

By: Senator(s) Harkins

To: Finance

SENATE BILL NO. 2726

1 AN ACT TO BRING FORWARD SECTIONS 25-11-101, 25-11-103,
 2 25-11-105, 25-11-106, 25-11-106.1, 25-11-107, 25-11-109,
 3 25-11-110, 25-11-111, 25-11-111.1, 25-11-112, 25-11-114,
 4 25-11-115, 25-11-115.1, 25-11-115.2, 25-11-118, 25-11-119,
 5 25-11-119.1, 25-11-120, 25-11-121, 25-11-123, 25-11-125,
 6 25-11-127, 25-11-129, 25-11-131, 25-11-133, 25-11-135, 25-11-137,
 7 25-11-139 AND 25-11-141, MISSISSIPPI CODE OF 1972, WHICH CREATE
 8 THE MISSISSIPPI PUBLIC EMPLOYEES' RETIREMENT SYSTEM, FOR PURPOSE
 9 OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 25-11-101, Mississippi Code of 1972, is
 12 brought forward as follows:

13 25-11-101. A retirement system is hereby established and
 14 placed under the management of the board of trustees for the
 15 purpose of providing retirement allowances and other benefits
 16 under the provisions of this article for officers and employees in
 17 the state service and their beneficiaries. The retirement system
 18 provided by this article shall go into operation as of the first
 19 day of the month following the effective date thereof, when
 20 contributions by members shall begin and benefits shall become
 21 payable.



22 This system shall be an agency of the State of Mississippi
23 having all the powers and privileges of a public corporation and
24 shall be known as the "Public Employees' Retirement System of
25 Mississippi." By such name all of its business shall be
26 transacted, all of its funds invested, and all of its cash and
27 securities and other property held; but in ordinary correspondence
28 the word "system" may be used instead of the full title. After
29 appropriation for administrative expenses and after payment of
30 investment management fees and costs, all funds of the system
31 shall be held in trust in the custody of the board of trustees as
32 funds of the beneficiaries of the trust. The Joint Legislative
33 Committee on Performance Evaluation and Expenditure Review is
34 hereby authorized and directed to have performed random actuarial
35 evaluations, as necessary, of the funds and expenses of the Public
36 Employees' Retirement System and to make annual reports to the
37 Legislature on the financial soundness of the system.

38 **SECTION 2.** Section 25-11-103, Mississippi Code of 1972, is
39 brought forward as follows:

40 25-11-103. (1) The following words and phrases as used in
41 Articles 1 and 3, unless a different meaning is plainly required
42 by the context, have the following meanings:

43 (a) "Accumulated contributions" means the sum of all
44 the amounts deducted from the compensation of a member and
45 credited to his or her individual account in the annuity savings



46 account, together with regular interest as provided in Section
47 25-11-123.

48 (b) "Actuarial cost" means the amount of funds
49 presently required to provide future benefits as determined by the
50 board based on applicable tables and formulas provided by the
51 actuary.

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

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

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

61 (f) "Average compensation" means the average of the
62 four (4) highest years of earned compensation reported for an
63 employee in a fiscal or calendar year period, or combination
64 thereof that do not overlap, or the last forty-eight (48)
65 consecutive months of earned compensation reported for an
66 employee. The four (4) years need not be successive or joined
67 years of service. In computing the average compensation for
68 retirement, disability or survivor benefits, any amount lawfully
69 paid in a lump sum for personal leave or major medical leave shall
70 be included in the calculation to the extent that the amount does



