

By: Representatives Carpenter, Shanks,
Williamson

To: Appropriations

HOUSE BILL NO. 183

1 AN ACT TO AMEND SECTIONS 25-11-103, 25-11-105, 25-11-109,
2 25-11-111, 25-11-113 AND 25-11-114, MISSISSIPPI CODE OF 1972, TO
3 PROVIDE THAT LAW ENFORCEMENT OFFICERS, FIREFIGHTERS AND EMERGENCY
4 MANAGEMENT AGENCY PERSONNEL WHO ARE MEMBERS OF THE PUBLIC
5 EMPLOYEES' RETIREMENT SYSTEM SHALL VEST IN THE SYSTEM AFTER FOUR
6 YEARS OF SERVICE AND BE ENTITLED TO RECEIVE A RETIREMENT ALLOWANCE
7 WITH 25 YEARS OF SERVICE, REGARDLESS OF WHEN THEY BECAME MEMBERS
8 OF THE SYSTEM; AND FOR RELATED PURPOSES.

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

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

12 25-11-103. (1) The following words and phrases as used in
13 Articles 1 and 3, unless a different meaning is plainly required
14 by the context, have the following meanings:

15 (a) "Accumulated contributions" means the sum of all
16 the amounts deducted from the compensation of a member and
17 credited to his or her individual account in the annuity savings
18 account, together with regular interest as provided in Section
19 25-11-123.

20 (b) "Actuarial cost" means the amount of funds
21 presently required to provide future benefits as determined by the



board based on applicable tables and formulas provided by the
actuary.

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

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

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

(f) "Average compensation" means the average of the
four (4) highest years of earned compensation reported for an
employee in a fiscal or calendar year period, or combination
thereof that do not overlap, or the last forty-eight (48)
consecutive months of earned compensation reported for an
employee. The four (4) years need not be successive or joined
years of service. In computing the average compensation for
retirement, disability or survivor benefits, any amount lawfully
paid in a lump sum for personal leave or major medical leave shall
be included in the calculation to the extent that the amount does
not exceed an amount that is equal to thirty (30) days of earned
compensation and to the extent that it does not cause the
employee's earned compensation to exceed the maximum reportable
amount specified in paragraph (k) of this subsection; however,



47 this thirty-day limitation shall not prevent the inclusion in the
48 calculation of leave earned under federal regulations before July
49 1, 1976, and frozen as of that date as referred to in Section
50 25-3-99. In computing the average compensation, no amounts shall
51 be used that are in excess of the amount on which contributions
52 were required and paid, and no nontaxable amounts paid by the
53 employer for health or life insurance premiums for the employee
54 shall be used. If any member who is or has been granted any
55 increase in annual salary or compensation of more than eight
56 percent (8%) retires within twenty-four (24) months from the date
57 that the increase becomes effective, then the board shall exclude
58 that part of the increase in salary or compensation that exceeds
59 eight percent (8%) in calculating that member's average
60 compensation for retirement purposes. The board may enforce this
61 provision by rule or regulation. However, increases in
62 compensation in excess of eight percent (8%) per year granted
63 within twenty-four (24) months of the date of retirement may be
64 included in the calculation of average compensation if
65 satisfactory proof is presented to the board showing that the
66 increase in compensation was the result of an actual change in the
67 position held or services rendered, or that the compensation
68 increase was authorized by the State Personnel Board or was
69 increased as a result of statutory enactment, and the employer
70 furnishes an affidavit stating that the increase granted within
71 the last twenty-four (24) months was not contingent on a promise



72 or agreement of the employee to retire. Nothing in Section
73 25-3-31 shall affect the calculation of the average compensation
74 of any member for the purposes of this article. The average
75 compensation of any member who retires before July 1, 1992, shall
76 not exceed the annual salary of the Governor.

77 (g) "Beneficiary" means any person entitled to receive
78 a retirement allowance, an annuity or other benefit as provided by
79 Articles 1 and 3. The term "beneficiary" may also include an
80 organization, estate, trust or entity; however, a beneficiary
81 designated or entitled to receive monthly payments under an
82 optional settlement based on life contingency or under a statutory
83 monthly benefit may only be a natural person. In the event of the
84 death before retirement of any member who became a member of the
85 system before July 1, 2007, or any public safety employee
86 regardless of when he or she became a member of the system, and
87 whose spouse and/or children are not entitled to a retirement
88 allowance on the basis that the member has less than four (4)
89 years of membership service credit, or who became a member of the
90 system on or after July 1, 2007, and whose spouse and/or children
91 are not entitled to a retirement allowance on the basis that the
92 member has less than eight (8) years of membership service credit,
93 and/or has not been married for a minimum of one (1) year or the
94 spouse has waived his or her entitlement to a retirement allowance
95 under Section 25-11-114, the lawful spouse of a member at the time
96 of the death of the member shall be the beneficiary of the member



97 unless the member has designated another beneficiary after the
98 date of marriage in writing, and filed that writing in the office
99 of the executive director of the board of trustees. No
100 designation or change of beneficiary shall be made in any other
101 manner.

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

105 (i) "Creditable service" means "prior service,"
106 "retroactive service" and all lawfully credited unused leave not
107 exceeding the accrual rates and limitations provided in Section
108 25-3-91 et seq., as of the date of withdrawal from service plus
109 "membership service" and other service for which credit is
110 allowable as provided in Section 25-11-109. Except to limit
111 creditable service reported to the system for the purpose of
112 computing an employee's retirement allowance or annuity or
113 benefits provided in this article, nothing in this paragraph shall
114 limit or otherwise restrict the power of the governing authority
115 of a municipality or other political subdivision of the state to
116 adopt such vacation and sick leave policies as it deems necessary.

117 (j) "Child" means either a natural child of the member,
118 a child that has been made a child of the member by applicable
119 court action before the death of the member, or a child under the
120 permanent care of the member at the time of the latter's death,
121 which permanent care status shall be determined by evidence



satisfactory to the board. For purposes of this paragraph, a natural child of the member is a child of the member that is conceived before the death of the member.

(k) "Earned compensation" means the full amount earned during a fiscal year by an employee not to exceed the employee compensation limit set pursuant to Section 401(a)(17) of the Internal Revenue Code for the calendar year in which the fiscal year begins and proportionately for less than one (1) year of service. Except as otherwise provided in this paragraph, the value of maintenance furnished to an employee shall not be included in earned compensation. Earned compensation shall not include any amounts paid by the employer for health or life insurance premiums for an employee. Earned compensation shall be limited to the regular periodic compensation paid, exclusive of litigation fees, bond fees, performance-based incentive payments, and other similar extraordinary nonrecurring payments. In addition, any member in a covered position, as defined by Public Employees' Retirement System laws and regulations, who is also employed by another covered agency or political subdivision shall have the earnings of that additional employment reported to the Public Employees' Retirement System regardless of whether the additional employment is sufficient in itself to be a covered position. In addition, computation of earned compensation shall be governed by the following:



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

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

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

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

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



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

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

(viii) The value of maintenance furnished to an employee before July 1, 2013, for which the proper amount of employer and employee contributions have been paid, shall be included in earned compensation. From and after July 1, 2013, the value of maintenance furnished to an employee shall be reported as earned compensation only if the proper amount of employer and employee contributions have been paid on the maintenance and the employee was receiving maintenance and having maintenance reported to the system as of June 30, 2013. The value of maintenance when not paid in money shall be fixed by the employing state agency, and, in case of doubt, by the board of trustees as defined in Section 25-11-15.

(ix) Except as otherwise provided in this paragraph, the value of any in-kind benefits provided by the employer shall not be included in earned compensation. As used in this subparagraph, "in-kind benefits" shall include, but not be limited to, group life insurance premiums, health or dental insurance premiums, nonpaid major medical and personal leave, employer contributions for social security and retirement, tuition



reimbursement or educational funding, day care or transportation benefits.

