the book value
1286 of the assets of the system;

1287 (v) The shares of any one (1) corporation owned by
1288 the system shall not exceed five percent (5%) of that
1289 corporation's outstanding stock.

1290 The board may take requisite action utilizing foreign
1291 currency as an investment vehicle, or to effectuate or hedge
1292 transactions for shares of stocks and convertible securities of
1293 non-United States companies through foreign or domestic banks,
1294 including the purchase and sale, transfer, exchange, or otherwise
1295 disposal of, and generally deal in foreign exchange through the
1296 use of foreign currency, interbank forward contracts, futures
1297 contracts, options contracts, swaps and other related derivative



1298 instruments, notwithstanding any other provisions of this article
1299 to the contrary;

1300 (m) Covered call and put options on securities traded
1301 on one or more of the regulated exchanges;

1302 (n) Pooled or commingled funds managed by a corporate
1303 trustee or by a Securities and Exchange Commission registered
1304 investment advisory firm retained as an investment manager by the
1305 board of trustees, and shares of investment companies and unit
1306 investment trusts registered under the Investment Company Act of
1307 1940, where such pooled or commingled funds or shares are
1308 comprised of common or preferred stocks, bonds, money market
1309 instruments or other investments authorized under this section.
1310 Such investment in commingled funds or shares shall be held in
1311 trust; provided that the total book value of investments under
1312 this paragraph shall at no time exceed five percent (5%) of the
1313 total book value of all investments of the system. Any investment
1314 manager approved by the board of trustees shall invest such
1315 commingled funds or shares as a fiduciary;

1316 (o) Pooled or commingled real estate funds or real
1317 estate securities managed by a corporate trustee or by a
1318 Securities and Exchange Commission registered investment advisory
1319 firm retained as an investment manager by the board of trustees.
1320 Such investment in commingled funds or shares shall be held in
1321 trust; provided that the total book value of investments under
1322 this paragraph shall at no time exceed ten percent (10%) of the
1323 total book value of all investments of the system. Any investment
1324 manager approved by the board of trustees shall invest such
1325 commingled funds or shares as a fiduciary. The ten percent (10%)
1326 limitation in this paragraph shall not be subject to the five
1327 percent (5%) limitation in paragraph (n) of this subsection;

1328 (p) Types of investments not specifically authorized by
1329 this subsection if the investments are in the form of a separate
1330 account managed by a Securities and Exchange Commission registered



1331 investment advisory firm retained as an investment manager by the
1332 board; or a limited partnership or commingled fund approved by the
1333 board; provided that the total book value of investments under
1334 this paragraph shall at no time exceed ten percent (10%) of the
1335 total book value of all investments of the system. Any person or
1336 entity who exercises any discretionary authority or discretionary
1337 control respecting management of the separate account, limited
1338 partnership or commingled fund, or who exercises any authority or
1339 control respecting management or disposition of the assets of the
1340 separate account, limited partnership or commingled fund, shall
1341 exercise such authority or control as a fiduciary.

1342 (2) All investments shall be acquired * * * at prices not
1343 exceeding the prevailing market values for such investments.

1344 (3) Any limitations herein set forth shall be applicable
1345 only at the time of purchase and shall not require the liquidation
1346 of any investment at any time. All investments shall be clearly
1347 marked to indicate ownership by the system and to the extent
1348 possible shall be registered in the name of the system.

1349 (4) Subject to the above terms, conditions, limitations and
1350 restrictions, the board shall have power to sell, assign, transfer
1351 and dispose of any of the securities and investments of the
1352 system, provided that said sale, assignment or transfer has the
1353 majority approval of the entire board. The board may employ or
1354 contract with investment managers, evaluation services or other
1355 such services as determined by the board to be necessary for the
1356 effective and efficient operation of the system.

1357 (5) Except as otherwise provided herein, no trustee and no
1358 employee of the board shall have any direct or indirect interest
1359 in the income, gains or profits of any investment made by the
1360 board, nor shall any such person receive any pay or emolument for
1361 his services in connection with any investment made by the board.
1362 No trustee or employee of the board shall become an endorser or



1363 surety, or in any manner an obligor for money loaned by or
1364 borrowed from the system.