71 not exceed an amount that is equal to thirty (30) days of earned
72 compensation and to the extent that it does not cause the
73 employee's earned compensation to exceed the maximum reportable
74 amount specified in paragraph (k) of this subsection; however,
75 this thirty-day limitation shall not prevent the inclusion in the
76 calculation of leave earned under federal regulations before July
77 1, 1976, and frozen as of that date as referred to in Section
78 25-3-99. In computing the average compensation, no amounts shall
79 be used that are in excess of the amount on which contributions
80 were required and paid, and no nontaxable amounts paid by the
81 employer for health or life insurance premiums for the employee
82 shall be used. If any member who is or has been granted any
83 increase in annual salary or compensation of more than eight
84 percent (8%) retires within twenty-four (24) months from the date
85 that the increase becomes effective, then the board shall exclude
86 that part of the increase in salary or compensation that exceeds
87 eight percent (8%) in calculating that member's average
88 compensation for retirement purposes. The board may enforce this
89 provision by rule or regulation. However, increases in
90 compensation in excess of eight percent (8%) per year granted
91 within twenty-four (24) months of the date of retirement may be
92 included in the calculation of average compensation if
93 satisfactory proof is presented to the board showing that the
94 increase in compensation was the result of an actual change in the
95 position held or services rendered, or that the compensation



96 increase was authorized by the State Personnel Board or was
97 increased as a result of statutory enactment, and the employer
98 furnishes an affidavit stating that the increase granted within
99 the last twenty-four (24) months was not contingent on a promise
100 or agreement of the employee to retire. Nothing in Section
101 25-3-31 shall affect the calculation of the average compensation
102 of any member for the purposes of this article. The average
103 compensation of any member who retires before July 1, 1992, shall
104 not exceed the annual salary of the Governor.

105 (g) "Beneficiary" means any person entitled to receive
106 a retirement allowance, an annuity or other benefit as provided by
107 Articles 1 and 3. The term "beneficiary" may also include an
108 organization, estate, trust or entity; however, a beneficiary
109 designated or entitled to receive monthly payments under an
110 optional settlement based on life contingency or under a statutory
111 monthly benefit may only be a natural person. In the event of the
112 death before retirement of any member who became a member of the
113 system before July 1, 2007, and whose spouse and/or children are
114 not entitled to a retirement allowance on the basis that the
115 member has less than four (4) years of membership service credit,
116 or who became a member of the system on or after July 1, 2007, and
117 whose spouse and/or children are not entitled to a retirement
118 allowance on the basis that the member has less than eight (8)
119 years of membership service credit, and/or has not been married
120 for a minimum of one (1) year or the spouse has waived his or her



121 entitlement to a retirement allowance under Section 25-11-114, the
122 lawful spouse of a member at the time of the death of the member
123 shall be the beneficiary of the member unless the member has
124 designated another beneficiary after the date of marriage in
125 writing, and filed that writing in the office of the executive
126 director of the board of trustees. No designation or change of
127 beneficiary shall be made in any other manner.

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

131 (i) "Creditable service" means "prior service,"
132 "retroactive service" and all lawfully credited unused leave not
133 exceeding the accrual rates and limitations provided in Section
134 25-3-91 et seq., as of the date of withdrawal from service plus
135 "membership service" and other service for which credit is
136 allowable as provided in Section 25-11-109. Except to limit
137 creditable service reported to the system for the purpose of
138 computing an employee's retirement allowance or annuity or
139 benefits provided in this article, nothing in this paragraph shall
140 limit or otherwise restrict the power of the governing authority
141 of a municipality or other political subdivision of the state to
142 adopt such vacation and sick leave policies as it deems necessary.

143 (j) "Child" means either a natural child of the member,
144 a child that has been made a child of the member by applicable
145 court action before the death of the member, or a child under the



146 permanent care of the member at the time of the latter's death,
147 which permanent care status shall be determined by evidence
148 satisfactory to the board. For purposes of this paragraph, a
149 natural child of the member is a child of the member that is
150 conceived before the death of the member.

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



170 position. In addition, computation of earned compensation shall
171 be governed by the following:

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

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

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

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

191 (v) Compensation in addition to an employee's base
192 salary that is paid to the employee under the vacation and sick
193 leave policies of a municipality or other political subdivision of
194 the state that employs him or her that exceeds the maximums



195 authorized by Section 25-3-91 et seq. shall be excluded from the
196 calculation of earned compensation under this article.