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

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

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

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

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

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



purposes of Sections 25-11-103, 25-11-105, 25-11-109, 25-11-111, 25-11-113, 25-11-114, 25-11-115 and 25-11-117, if a member of the system withdrew from state service and received a refund of the amount of the accumulated contributions to the credit of the member in the annuity savings account before July 1, 2007, and the person reenters state service and becomes a member of the system again on or after July 1, 2007, and repays all or part of the amount received as a refund and interest in order to receive creditable service for service rendered before July 1, 2007, the member shall be considered to have become a member of the system on or after July 1, 2007, subject to the eight-year membership service requirement, as applicable in those sections. For purposes of Sections 25-11-103, 25-11-111, 25-11-114 and 25-11-115, if a member of the system withdrew from state service and received a refund of the amount of the accumulated contributions to the credit of the member in the annuity savings account before July 1, 2011, and the person reenters state service and becomes a member of the system again on or after July 1, 2011, and repays all or part of the amount received as a refund and interest in order to receive creditable service for service rendered before July 1, 2011, the member shall be considered to have become a member of the system on or after July 1, 2011.

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



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

(t) "Prior service" means:

(i) For persons who became members of the system before July 1, 2007, and any public safety employee regardless of when he or she became a member of the system, service rendered before February 1, 1953, for which credit is allowable under Sections 25-11-105 and 25-11-109, and which shall allow prior



270 service for any person who is now or becomes a member of the
271 Public Employees' Retirement System and who does contribute to the
272 system for a minimum period of four (4) years.

273 (ii) For persons who became members of the system
274 on or after July 1, 2007, service rendered before February 1,
275 1953, for which credit is allowable under Sections 25-11-105 and
276 25-11-109, and which shall allow prior service for any person who
277 is now or becomes a member of the Public Employees' Retirement
278 System and who does contribute to the system for a minimum period
279 of eight (8) years.

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

283 (v) "Retirement allowance" means an annuity for life as
284 provided in this article, payable each year in twelve (12) equal
285 monthly installments beginning as of the date fixed by the board.
286 The retirement allowance shall be calculated in accordance with
287 Section 25-11-111. However, any spouse who received a spouse
288 retirement benefit in accordance with Section 25-11-111(d) before
289 March 31, 1971, and those benefits were terminated because of
290 eligibility for a social security benefit, may again receive his
291 or her spouse retirement benefit from and after making application
292 with the board of trustees to reinstate the spouse retirement
293 benefit.



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

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

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

(z) "State service" means all offices and positions of trust or employment in the employ of the state, or any political subdivision or instrumentality of the state, that elect to participate as provided by Section 25-11-105(f), including the position of elected or fee officials of the counties and their deputies and employees performing public services or any department, independent agency, board or commission thereof, and also includes all offices and positions of trust or employment in the employ of joint state and federal agencies administering state and federal funds and service rendered by employees of the public schools. Effective July 1, 1973, all nonprofessional public school employees, such as bus drivers, janitors, maids, maintenance workers and cafeteria employees, shall have the option to become members in accordance with Section 25-11-105(b), and shall be eligible to receive credit for services before July 1, 1973, provided that the contributions and interest are paid by the employee in accordance with that section; in addition, the county



or municipal separate school district may pay the employer contribution and pro rata share of interest of the retroactive service from available funds. "State service" shall not include the President of the Mississippi Lottery Corporation and personnel employed by the Mississippi Lottery Corporation. From and after July 1, 1998, retroactive service credit shall be purchased at the actuarial cost in accordance with Section 25-11-105(b).

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

(bb) "Public safety employee" means a law enforcement officer, firefighter or emergency management agency personnel, which terms are defined as follow:

(i) "Law enforcement officer" means municipal police officers and narcotics agents, sheriffs, deputy sheriffs, constables, conservation officers, enforcement officers of the Department of Marine Resources, agents and inspectors of the Alcoholic Beverage Control Division of the Department of Revenue, inspection station employees, enforcement officers and inspectors of the Mississippi Department of Transportation, state correctional facility guards and enforcement officers of the Department of Corrections, and any other full-time officer or employee of the state or any agency, department, institution, county or municipality thereof who is authorized to carry a firearm while in the performance of his or her official duties and



344 who has met the minimum educational and training standards
345 established by the Board on Law Enforcement Officer Standards and
346 Training for permanent, full-time law enforcement officers and has
347 received a certificate from that board.

348 (ii) "Firefighter" means an individual who is
349 trained for the prevention and control of loss of life and
350 property from fire or other emergencies, who is assigned to
351 fire-fighting activity, and is required to respond to alarms and
352 perform emergency actions at the location of a fire, hazardous
353 materials or other emergency incident.

354 (iii) "Emergency management agency personnel"
355 means a person who is involved in performing emergency management
356 functions that provide for the health and safety of persons and
357 property in the State of Mississippi by responding to hazards and
358 other emergency incidents, and who is employed by an emergency
359 management agency that is duly authorized and empowered under
360 state or federal law to engage in emergency management activities
361 in the State of Mississippi.

362 (* * *cc) The masculine pronoun, wherever used,
363 includes the feminine pronoun.

364 (2) For purposes of this article, the term "political
365 subdivision" shall have the meaning ascribed to such term in
366 Section 25-11-5 and shall also include public charter schools.

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



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

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

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

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

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



394 board, a notice of election not to be covered by the membership of
395 the retirement system and a duly executed waiver of all present
396 and prospective benefits that would otherwise inure to them on
397 account of their participation in the system, shall become members
398 of the retirement system; however, no credit for prior service
399 will be granted to members who became members of the system before
400 July 1, 2007, or to any public safety employee regardless of when
401 he or she became a member of the system, until they have
402 contributed to Article 3 of the retirement system for a minimum
403 period of at least four (4) years, or to members who became
404 members of the system on or after July 1, 2007, until they have
405 contributed to Article 3 of the retirement system for a minimum
406 period of at least eight (8) years. Those members shall receive
407 credit for services performed before January 1, 1953, in
408 employment now covered by Article 3, but no credit shall be
409 granted for retroactive services between January 1, 1953, and the
410 date of their entry into the retirement system, unless the
411 employee pays into the retirement system both the employer's and
412 the employee's contributions on wages paid him during the period
413 from January 31, 1953, to the date of his becoming a contributing
414 member, together with interest at the rate determined by the board
415 of trustees. Members reentering after withdrawal from service
416 shall qualify for prior service under the provisions of Section
417 25-11-117. From and after July 1, 1998, upon eligibility as noted



above, the member may receive credit for such retroactive service provided:

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

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

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

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

(d) All persons who are employees in the state service on January 31, 1953, and who are members of any nonfunded retirement system operated by the State of Mississippi, or any of



443 its departments or agencies, shall become members of this system
444 with prior service credit unless, before February 1, 1953, they
445 file a written notice with the board of trustees that they do not
446 elect to become members.

447 (e) All persons who are employees in the state service
448 on January 31, 1953, and who under existing laws are members of
449 any fund operated for the retirement of employees by the State of
450 Mississippi, or any of its departments or agencies, shall not be
451 entitled to membership in this retirement system unless, before
452 February 1, 1953, any such person indicates by a notice filed with
453 the board, on a form prescribed by the board, his individual
454 election and choice to participate in this system, but no such
455 person shall receive prior service credit unless he becomes a
456 member on or before February 1, 1953.

457 (f) Each political subdivision of the state and each
458 instrumentality of the state or a political subdivision, or both,
459 is authorized to submit, for approval by the board of trustees, a
460 plan for extending the benefits of this article to employees of
461 any such political subdivision or instrumentality. Each such plan
462 or any amendment to the plan for extending benefits thereof shall
463 be approved by the board of trustees if it finds that the plan, or
464 the plan as amended, is in conformity with such requirements as
465 are provided in Articles 1 and 3; however, upon approval of the
466 plan or any such plan previously approved by the board of
467 trustees, the approved plan shall not be subject to cancellation



or termination by the political subdivision or instrumentality.

No such plan shall be approved unless:

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

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

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

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

(v) It authorizes the board of trustees to terminate the plan in its entirety in the discretion of the board if it finds that there has been a failure to comply substantially



with any provision contained in the plan, the termination to take effect at the expiration of such notice and on such conditions as may be provided by regulations of the board and as may be consistent with applicable federal law.