1365 (6) All interest derived from investments and any gains from
1366 the sale or exchange of investments shall be credited by the board
1367 to the account of the system.

1368 (7) The board of trustees * * * shall credit regular
1369 interest to the annuity savings account monthly. * * * Regular
1370 interest shall mean such per centum rate to be compounded annually
1371 as set by the board of trustees through regulation.

1372 (8) The board of trustees shall be the custodian of the
1373 funds of the system. All * * * retirement allowance payrolls
1374 shall be certified by the executive director who shall furnish the
1375 board a surety bond in a company authorized to do business in
1376 Mississippi in such an amount as shall be required by the board,
1377 the premium to be paid by the board from the expense account.

1378 (9) For the purpose of meeting disbursements for retirement
1379 allowances, annuities and other payments, cash may be kept
1380 available, not exceeding the requirements of the system for a
1381 period of ninety (90) days, on deposit in one or more banks or
1382 trust companies organized under the laws of the State of
1383 Mississippi or the laws of the United States, provided that the
1384 sum on deposit in any one (1) bank or trust company shall not
1385 exceed thirty-five percent (35%) of the paid-up capital and
1386 regular surplus of such bank or trust company.

1387 * * *

1388 (10) The board, the executive director and employees shall
1389 discharge their duties with respect to the investments of the
1390 system solely for the interest of the system with the care, skill,
1391 prudence and diligence under the circumstances then prevailing
1392 that a prudent investor acting in a like capacity and familiar
1393 with such matters would use in the conduct of an enterprise of a
1394 like character and with like aims, including diversifying the
1395 investments of the system so as to minimize the risk of large



1396 losses, unless under the circumstances it is clearly prudent not
1397 to do so.

1398 (11) Documentary material or data made or received by the
1399 system which consists of trade secrets or commercial or financial
1400 information that relates to the investments of the system shall be
1401 exempt from the Mississippi Public Records Act of 1983 if the
1402 disclosure of the material or data is likely to impair the
1403 system's ability to obtain such information in the future, or is
1404 likely to cause substantial harm to the competitive position of
1405 the person or entity from whom the information was obtained.

1406 **SECTION 7.** Section 25-13-11, Mississippi Code of 1972, is
1407 amended as follows:

1408 25-13-11. (1) Any member upon withdrawal from service, upon
1409 or after attainment of the age of fifty-five (55) years, who has
1410 completed at least five (5) years of creditable service, or any
1411 member upon withdrawal from service upon or after attainment of
1412 the age of forty-five (45) years, who has completed at least
1413 twenty (20) years of creditable service, or any member upon
1414 withdrawal from service, regardless of age, who has completed at
1415 least twenty-five (25) years of creditable service, shall be
1416 entitled to receive a retirement allowance, which shall be payable
1417 the first of the month following receipt of the member's
1418 application in the Office of the Executive Director of the Public
1419 Employees' Retirement System, but in no event before withdrawal
1420 from service.

1421 Any member whose withdrawal from service occurs before
1422 attaining the age of fifty-five (55) years, who has completed more
1423 than five (5) years of creditable service and has not received a
1424 refund of the member's accumulated contributions, shall be
1425 entitled to receive a retirement allowance beginning upon his
1426 attaining the age of fifty-five (55) years of the amount earned
1427 and accrued at the date of withdrawal from service.



1428 The annual amount of the retirement allowance shall consist
1429 of:

1430 (a) A member's annuity, which shall be the actuarial
1431 equivalent of the accumulated contributions of the member at the
1432 time of retirement, computed according to the actuarial table in
1433 use by the system.

1434 (b) An employer's annuity which, together with the
1435 member's annuity provided above, shall be equal to two and
1436 one-half percent (2-1/2%) of the average compensation, based on
1437 the four (4) highest consecutive years, for each year of
1438 membership service.

1439 (c) A prior service annuity equal to two and one-half
1440 percent (2-1/2%) of the average compensation, based on the four
1441 (4) highest consecutive years, for each year of prior service for
1442 which the member is allowed credit.