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

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

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



518 retention in or entry upon employment after enactment of Articles
519 1 and 3, to impose upon its employees, as to services that are
520 covered by an approved plan, a contribution with respect to wages
521 (as defined in Section 25-11-5) not exceeding the amount provided
522 in Section 25-11-123(d) if those services constituted employment
523 within the meaning of Articles 1 and 3, and to deduct the amount
524 of the contribution from the wages as and when paid.

525 Contributions so collected shall be paid into the contribution
526 fund as partial discharge of the liability of the political
527 subdivisions or instrumentalities under paragraph (f)(v)2 of this
528 section. Failure to deduct the contribution shall not relieve the
529 employee or employer of liability for the contribution.

530 4. Any state agency, school, political
531 subdivision, instrumentality or any employer that is required to
532 submit contribution payments or wage reports under any section of
533 this chapter shall be assessed interest on delinquent payments or
534 wage reports as determined by the board of trustees in accordance
535 with rules and regulations adopted by the board and delinquent
536 payments, assessed interest and any other amount certified by the
537 board as owed by an employer, may be recovered by action in a
538 court of competent jurisdiction against the reporting agency
539 liable therefor or may, upon due certification of delinquency and
540 at the request of the board of trustees, be deducted from any
541 other monies payable to the reporting agency by any department or
542 agency of the state.



543 5. Each political subdivision of the state
544 and each instrumentality of the state or a political subdivision
545 or subdivisions that submit a plan for approval of the board, as
546 provided in this section, shall reimburse the board for coverage
547 into the expense account, its pro rata share of the total expense
548 of administering Articles 1 and 3 as provided by regulations of
549 the board.

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

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

562 (i) If any member of this system changes his employment
563 to any agency of the state having an actuarially funded retirement
564 system, the board of trustees may authorize the transfer of the
565 member's creditable service and of the present value of the
566 member's employer's accumulation account and of the present value
567 of the member's accumulated membership contributions to that other



568 system, provided that the employee agrees to the transfer of his
569 accumulated membership contributions and provided that the other
570 system is authorized to receive and agrees to make the transfer.

571 If any member of any other actuarially funded system
572 maintained by an agency of the state changes his employment to an
573 agency covered by this system, the board of trustees may authorize
574 the receipt of the transfer of the member's creditable service and
575 of the present value of the member's employer's accumulation
576 account and of the present value of the member's accumulated
577 membership contributions from the other system, provided that the
578 employee agrees to the transfer of his accumulated membership
579 contributions to this system and provided that the other system is
580 authorized and agrees to make the transfer.

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

584 (k) Employees of a political subdivision or
585 instrumentality who were employed by the political subdivision or
586 instrumentality before an agreement between the entity and the
587 Public Employees' Retirement System to extend the benefits of this
588 article to its employees, and which agreement provides for the
589 establishment of retroactive service credit, and who became
590 members of the retirement system before July 1, 2007, or any
591 public safety employee regardless of when he or she became a
592 member of the system, and have remained contributors to the



retirement system for four (4) years, or who became members of the retirement system on or after July 1, 2007, and have remained contributors to the retirement system for eight (8) years, may receive credit for that retroactive service with the political subdivision or instrumentality, provided that the employee and/or employer, as provided under the terms of the modification of the joinder agreement in allowing that coverage, pay into the retirement system the employer's and employee's contributions on wages paid the member during the previous employment, together with interest or actuarial cost as determined by the board covering the period from the date the service was rendered until the payment for the credit for the service was made. Those wages shall be verified by the Social Security Administration or employer payroll records. Effective July 1, 1998, upon eligibility as noted above, a member may receive credit for that retroactive service with the political subdivision or instrumentality provided:

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

(ii) The member shall pay to the retirement system on the date he or she is eligible for that credit or at any time thereafter before the date of retirement the actuarial cost for



618 each year of that creditable service. The provisions of this
619 subparagraph (ii) shall be subject to the limitations of Section
620 415 of the Internal Revenue Code and regulations promulgated under
621 Section 415.

622 Nothing contained in this paragraph (k) shall be construed to
623 limit the authority of the board to allow the correction of
624 reporting errors or omissions based on the payment of employee and
625 employer contributions plus applicable interest. Payment for that
626 time shall be made beginning with the most recent service. Upon
627 the payment of all or part of the required contributions, plus
628 interest or the actuarial cost as provided above, the member shall
629 receive credit for the period of creditable service for which full
630 payment has been made to the retirement system.

631 (1) Through June 30, 1998, any state service eligible
632 for retroactive service credit, no part of which has ever been
633 reported, and requiring the payment of employee and employer
634 contributions plus interest, or, from and after July 1, 1998, any
635 state service eligible for retroactive service credit, no part of
636 which has ever been reported to the retirement system, and
637 requiring the payment of the actuarial cost for that creditable
638 service, may, at the member's option, be purchased in quarterly
639 increments as provided above at the time that its purchase is
640 otherwise allowed.



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

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

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

648 (a) Patient or inmate help in state charitable, penal
649 or correctional institutions;

650 (b) Students of any state educational institution
651 employed by any agency of the state for temporary, part-time or
652 intermittent work;

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

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

660 **III. TERMINATION OF MEMBERSHIP**

661 Membership in this system shall cease by a member withdrawing
662 his accumulated contributions, or by a member withdrawing from
663 active service with a retirement allowance, or by a member's
664 death.



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

667 25-11-109. (1) Under such rules and regulations as the
668 board of trustees shall adopt, each person who becomes a member of
669 this retirement system, as provided in Section 25-11-105, on or
670 before July 1, 1953, or who became a member of the system before
671 July 1, 2007, or any public safety employee regardless of when he
672 or she became a member of the system, and contributes to the
673 system for a minimum period of four (4) years, or who became a
674 member of the system on or after July 1, 2007, and contributes to
675 the system for a minimum period of eight (8) years, shall receive
676 credit for all state service rendered before February 1, 1953. To
677 receive that credit, the member shall file a detailed statement of
678 all services as an employee rendered by him in the state service
679 before February 1, 1953. For any member who joined the system
680 after July 1, 1953, and before July 1, 2007, or any public safety
681 employee regardless of when he or she became a member of the
682 system, any creditable service for which the member is not
683 required to make contributions shall not be credited to the member
684 until the member has contributed to the system for a minimum
685 period of at least four (4) years. For any member who joined the
686 system on or after July 1, 2007, any creditable service for which
687 the member is not required to make contributions shall not be
688 credited to the member until the member has contributed to the
689 system for a minimum period of at least eight (8) years.



690 (2) (a) (i) In the computation of creditable service for
691 service rendered before July 1, 2017, under the provisions of this
692 article, the total months of accumulative service during any
693 fiscal year shall be calculated in accordance with the schedule as
694 follows: ten (10) or more months of creditable service during any
695 fiscal year shall constitute a year of creditable service; seven
696 (7) months to nine (9) months inclusive, three-quarters (3/4) of a
697 year of creditable service; four (4) months to six (6) months
698 inclusive, one-half (1/2) year of creditable service; one (1)
699 month to three (3) months inclusive, one-quarter (1/4) of a year
700 of creditable service.

701 (ii) In the computation of creditable service
702 rendered on or after July 1, 2017, under the provisions of this
703 article, service credit shall be awarded in monthly increments in
704 a manner prescribed by regulations of the board.

705 (b) In no case shall credit be allowed for any period
706 of absence without compensation except for disability while in
707 receipt of a disability retirement allowance, nor shall less than
708 fifteen (15) days of service in any month, or service less than
709 the equivalent of one-half (1/2) of the normal working load for
710 the position and less than one-half (1/2) of the normal
711 compensation for the position in any month, constitute a month of
712 creditable service, nor shall more than one (1) year of service be
713 creditable for all services rendered in any one (1) fiscal year;
714 however, for a school employee, substantial completion of the



715 legal school term when and where the service was rendered shall
716 constitute a year of service credit. Any state or local elected
717 official shall be deemed a full-time employee for the purpose of
718 creditable service. However, an appointed or elected official
719 compensated on a per diem basis only shall not be allowed
720 creditable service for terms of office.

721 (c) In the computation of any retirement allowance or
722 any annuity or benefits provided in this article, any fractional
723 period of service of less than one (1) year shall be taken into
724 account and a proportionate amount of such retirement allowance,
725 annuity or benefit shall be granted for any such fractional period
726 of service.

727 (d) (i) In the computation of unused leave for
728 creditable service authorized in Section 25-11-103, the following
729 shall govern for members who retire before July 1, 2017:
730 twenty-one (21) days of unused leave shall constitute one (1)
731 month of creditable service and in no case shall credit be allowed
732 for any period of unused leave of less than fifteen (15) days.
733 The number of months of unused leave shall determine the number of
734 quarters or years of creditable service in accordance with the
735 above schedule for membership and prior service.

736 (ii) In the computation of unused leave for
737 creditable service authorized in Section 25-11-103, the following
738 shall govern for members who retire on or after July 1, 2017:
739 creditable service for unused leave shall be calculated in monthly



increments in which one (1) month of service credit shall be awarded for each twenty-one (21) days of unused leave, except that the first fifteen (15) to fifty-seven (57) days of leave shall constitute three (3) months of service for those who became a member of the system before July 1, 2017.

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

(e) For the purposes of this subsection, members of the system who retire on or after July 1, 2010, shall receive credit for one-half (1/2) day of leave for each full year of membership service accrued after June 30, 2010. The amount of leave received by a member under this paragraph shall be added to the lawfully credited unused leave for which creditable service is provided under Section 25-11-103(i).

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

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

(ii) For service on and after July 1, 1984, the member shall receive credit for personal and major medical leave



beginning July 1, 1984, at the rates authorized in Sections 25-3-93 and 25-3-95, computed as a full-time employee.

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

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

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



790 When membership ceases, such prior service certificates shall
791 become void. Should the employee again become a member, he shall
792 enter the system as an employee not entitled to prior service
793 credit except as provided in Sections 25-11-105(I), 25-11-113 and
794 25-11-117.

795 (5) Creditable service at retirement, on which the
796 retirement allowance of a member shall be based, shall consist of
797 the membership service rendered by him since he last became a
798 member, and also, if he has a prior service certificate that is in
799 full force and effect, the amount of the service certified on his
800 prior service certificate.

801 (6) Any member who served on active duty in the Armed Forces
802 of the United States, who served in the Commissioned Corps of the
803 United States Public Health Service before 1972 or who served in
804 maritime service during periods of hostility in World War II,
805 shall be entitled to creditable service at no cost for his service
806 on active duty in the Armed Forces, in the Commissioned Corps of
807 the United States Public Health Service before 1972 or in such
808 maritime service, provided he entered state service after his
809 discharge from the Armed Forces or entered state service after he
810 completed such maritime service. The maximum period for such
811 creditable service for all military service as defined in this
812 subsection (6) shall not exceed four (4) years unless positive
813 proof can be furnished by such person that he was retained in the
814 Armed Forces during World War II or in maritime service during



815 World War II by causes beyond his control and without opportunity
816 of discharge. The member shall furnish proof satisfactory to the
817 board of trustees of certification of military service or maritime
818 service records showing dates of entrance into active duty service
819 and the date of discharge. From and after July 1, 1993, no
820 creditable service shall be granted for any military service or
821 maritime service to a member who qualifies for a retirement
822 allowance in another public retirement system administered by the
823 Board of Trustees of the Public Employees' Retirement System
824 based, in whole or in part, on such military or maritime service.
825 In no case shall the member receive creditable service if the
826 member received a dishonorable discharge from the Armed Forces of
827 the United States.

828 (7) (a) Any member of the Public Employees' Retirement
829 System whose membership service is interrupted as a result of
830 qualified military service within the meaning of Section 414(u)(5)
831 of the Internal Revenue Code, and who has received the maximum
832 service credit available under subsection (6) of this section,
833 shall receive creditable service for the period of qualified
834 military service that does not qualify as creditable service under
835 subsection (6) of this section upon reentering membership service
836 in an amount not to exceed five (5) years if:

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



840 based upon his salary at the time his membership service was
841 interrupted;

842 (ii) The member returns to membership service
843 within ninety (90) days of the end of his qualified military
844 service; and

845 (iii) The employer at the time the member's
846 service was interrupted and to which employment the member returns
847 pays the contributions it would have made into the retirement
848 system for such period based on the member's salary at the time
849 the service was interrupted.

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

855 (c) The member shall furnish proof satisfactory to the
856 board of trustees of certification of military service showing
857 dates of entrance into qualified service and the date of discharge
858 as well as proof that the member has returned to active employment
859 within the time specified.

860 (8) Any member of the Public Employees' Retirement System
861 who became a member of the system before July 1, 2007, or any
862 public safety employee regardless of when he or she became a
863 member of the system, and who has at least four (4) years of
864 membership service credit, or who became a member of the system on



865 or after July 1, 2007, and who has at least eight (8) years of
866 membership service credit, shall be entitled to receive a maximum
867 of five (5) years' creditable service for service rendered in
868 another state as a public employee of such other state, or a
869 political subdivision, public education system or other
870 governmental instrumentality thereof, or service rendered as a
871 teacher in American overseas dependent schools conducted by the
872 Armed Forces of the United States for children of citizens of the
873 United States residing in areas outside the continental United
874 States, provided that:

875 (a) The member shall furnish proof satisfactory to the
876 board of trustees of certification of such services from the
877 state, public education system, political subdivision or
878 retirement system of the state where the services were performed
879 or the governing entity of the American overseas dependent school
880 where the services were performed; and

881 (b) The member is not receiving or will not be entitled
882 to receive from the public retirement system of the other state or
883 from any other retirement plan, including optional retirement
884 plans, sponsored by the employer, a retirement allowance including
885 such services; and

886 (c) The member shall pay to the retirement system on
887 the date he or she is eligible for credit for such out-of-state
888 service or at any time thereafter before the date of retirement
889 the actuarial cost as determined by the actuary for each year of



890 out-of-state creditable service. The provisions of this
891 subsection are subject to the limitations of Section 415 of the
892 Internal Revenue Code and regulations promulgated under that
893 section.

894 (9) Any member of the Public Employees' Retirement System
895 who became a member of the system before July 1, 2007, or any
896 public safety employee regardless of when he or she became a
897 member of the system, and has at least four (4) years of
898 membership service credit, or who became a member of the system on
899 or after July 1, 2007, and has at least eight (8) years of
900 membership service credit, and who receives, or has received,
901 professional leave without compensation for professional purposes
902 directly related to the employment in state service shall receive
903 creditable service for the period of professional leave without
904 compensation provided:

905 (a) The professional leave is performed with a public
906 institution or public agency of this state, or another state or
907 federal agency;

908 (b) The employer approves the professional leave
909 showing the reason for granting the leave and makes a
910 determination that the professional leave will benefit the
911 employee and employer;

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



914 (d) The employee shall serve the employer on a
915 full-time basis for a period of time equivalent to the
916 professional leave period granted immediately following the
917 termination of the leave period;

918 (e) The contributing member shall pay to the retirement
919 system the actuarial cost as determined by the actuary for each
920 year of professional leave. The provisions of this subsection are
921 subject to the regulations of the Internal Revenue Code
922 limitations;

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

926 Any actively contributing member participating in the School
927 Administrator Sabbatical Program established in Section 37-9-77
928 shall qualify for continued participation under this subsection
929 (9).

930 (10) Any member of the Public Employees' Retirement System
931 who became a member of the system before July 1, 2007, or any
932 public safety employee regardless of when he or she became a
933 member of the system, and has at least four (4) years of credited
934 membership service, or who became a member of the system on or
935 after July 1, 2007, and has at least eight (8) years of credited
936 membership service, shall be entitled to receive a maximum of ten
937 (10) years creditable service for:



938 (a) Any service rendered as an employee of any
939 political subdivision of this state, or any instrumentality
940 thereof, that does not participate in the Public Employees'
941 Retirement System; or

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

946 (c) Any service rendered as an employee of any
947 political subdivision of this state, or any instrumentality
948 thereof, for which coverage of the employee's position was or is
949 excluded; provided that the member pays into the retirement system
950 the actuarial cost as determined by the actuary for each year, or
951 portion thereof, of such service. After a member has made full
952 payment to the retirement system for all or any part of such
953 service, the member shall receive creditable service for the
954 period of such service for which full payment has been made to the
955 retirement system.