1443 (d) In the case of retirement of any member prior to
1444 attaining the age of fifty-five (55) years, the retirement
1445 allowance shall be computed in accordance with the formula
1446 hereinabove set forth in this section, except that the employer's
1447 annuity and prior service annuity above described shall be reduced
1448 by an actuarially determined percentage or factor for each year of
1449 age below fifty-five (55) years or * * * for each year of service
1450 below twenty-five (25) years of creditable service, whichever is
1451 lesser.

1452 (e) Upon retiring from service, a member shall be
1453 eligible to obtain retirement benefits, as computed above, for
1454 life, except that the aggregate amount of the employer's annuity
1455 and prior service annuity above described shall not exceed more
1456 than one hundred percent (100%) of the average compensation
1457 regardless of the years of service.

1458 (f) Any member in the service who has attained the age
1459 of sixty-three (63) years shall be retired immediately. However,
1460 any member who has attained age sixty-three (63) may ask the



1461 Commissioner of Public Safety to allow him to continue in service
1462 with the Mississippi Highway Safety Patrol beyond age sixty-three
1463 (63). If the commissioner determines that the member's
1464 continuance in service would be advantageous to the Highway Safety
1465 Patrol because of his expert knowledge, experience or
1466 qualifications, the member shall be allowed to continue in service
1467 beyond age sixty-three (63) for a period of one (1) year. After
1468 the initial one-year continuance, the commissioner may authorize
1469 the member to continue in service for another period of one (1)
1470 year until the member attains age sixty-five (65), at which time
1471 retirement shall be mandatory.

1472 (g) Notwithstanding any provision of this chapter
1473 pertaining to the Mississippi Highway Safety Patrol Retirement
1474 System, no payments may be made for a retirement allowance on a
1475 monthly basis for a period of time in excess of that allowed by
1476 any applicable federal law.

1477 (h) In no case shall any retired member who has
1478 completed at least fifteen (15) years of creditable service
1479 receive less than Five Hundred Dollars (\$500.00) per month; in no
1480 case shall any retired member who has completed ten (10) or more
1481 years of creditable service, but less than fifteen (15) years of
1482 creditable service, receive less than Three Hundred Dollars
1483 (\$300.00) per month; and in no case shall any retired member who
1484 has completed less than ten (10) years of creditable service
1485 receive less than Two Hundred Fifty Dollars (\$250.00) per month.
1486 In no case shall a beneficiary who is receiving a retirement
1487 allowance receive less than Two Hundred Fifty Dollars (\$250.00)
1488 per month or Three Thousand Dollars (\$3,000.00) per year.

1489 (i) Any retired member who is receiving a retirement
1490 allowance on July 1, 1999, shall receive an ad hoc increase in the
1491 annual retirement allowance equal to Three Dollars and Fifty Cents
1492 (\$3.50) per month for each full fiscal year through June 30, 1999,
1493 that the member has actually drawn retirement payments from the



1494 date of retirement, or the date of last retirement if there is
1495 more than one (1) retirement date, plus an amount equal to One
1496 Dollar (\$1.00) per month for each full year of creditable service
1497 and proportionately for each quarter year of creditable service,
1498 as documented by the system and on which benefits are being paid.
1499 If there are multiple beneficiaries receiving a retirement
1500 allowance from a deceased member's account, the ad hoc increase
1501 shall be divided proportionately.

1502 (2) (a) A retiree or beneficiary may, on a form prescribed
1503 by and filed with the Executive Director of the Public Employees'
1504 Retirement System, irrevocably waive all or a portion of any
1505 benefits from the plan to which the retiree or beneficiary is
1506 entitled. The waiver shall be binding on the heirs and assigns of
1507 any retiree or beneficiary and the same must agree to forever hold
1508 harmless the Highway Safety Patrol Retirement System and the
1509 Public Employees' Retirement System from any claim to the waived
1510 retirement benefits.