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

958 25-11-111. (a) (1) Any member who became a member of the
959 system before July 1, 2007, or any public safety employee
960 regardless of when he or she became a member of the system, upon
961 withdrawal from service upon or after attainment of the age of
962 sixty (60) years who has completed at least four (4) years of



membership service, or any member who became a member of the system before July 1, 2011, or any public safety employee regardless of when he or she became a member of the system, upon withdrawal from service regardless of age who has completed at least twenty-five (25) years of creditable service, shall be entitled to receive a retirement allowance, which shall begin on the first of the month following the date the member's application for the allowance is received by the board, but in no event before withdrawal from service.

(2) Any member who became a member of the system on or after July 1, 2007, upon withdrawal from service upon or after attainment of the age of sixty (60) years who has completed at least eight (8) years of membership service, or any member who became a member of the system on or after July 1, 2011, upon withdrawal from service regardless of age who has completed at least thirty (30) years of creditable service, shall be entitled to receive a retirement allowance, which shall begin on the first of the month following the date the member's application for the allowance is received by the board, but in no event before withdrawal from service.

(b) (1) Any member who became a member of the system before July 1, 2007, or any public safety employee regardless of when he or she became a member of the system, whose withdrawal from service occurs before attaining the age of sixty (60) years who has completed four (4) or more years of membership service and has



not received a refund of his accumulated contributions, shall be entitled to receive a retirement allowance, beginning upon his attaining the age of sixty (60) years, of the amount earned and accrued at the date of withdrawal from service. The retirement allowance shall begin on the first of the month following the date the member's application for the allowance is received by the board, but in no event before withdrawal from service.

(2) Any member who became a member of the system on or after July 1, 2007, whose withdrawal from service occurs before attaining the age of sixty (60) years who has completed eight (8) or more years of membership service and has not received a refund of his accumulated contributions, shall be entitled to receive a retirement allowance, beginning upon his attaining the age of sixty (60) years, of the amount earned and accrued at the date of withdrawal from service. The retirement allowance shall begin on the first of the month following the date the member's application for the allowance is received by the board, but in no event before withdrawal from service.

(c) Any member in service who has qualified for retirement benefits may select any optional method of settlement of retirement benefits by notifying the Executive Director of the Board of Trustees of the Public Employees' Retirement System in writing, on a form prescribed by the board, of the option he has selected and by naming the beneficiary of the option and furnishing necessary proof of age. The option, once selected, may



be changed at any time before actual retirement or death, but upon the death or retirement of the member, the optional settlement shall be placed in effect upon proper notification to the executive director.

(d) Any member who became a member of the system before July 1, 2011, or any public safety employee regardless of when he or she became a member of the system, shall be entitled to an annual retirement allowance which shall consist of:

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

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

(3) Any retired member or beneficiary thereof who was eligible to receive a retirement allowance before July 1, 1991, and who is still receiving a retirement allowance on July 1, 1992, shall receive an increase in the annual retirement allowance of the retired member equal to one-eighth of one percent (1/8 of 1%) of the average compensation for each year of state service in



1038 excess of twenty-five (25) years of membership service up to and
1039 including thirty (30) years. The maximum increase shall be
1040 five-eighths of one percent (5/8 of 1%). In no case shall a
1041 member who has been retired before July 1, 1987, receive less than
1042 Ten Dollars (\$10.00) per month for each year of creditable service
1043 and proportionately for each quarter year thereof. Persons
1044 retired on or after July 1, 1987, shall receive at least Ten
1045 Dollars (\$10.00) per month for each year of service and
1046 proportionately for each quarter year thereof reduced for the
1047 option selected. However, such Ten Dollars (\$10.00) minimum per
1048 month for each year of creditable service shall not apply to a
1049 retirement allowance computed under Section 25-11-114 based on a
1050 percentage of the member's average compensation.

1051 (e) Any member who became a member of the system on or after
1052 July 1, 2011, shall be entitled to an annual retirement allowance
1053 which shall consist of:

1054 (1) A member's annuity, which shall be the actuarial
1055 equivalent of the accumulated contributions of the member at the
1056 time of retirement computed according to the actuarial table in
1057 use by the system; and

1058 (2) An employer's annuity, which, together with the
1059 member's annuity provided above, shall be equal to two percent
1060 (2%) of the average compensation for each year of service up to
1061 and including thirty (30) years of creditable service, and two and



one-half percent (2-1/2%) of average compensation for each year of service exceeding thirty (30) years of creditable service.

(f) Any member who became a member of the system on or after July 1, 2011, upon withdrawal from service upon or after attaining the age of sixty (60) years who has completed at least eight (8) years of membership service, or any such member upon withdrawal from service regardless of age who has completed at least thirty (30) years of creditable service, shall be entitled to receive a retirement allowance computed in accordance with the formula set forth in subsection (e) of this section. In the case of the retirement of any member who has attained age sixty (60) but who has not completed at least thirty (30) years of creditable service, the retirement allowance shall be computed in accordance with the formula set forth in subsection (e) of this section except that the total annual retirement allowance shall be reduced by an actuarial equivalent factor for each year of creditable service below thirty (30) years or the number of years in age that the member is below age sixty-five (65), whichever is less.

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

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



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

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

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

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

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

25-11-113. (1) (a) Upon the application of a member or his employer, any active member in state service who became a member of the system before July 1, 2007, or any public safety employee



1112 regardless of when he or she became a member of the system, and
1113 who has at least four (4) years of membership service credit, or
1114 any active member in state service who became a member of the
1115 system on or after July 1, 2007, who has at least eight (8) years
1116 of membership service credit, may be retired by the board of
1117 trustees on the first of the month following the date of filing
1118 the application on a disability retirement allowance, but in no
1119 event shall the disability retirement allowance begin before
1120 termination of state service, provided that the medical board,
1121 after an evaluation of medical evidence that may or may not
1122 include an actual physical examination by the medical board,
1123 certifies that the member is mentally or physically incapacitated
1124 for the further performance of duty, that the incapacity is likely
1125 to be permanent, and that the member should be retired; however,
1126 the board of trustees may accept a disability medical
1127 determination from the Social Security Administration in lieu of a
1128 certification from the medical board. If a member who has been
1129 approved for a disability retirement allowance does not terminate
1130 state service within ninety (90) days after approval, the
1131 disability retirement and the application for disability
1132 retirement shall be void. For the purposes of disability
1133 determination, the medical board shall apply the following
1134 definition of disability: the inability to perform the usual
1135 duties of employment or the incapacity to perform such lesser
1136 duties, if any, as the employer, in its discretion, may assign



1137 without material reduction in compensation, or the incapacity to
1138 perform the duties of any employment covered by the Public
1139 Employees' Retirement System (Section 25-11-101 et seq.) that is
1140 actually offered and is within the same general territorial work
1141 area, without material reduction in compensation. The employer
1142 shall be required to furnish the job description and duties of the
1143 member. The employer shall further certify whether the employer
1144 has offered the member other duties and has complied with the
1145 applicable provisions of the Americans With Disabilities Act in
1146 affording reasonable accommodations that would allow the employee
1147 to continue employment.

1148 (b) Any member applying for a disability retirement
1149 allowance must provide sufficient objective medical evidence in
1150 support of his or her claim. All disability determinations,
1151 whether the initial examination or reexamination, shall be based
1152 on objective medical evidence. "Objective medical evidence" means
1153 reports of examinations or treatments; medical signs that are
1154 anatomical, physiological, or psychological abnormalities that are
1155 observed and documented by medical professionals; psychiatric
1156 signs that are medically demonstrable phenomena indicating
1157 specific abnormalities of behavior, affect, thought, memory,
1158 orientation, or contact with reality; or laboratory findings that
1159 are anatomical, physiological, or psychological phenomena that are
1160 shown by medically acceptable laboratory diagnostic techniques,
1161 including, but not limited to, chemical tests, electrocardiograms,



1162 electroencephalograms, X-rays, and psychological tests.
1163 Nonmedical information shall not be considered objective medical
1164 evidence.

1165 (c) Any inactive member who became a member of the
1166 system before July 1, 2007, or any public safety employee
1167 regardless of when he or she became a member of the system, with
1168 four (4) or more years of membership service credit, or any
1169 inactive member who became a member of the system on or after July
1170 1, 2007, with eight (8) or more years of membership service
1171 credit, who has withdrawn from active state service, is not
1172 eligible for a disability retirement allowance unless the
1173 disability occurs within six (6) months of the termination of
1174 active service and unless satisfactory proof is presented to the
1175 board of trustees that the disability was the direct cause of
1176 withdrawal from state service. Application for a disability
1177 retirement allowance must be filed within one (1) year of
1178 termination from active service. This period may be extended by
1179 an additional year if it can be factually demonstrated to the
1180 satisfaction of the board of trustees that throughout the initial
1181 one-year period the member was incapable of applying for benefits
1182 by reason of mental or physical impairment as certified by a
1183 medical doctor.

1184 (d) Any member who is or becomes eligible for service
1185 retirement benefits under Section 25-11-111 while pursuing a
1186 disability retirement allowance under this section or Section



1187 25-11-114 may elect to receive a service retirement allowance
1188 pending a final determination on eligibility for a disability
1189 retirement allowance or withdrawal of the application for the
1190 disability retirement allowance. In such a case, an application
1191 for a disability retirement allowance must be on file with the
1192 system before the beginning of a service retirement allowance. If
1193 the application is approved, the option selected and beneficiary
1194 designated on the retirement application shall be used to
1195 determine the disability retirement allowance. If the application
1196 is not approved or if the application is withdrawn, the service
1197 retirement allowance shall continue to be paid in accordance with
1198 the option selected. No person may apply for a disability
1199 retirement allowance after the person begins to receive a service
1200 retirement allowance.

1201 (e) If the medical board certifies that the member is
1202 not mentally or physically incapacitated for the future
1203 performance of duty, the member may request, within sixty (60)
1204 days, a hearing before the hearing officer as provided in Section
1205 25-11-120. All hearings shall be held in accordance with rules
1206 and regulations adopted by the board to govern those hearings.
1207 The hearing may be closed upon the request of the member.

1208 (f) The medical board may request additional medical
1209 evidence and/or other physicians to conduct an evaluation of the
1210 member's condition. If the medical board requests additional



1211 medical evidence and the member refuses the request, the
1212 application shall be considered void.

1213 (2) Allowance on disability retirement.

1214 (a) Upon retirement for disability, an eligible member
1215 shall receive a retirement allowance if he has attained the age of
1216 sixty (60) years.

1217 (b) Except as provided in paragraph (c) of this
1218 subsection (2), an eligible member who is retired for disability
1219 and who has not attained sixty (60) years of age shall receive a
1220 disability benefit as computed in Section 25-11-111(d), which
1221 shall consist of:

1222 (i) A member's annuity, which shall be the
1223 actuarial equivalent of his accumulated contributions at the time
1224 of retirement; and

1225 (ii) An employer's annuity equal to the amount
1226 that would have been payable as a retirement allowance for
1227 eligible creditable service if the member had continued in service
1228 to the age of sixty (60) years, which shall apply to the allowance
1229 for disability retirement paid to retirees receiving such
1230 allowance upon and after April 12, 1977. This employer's annuity
1231 shall be computed on the basis of the average "earned
1232 compensation" as defined in Section 25-11-103.

1233 (c) For persons who become members after June 30, 1992,
1234 and for active members on June 30, 1992, who elect benefits under
1235 this paragraph (c) instead of those provided under paragraph (b)



1236 of this subsection (2), the disability allowance shall consist of
1237 two (2) parts: a temporary allowance and a deferred allowance.

1238 The temporary allowance shall equal the greater of (i) forty
1239 percent (40%) of average compensation at the time of disability,
1240 plus ten percent (10%) of average compensation for each of the
1241 first two (2) dependent children, as defined in Sections 25-11-103
1242 and 25-11-114, or (ii) the accrued benefit based on actual
1243 service. It shall be payable for a period of time based on the
1244 member's age at disability, as follows:

1245	Age at Disability	Duration
1246	60 and earlier	to age 65
1247	61	to age 66
1248	62	to age 66
1249	63	to age 67
1250	64	to age 67
1251	65	to age 68
1252	66	to age 68
1253	67	to age 69
1254	68	to age 70
1255	69 and over	one year

1256 The deferred allowance shall begin when the temporary
1257 allowance ends and shall be payable for life. The deferred
1258 allowance shall equal the greater of (i) the allowance that would
1259 have been payable had the member continued in service to the
1260 termination age of the temporary allowance, but no more than forty



1261 percent (40%) of average compensation, or (ii) the accrued benefit
1262 based on actual service at the time of disability. The deferred
1263 allowance as determined at the time of disability shall be
1264 adjusted in accordance with Section 25-11-112 for the period
1265 during which the temporary annuity is payable. In no case shall a
1266 member receive less than Ten Dollars (\$10.00) per month for each
1267 year of service and proportionately for each quarter year thereof
1268 reduced for the option selected.

1269 (d) The member may elect to receive the actuarial
1270 equivalent of the disability retirement allowance in a reduced
1271 allowance payable throughout life under any of the provisions of
1272 the options provided under Section 25-11-115.

1273 (e) If a disability retiree who has not selected an
1274 option under Section 25-11-115 dies before being repaid in
1275 disability benefits the sum of his total contributions, then his
1276 named beneficiary shall receive the difference in cash, which
1277 shall apply to all deceased disability retirees from and after
1278 January 1, 1953.

1279 (3) Reexamination of retirees retired on account of
1280 disability. Except as otherwise provided in this section, once
1281 each year during the first five (5) years following retirement of
1282 a member on a disability retirement allowance, and once in every
1283 period of three (3) years thereafter, the board of trustees may,
1284 and upon his application shall, require any disability retiree who
1285 has not yet attained the age of sixty (60) years or the



1286 termination age of the temporary allowance under subsection (2)(c)
1287 of this section to undergo a medical examination, the examination
1288 to be made at the place of residence of the retiree or other place
1289 mutually agreed upon by a physician or physicians designated by
1290 the board. The board, however, in its discretion, may authorize
1291 the medical board to establish reexamination schedules appropriate
1292 to the medical condition of individual disability retirees. If
1293 any disability retiree who has not yet attained the age of sixty
1294 (60) years or the termination age of the temporary allowance under
1295 subsection (2)(c) of this section refuses to submit to any medical
1296 examination provided in this section, his allowance may be
1297 discontinued until his withdrawal of that refusal; and if his
1298 refusal continues for one (1) year, all his rights to a disability
1299 benefit shall be revoked by the board of trustees.

1300 (4) If the medical board reports and certifies to the board
1301 of trustees, after a comparable job analysis or other similar
1302 study, that the disability retiree is engaged in, or is able to
1303 engage in, a gainful occupation paying more than the difference
1304 between his disability allowance, exclusive of cost-of-living
1305 adjustments, and the average compensation, and if the board of
1306 trustees concurs in the report, the disability benefit shall be
1307 reduced to an amount that, together with the amount earnable by
1308 him, equals the amount of his average compensation. If his
1309 earning capacity is later changed, the amount of the benefit may
1310 be further modified, provided that the revised benefit shall not



1311 exceed the amount originally granted. A retiree receiving a
1312 disability benefit who is restored to active service at a salary
1313 less than the average compensation shall not become a member of
1314 the retirement system.