1511 (b) Any waiver under this subsection shall apply only
1512 to the person executing the waiver. A beneficiary shall be
1513 entitled to benefits according to the option selected by the
1514 member at the time of retirement; however, a beneficiary may
1515 execute a waiver of benefits under this subsection.

1516 (c) The Highway Safety Patrol Retirement System shall
1517 retain all amounts that are not used to pay benefits because of a
1518 waiver executed under this subsection.

1519 (d) The Board of Trustees of the Public Employees'
1520 Retirement System may provide rules and regulations for the
1521 administration of waivers under this subsection.

1522 **SECTION 8.** Section 25-11-111.1, Mississippi Code of 1972, is
1523 amended as follows:

1524 25-11-111.1. The Public Employees' Retirement System shall
1525 make payments of retirement benefits under this chapter to
1526 members * * * and to the beneficiaries of those members, by



1527 whatever means the board prescribes by regulation to be the most
1528 appropriate for the proper and efficient payment of benefits,
1529 including, but not limited to, direct deposit to an account with a
1530 financial institution that is a participant of the Automated
1531 Clearing House designated by the member or beneficiary. The board
1532 may provide for alternative means of payment if the member or
1533 beneficiary can demonstrate that payment by the prescribed
1534 means * * * will cause the member or beneficiary undue hardship.

1535 **SECTION 9.** Section 25-13-11.1, Mississippi Code of 1972, is
1536 amended as follows:

1537 25-13-11.1. The Public Employees' Retirement System shall
1538 make payments of retirement benefits under this chapter to
1539 members * * * and to the beneficiaries of those members, by
1540 whatever means the board prescribes by regulation to be the most
1541 appropriate for the proper and efficient payment of benefits,
1542 including, but not limited to, direct deposit to an account with a
1543 financial institution that is a participant of the Automated
1544 Clearing House designated by the member or beneficiary. The board
1545 may provide for alternative means of payment if the member or
1546 beneficiary can demonstrate that payment by means of direct
1547 deposit will cause the member or beneficiary undue hardship.

1548 **SECTION 10.** Section 21-29-325, Mississippi Code of 1972, is
1549 amended as follows:

1550 21-29-325. The Public Employees' Retirement System shall
1551 make payments of retirement benefits under this chapter to
1552 members * * * and to the beneficiaries of those members, by
1553 whatever means the board prescribes by regulation to be the most
1554 appropriate for the proper and efficient payment of benefits,
1555 including, but not limited to, direct deposit to an account with a
1556 financial institution that is a participant of the Automated
1557 Clearing House designated by the member or beneficiary. The board
1558 may provide for alternative means of payment if the member or



1559 beneficiary can demonstrate that payment by the prescribed
1560 means * * * will cause the member or beneficiary undue hardship.

1561 **SECTION 11.** Section 25-9-120, Mississippi Code of 1972, is
1562 amended as follows:

1563 25-9-120. (1) Contract personnel, whether classified as
1564 contract workers or independent contractors shall not be deemed
1565 state service or nonstate service employees of the State of
1566 Mississippi, and shall not be eligible to participate in the
1567 Public Employees' Retirement System, or the state employee health
1568 plan, nor be allowed credit for personal and sick leave and other
1569 leave benefits as employees of the State of Mississippi,
1570 notwithstanding Sections 25-3-91 through 25-3-101; 25-9-101
1571 through 25-9-151; 25-11-1 through 25-11-126; 25-11-128 through
1572 25-11-131; 25-15-1 through 25-15-23 and for the purpose set forth
1573 herein. Contract workers, i.e., contract personnel who do not
1574 meet the criteria of independent contractors, shall be subject to
1575 the provisions of Section 25-11-127.