1315 (5) If a disability retiree under the age of sixty (60)
1316 years or the termination age of the temporary allowance under
1317 subsection (2)(c) of this section is restored to active service at
1318 a compensation not less than his average compensation, his
1319 disability benefit shall end, he shall again become a member of
1320 the retirement system, and contributions shall be withheld and
1321 reported. Any such prior service certificate, on the basis of
1322 which his service was computed at the time of retirement, shall be
1323 restored to full force and effect. In addition, upon his later
1324 retirement he shall be credited with all creditable service as a
1325 member, but the total retirement allowance paid to the retired
1326 member in his previous retirement shall be deducted from his
1327 retirement reserve and taken into consideration in recalculating
1328 the retirement allowance under a new option selected.

1329 (6) If following reexamination in accordance with the
1330 provisions contained in this section, the medical board determines
1331 that a retiree retired on account of disability is physically and
1332 mentally able to return to the employment from which he is
1333 retired, the board of trustees, upon certification of those
1334 findings from the medical board, shall, after a reasonable period
1335 of time, terminate the disability allowance, whether or not the



1336 retiree is reemployed or seeks that reemployment. In addition, if
1337 the board of trustees determines that the retiree is no longer
1338 sustaining a loss of income as established by documented evidence
1339 of the retiree's earned income, the eligibility for a disability
1340 allowance shall terminate and the allowance terminated within a
1341 reasonable period of time. If the retirement allowance is
1342 terminated under the provisions of this section, the retiree may
1343 later qualify for a retirement allowance under Section 25-11-111
1344 based on actual years of service credit plus credit for the period
1345 during which a disability allowance was paid.

1346 (7) Any current member as of June 30, 1992, who retires on a
1347 disability retirement allowance after June 30, 1992, and who has
1348 not elected to receive benefits under subsection (2)(c) of this
1349 section, shall relinquish all rights under the Age Discrimination
1350 in Employment Act of 1967, as amended, with regard to the benefits
1351 payable under this section.

1352 **SECTION 6.** Section 25-11-114, Mississippi Code of 1972, is
1353 amended as follows:

1354 25-11-114. (1) The applicable benefits provided in
1355 subsections (2) and (3) of this section shall be paid to eligible
1356 beneficiaries of any member who became a member of the system
1357 before July 1, 2007, or any public safety employee regardless of
1358 when he or she became a member of the system, and has completed
1359 four (4) or more years of membership service, or who became a
1360 member of the system on or after July 1, 2007, and has completed



1361 eight (8) or more years of membership service, and who dies before
1362 retirement and who has not filed a Pre-Retirement Optional
1363 Retirement Form as provided in Section 25-11-111.

1364 (2) (a) The surviving spouse of a member who dies before
1365 retirement shall receive a monthly benefit computed in accordance
1366 with paragraph (d) of this subsection (2) as if the member had
1367 nominated his spouse as beneficiary if:

1368 (i) The member completed the requisite minimum
1369 number of years of membership service to qualify for a retirement
1370 allowance at age sixty (60);

1371 (ii) The spouse has been married to the member for
1372 not less than one (1) year preceding the death of the member;

1373 (iii) The member has not exercised any other
1374 option.

1375 (b) If, at the time of the member's death, there are no
1376 dependent children, and the surviving spouse, who otherwise would
1377 receive the annuity under this subsection (2), has filed with the
1378 system a signed written waiver of his or her rights to the annuity
1379 and that waiver was in effect at the time of the member's death, a
1380 lump-sum distribution of the deceased member's accumulated
1381 contributions shall be refunded in accordance with Section
1382 25-11-117.

1383 (c) The spouse annuity shall begin on the first day of
1384 the month following the date of the member's death, but in case of



1385 late filing, retroactive payments will be made for a period of not
1386 more than one (1) year.

1387 (d) The spouse of a member who is eligible to receive a
1388 monthly benefit under paragraph (a) of this subsection (2) shall
1389 receive a benefit for life equal to the higher of the following:

1390 (i) The greater of twenty percent (20%) of the
1391 deceased member's average compensation as defined in Section
1392 25-11-103 at the time of death or Fifty Dollars (\$50.00) monthly;
1393 or

1394 (ii) Benefits calculated under Option 2 of Section
1395 25-11-115. The method of calculating the retirement benefits
1396 shall be on the same basis as provided in Section 25-11-111(d) or
1397 (e), as applicable. However, if the member dies before being
1398 qualified for a full, unreduced retirement allowance, then the
1399 benefits shall be reduced by an actuarially determined percentage
1400 or factor based on the lesser of either the number of years of
1401 service credit or the number of years in age required to qualify
1402 for a full, unreduced retirement allowance in Section 25-11-111(d)
1403 or (e), as applicable.

1404 (e) The surviving spouse of a deceased member who
1405 previously received spouse retirement benefits under paragraph
1406 (d)(i) of this subsection from and after July 1, 1992, and whose
1407 benefits were terminated before July 1, 2004, because of
1408 remarriage, may again receive the retirement benefits authorized
1409 under paragraph (d)(i) of this subsection by making application



1410 with the board to reinstate those benefits. Any reinstatement of
1411 the benefits shall be prospective only and shall begin after the
1412 first of the month following the date of the application for
1413 reinstatement, but no earlier than July 1, 2004. From and after
1414 July 1, 2010, any spouse who chose Option 2 from and after July 1,
1415 1992, but before July 1, 2004, where the benefit, although payable
1416 for life, was less than the benefit available under the
1417 calculation in paragraph (d)(i) of this subsection shall have his
1418 or her benefit increased to the amount which provides the greater
1419 benefit.

1420 (3) (a) Subject to the maximum limitation provided in this
1421 paragraph, the member's dependent children each shall receive an
1422 annuity of the greater of ten percent (10%) of the member's
1423 average compensation as defined in Section 25-11-103 at the time
1424 of the death of the member or Fifty Dollars (\$50.00) monthly;
1425 however, if there are more than three (3) dependent children, each
1426 dependent child shall receive an equal share of a total annuity
1427 equal to thirty percent (30%) of the member's average
1428 compensation, provided that the total annuity shall not be less
1429 than One Hundred Fifty Dollars (\$150.00) per month for all
1430 children.

1431 (b) A child shall be considered to be a dependent child
1432 until marriage, or the attainment of age nineteen (19), whichever
1433 comes first; however, this age limitation shall be extended beyond
1434 age nineteen (19), but in no event beyond the attainment of age



1435 twenty-three (23), as long as the child is a student regularly
1436 pursuing a full-time course of resident study or training in an
1437 accredited high school, trade school, technical or vocational
1438 institute, junior or community college, college, university or
1439 comparable recognized educational institution duly licensed by a
1440 state. A student child who is receiving a retirement allowance as
1441 of June 30, 2016, whose birthday falls during the school year
1442 (September 1 through June 30) is considered not to reach age
1443 twenty-three (23) until the July 1 following the actual
1444 twenty-third birthday. A full-time course of resident study or
1445 training means a day or evening noncorrespondence course that
1446 includes school attendance at the rate of at least thirty-six (36)
1447 weeks per academic year or other applicable period with a subject
1448 load sufficient, if successfully completed, to attain the
1449 educational or training objective within the period generally
1450 accepted as minimum for completion, by a full-time day student, of
1451 the academic or training program concerned. Any child who is
1452 physically or mentally incompetent, as adjudged by either a
1453 Mississippi court of competent jurisdiction or by the board, shall
1454 receive benefits for as long as the incompetency exists.

1455 (c) If there are more than three (3) dependent
1456 children, upon a child's ceasing to be a dependent child, his
1457 annuity shall terminate and there shall be a redetermination of
1458 the amounts payable to any remaining dependent children.



1459 (d) Annuities payable under this subsection (3) shall
1460 begin the first day of the month following the date of the
1461 member's death or in case of late filing, retroactive payments
1462 will be made for a period of not more than one (1) year. Those
1463 benefits may be paid to a surviving parent or the lawful custodian
1464 of a dependent child for the use and benefit of the child without
1465 the necessity of appointment as guardian.