1576 (2) There is hereby created the Personal Service Contract
1577 Review Board, which shall be composed of the State Personnel
1578 Director, the Executive Director of the Department of Finance and
1579 Administration, or his designee, the Commissioner of Corrections,
1580 or his designee, the Executive Director of the Mississippi
1581 Department of Wildlife, Fisheries and Parks, or his designee, and
1582 the Executive Director of the Department of Environmental Quality,
1583 or his designee. The State Personnel Director shall be chairman
1584 and shall preside over the meetings of the board. The board shall
1585 annually elect a vice chairman, who shall serve in the absence of
1586 the chairman. No business shall be transacted, including adoption
1587 of rules of procedure, without the presence of a quorum of the
1588 board. Three (3) members shall be a quorum. No action shall be
1589 valid unless approved by the chairman and two (2) other of those
1590 members present and voting, entered upon the minutes of the board
1591 and signed by the chairman. Necessary clerical and administrative



1592 support for the board shall be provided by the State Personnel
1593 Board. Minutes shall be kept of the proceedings of each meeting,
1594 copies of which shall be filed on a monthly basis with the
1595 Legislative Budget Office.

1596 (3) The Personal Service Contract Review Board shall have
1597 the following powers and responsibilities:

1598 (a) Promulgate rules and regulations governing the
1599 solicitation and selection of contractual services personnel
1600 including personal and professional services contracts for any
1601 form of consulting, policy analysis, public relations, marketing,
1602 public affairs, legislative advocacy services or any other
1603 contract that the board deems appropriate for oversight, with the
1604 exception of any personal service contracts entered into for
1605 computer or information technology-related services governed by
1606 the Mississippi Department of Information Technology Services, any
1607 personal service contracts entered into by the Mississippi
1608 Department of Transportation, any actuarial or investment
1609 management services contracts entered into by the Board of
1610 Trustees of the Public Employees' Retirement System and any
1611 contract for attorney, accountant, auditor, physician, dentist,
1612 architect, engineer, veterinarian and utility rate expert
1613 services. Any such rules and regulations shall provide for
1614 maintaining continuous internal audit covering the activities of
1615 such agency affecting its revenue and expenditures as required
1616 under Section 7-7-3(6)(d), Mississippi Code of 1972;

1617 (b) Approve all personal and professional services
1618 contracts involving the expenditures of funds in excess of One
1619 Hundred Thousand Dollars (\$100,000.00);

1620 (c) Develop standards with respect to contractual
1621 services personnel which require invitations for public bid,
1622 requests for proposals, record keeping and financial
1623 responsibility of contractors. The Personal Service Contract
1624 Review Board may, in its discretion, require the agency involved



1625 to advertise such contract for public bid, and may reserve the
1626 right to reject any or all bids;

1627 (d) Prescribe certain circumstances whereby agency
1628 heads may enter into contracts for personal and professional
1629 services without receiving prior approval from the Personal
1630 Service Contract Review Board. The Personal Service Contract
1631 Review Board may establish a preapproved list of providers of
1632 various personal and professional services for set prices with
1633 which state agencies may contract without bidding or prior
1634 approval from the board;

1635 (e) To provide standards for the issuance of requests
1636 for proposals, the evaluation of proposals received, consideration
1637 of costs and quality of services proposed, contract negotiations,
1638 the administrative monitoring of contract performance by the
1639 agency and successful steps in terminating a contract;

1640 (f) To present recommendations for governmental
1641 privatization and to evaluate privatization proposals submitted by
1642 any state agency;

1643 (g) To authorize personal and professional service
1644 contracts to be effective for more than one (1) year provided a
1645 funding condition is included in any such multiple year contract,
1646 except the State Board of Education, which shall have the
1647 authority to enter into contractual agreements for student
1648 assessment for a period up to ten (10) years. The State Board of
1649 Education shall procure these services in accordance with the
1650 Personal Service Contract Review Board procurement regulations;

1651 (h) To request the State Auditor to conduct a
1652 performance audit on any personal or professional service
1653 contract;

1654 (i) Prepare an annual report to the Legislature
1655 concerning the issuance of personal service contracts during the
1656 previous year, collecting any necessary information from state
1657 agencies in making such report.



1658 (4) No member of the Personal Service Contract Review Board
1659 shall use his official authority or influence to coerce, by threat
1660 of discharge from employment, or otherwise, the purchase of
1661 commodities or the contracting for personal or professional
1662 services under this section.

1663 **SECTION 12.** This act shall take effect and be in force from
1664 and after July 1, 2012.