1466 (4) (a) Death benefits in the line of duty. Regardless of
1467 the number of years of the member's creditable service, the spouse
1468 and/or the dependent children of an active member who is killed or
1469 dies as a direct result of a physical injury sustained from an
1470 accident or a traumatic event caused by external violence or
1471 physical force occurring in the line of performance of duty shall
1472 qualify, on approval of the board, for a retirement allowance on
1473 the first of the month following the date of death, but in the
1474 case of late filing, retroactive payments will be made for a
1475 period of not more than one (1) year. The spouse shall receive a
1476 retirement allowance for life equal to one-half (1/2) of the
1477 average compensation as defined in Section 25-11-103. In addition
1478 to the retirement allowance for the spouse, or if there is no
1479 surviving spouse, the member's dependent child shall receive a
1480 retirement allowance in the amount of one-fourth (1/4) of the
1481 member's average compensation as defined in Section 25-11-103;
1482 however, if there are two (2) or more dependent children, each
1483 dependent child shall receive an equal share of a total annuity



1484 equal to one-half (1/2) of the member's average compensation. If
1485 there are more than two (2) dependent children, upon a child's
1486 ceasing to be a dependent child, his annuity shall terminate and
1487 there shall be a redetermination of the amounts payable to any
1488 remaining dependent children. Those benefits shall cease to be
1489 paid for the support and maintenance of each child upon the child
1490 attaining the age of nineteen (19) years; however, the spouse
1491 shall continue to be eligible for the aforesaid retirement
1492 allowance. Those benefits may be paid to a surviving parent or
1493 lawful custodian of the children for the use and benefit of the
1494 children without the necessity of appointment as guardian. Any
1495 spouse who received spouse retirement benefits under this
1496 paragraph (a) from and after April 4, 1984, and whose benefits
1497 were terminated before July 1, 2004, because of remarriage, may
1498 again receive the retirement benefits authorized under this
1499 paragraph (a) by making application with the board to reinstate
1500 those benefits. Any reinstatement of the benefits shall be
1501 prospective only and shall begin after the first of the month
1502 following the date of the application for reinstatement, but not
1503 earlier than July 1, 2004.

1504 (b) A child shall be considered to be a dependent child
1505 until marriage, or the attainment of age nineteen (19), whichever
1506 comes first; however, this age limitation shall be extended beyond
1507 age nineteen (19), but in no event beyond the attainment of age
1508 twenty-three (23), as long as the child is a student regularly



1509 pursuing a full-time course of resident study or training in an
1510 accredited high school, trade school, technical or vocational
1511 institute, junior or community college, college, university or
1512 comparable recognized educational institution duly licensed by a
1513 state. A student child who is receiving a retirement allowance as
1514 of June 30, 2016, whose birthday falls during the school year
1515 (September 1 through June 30) is considered not to reach age
1516 twenty-three (23) until the July 1 following the actual
1517 twenty-third birthday. A full-time course of resident study or
1518 training means a day or evening noncorrespondence course that
1519 includes school attendance at the rate of at least thirty-six (36)
1520 weeks per academic year or other applicable period with a subject
1521 load sufficient, if successfully completed, to attain the
1522 educational or training objective within the period generally
1523 accepted as minimum for completion, by a full-time day student, of
1524 the academic or training program concerned. Any child who is
1525 physically or mentally incompetent, as adjudged by either a
1526 Mississippi court of competent jurisdiction or by the board, shall
1527 receive benefits for as long as the incompetency exists.

1528 (5) If all the annuities provided for in this section
1529 payable on account of the death of a member terminate before there
1530 has been paid an aggregate amount equal to the member's
1531 accumulated contributions standing to the member's credit in the
1532 annuity savings account at the time of the member's death, the
1533 difference between the accumulated contributions and the aggregate



1534 amount of annuity payments shall be paid to the person that the
1535 member has nominated by written designation duly executed and
1536 filed with the board. If there is no designated beneficiary
1537 surviving at termination of benefits, the difference shall be
1538 payable under Section 25-11-117.1(1).

1539 (6) Regardless of the number of years of creditable service,
1540 upon the application of a member or employer, any active member
1541 who becomes disabled as a direct result of a physical injury
1542 sustained from an accident or traumatic event caused by external
1543 violence or physical force occurring in the line of performance of
1544 duty, provided that the medical board or other designated
1545 governmental agency after a medical examination certifies that the
1546 member is mentally or physically incapacitated for the further
1547 performance of duty and the incapacity is likely to be permanent,
1548 may be retired by the board of trustees on the first of the month
1549 following the date of filing the application but in no event shall
1550 the retirement allowance begin before the termination of state
1551 service. If a member who has been approved for a retirement
1552 allowance under this subsection does not terminate state service
1553 within ninety (90) days after the approval, the retirement
1554 allowance and the application for the allowance shall be void.
1555 The retirement allowance shall equal the allowance on disability
1556 retirement as provided in Section 25-11-113 but shall not be less
1557 than fifty percent (50%) of average compensation. Line of duty
1558 disability benefits under this section shall be administered in



1559 accordance with the provisions of Section 25-11-113(1)(b), (c),
1560 (d), (e) and (f), (3), (4), (5) and (6).

1561 (7) For purposes of determining death or disability benefits
1562 under this section, the following shall apply:

1563 (a) Death or permanent and total disability resulting
1564 from a cardiovascular, pulmonary or musculoskeletal condition that
1565 was not a direct result of a physical injury sustained from an
1566 accident or a traumatic event caused by external violence or
1567 physical force occurring in the performance of duty shall be
1568 deemed a natural death or an ordinary disability.

1569 (b) A mental disability based exclusively on employment
1570 duties occurring on an ongoing basis shall be deemed an ordinary
1571 disability.

1572 (8) If the deceased or disabled member has less than four
1573 (4) years of membership service, the average compensation as
1574 defined in Section 25-11-103 shall be the average of all annual
1575 earned compensation in state service for the purposes of benefits
1576 provided in this section.

1577 (9) In case of death or total and permanent disability under
1578 subsection (4) or subsection (6) of this section and before the
1579 board shall consider any application for a retirement allowance,
1580 the employer must certify to the board that the member's death or
1581 disability was a direct result of an accident or a traumatic event
1582 occurring during and as a result of the performance of the regular
1583 and assigned duties of the employee and that the death or



1584 disability was not the result of the willful negligence of the
1585 employee.

1586 (10) The application for the retirement allowance must be
1587 filed within one (1) year after death of an active member who is
1588 killed in the line of performance of duty or dies as a direct
1589 result of an accident occurring in the line of performance of duty
1590 or traumatic event; but the board of trustees may consider an
1591 application for disability filed after the one-year period if it
1592 can be factually demonstrated to the satisfaction of the board of
1593 trustees that the disability is due to the accident and that the
1594 filing was not accomplished within the one-year period due to a
1595 delayed manifestation of the disability or to circumstances beyond
1596 the control of the member. However, in case of late filing,
1597 retroactive payments will be made for a period of not more than
1598 one (1) year only.

1599 (11) (a) Notwithstanding any other section of this article
1600 and in lieu of any payments to a designated beneficiary for a
1601 refund of contributions under Section 25-11-117, the spouse and/or
1602 children shall be eligible for the benefits payable under this
1603 section, and the spouse may elect, for both the spouse and/or
1604 children, to receive benefits in accordance with either
1605 subsections (2) and (3) or subsection (4) of this section;
1606 otherwise, the contributions to the credit of the deceased member
1607 shall be refunded in accordance with Section 25-11-117.



1608 (b) Notwithstanding any other section of this article,
1609 a spouse who is entitled to receive a monthly benefit under either
1610 subsection (2) or (4) of this section and who is also the named
1611 beneficiary for a refund of accumulated contributions in the
1612 member's annuity savings account, may, after the death of the
1613 member, elect to receive a refund of accumulated contributions in
1614 lieu of a monthly allowance, provided that there are no dependent
1615 children entitled to benefits under subsection (3) of this
1616 section.

1617 (12) If the member has previously received benefits from the
1618 system to which he was not entitled and has not repaid in full all
1619 amounts payable by him to the system, the annuity amounts
1620 otherwise provided by this section shall be withheld and used to
1621 effect repayment until the total of the withholdings repays in
1622 full all amounts payable by him to the system.

1623 **SECTION 7.** This act shall take effect and be in force from
1624 and after July 1, 2021.