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

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

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

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



220 employer contributions for social security and retirement, tuition
221 reimbursement or educational funding, day care or transportation
222 benefits.

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

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

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

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

239 (p) "Medical board" means the board of physicians or
240 any governmental or nongovernmental disability determination
241 service designated by the board of trustees that is qualified to
242 make disability determinations as provided for in Section
243 25-11-119.



244 (q) "Member" means any person included in the
245 membership of the system as provided in Section 25-11-105. For
246 purposes of Sections 25-11-103, 25-11-105, 25-11-109, 25-11-111,
247 25-11-113, 25-11-114, 25-11-115 and 25-11-117, if a member of the
248 system withdrew from state service and received a refund of the
249 amount of the accumulated contributions to the credit of the
250 member in the annuity savings account before July 1, 2007, and the
251 person reenters state service and becomes a member of the system
252 again on or after July 1, 2007, and repays all or part of the
253 amount received as a refund and interest in order to receive
254 creditable service for service rendered before July 1, 2007, the
255 member shall be considered to have become a member of the system
256 on or after July 1, 2007, subject to the eight-year membership
257 service requirement, as applicable in those sections. For
258 purposes of Sections 25-11-103, 25-11-111, 25-11-114 and
259 25-11-115, if a member of the system withdrew from state service
260 and received a refund of the amount of the accumulated
261 contributions to the credit of the member in the annuity savings
262 account before July 1, 2011, and the person reenters state service
263 and becomes a member of the system again on or after July 1, 2011,
264 and repays all or part of the amount received as a refund and
265 interest in order to receive creditable service for service
266 rendered before July 1, 2011, the member shall be considered to
267 have become a member of the system on or after July 1, 2011.



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

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

290 (t) "Prior service" means:

291 (i) For persons who became members of the system
292 before July 1, 2007, service rendered before February 1, 1953, for



293 which credit is allowable under Sections 25-11-105 and 25-11-109,
294 and which shall allow prior service for any person who is now or
295 becomes a member of the Public Employees' Retirement System and
296 who does contribute to the system for a minimum period of four (4)
297 years.

298 (ii) For persons who became members of the system
299 on or after July 1, 2007, service rendered before February 1,
300 1953, for which credit is allowable under Sections 25-11-105 and
301 25-11-109, and which shall allow prior service for any person who
302 is now or becomes a member of the Public Employees' Retirement
303 System and who does contribute to the system for a minimum period
304 of eight (8) years.

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

308 (v) "Retirement allowance" means an annuity for life as
309 provided in this article, payable each year in twelve (12) equal
310 monthly installments beginning as of the date fixed by the board.
311 The retirement allowance shall be calculated in accordance with
312 Section 25-11-111. However, any spouse who received a spouse
313 retirement benefit in accordance with Section 25-11-111(d) before
314 March 31, 1971, and those benefits were terminated because of
315 eligibility for a social security benefit, may again receive his
316 or her spouse retirement benefit from and after making application



317 with the board of trustees to reinstate the spouse retirement
318 benefit.

319 (w) "Retroactive service" means service rendered after
320 February 1, 1953, for which credit is allowable under Section
321 25-11-105(b) and Section 25-11-105(k).

322 (x) "System" means the Public Employees' Retirement
323 System of Mississippi established and described in Section
324 25-11-101.

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

327 (z) "State service" means all offices and positions of
328 trust or employment in the employ of the state, or any political
329 subdivision or instrumentality of the state, that elect to
330 participate as provided by Section 25-11-105(f), including the
331 position of elected or fee officials of the counties and their
332 deputies and employees performing public services or any
333 department, independent agency, board or commission thereof, and
334 also includes all offices and positions of trust or employment in
335 the employ of joint state and federal agencies administering state
336 and federal funds and service rendered by employees of the public
337 schools. Effective July 1, 1973, all nonprofessional public
338 school employees, such as bus drivers, janitors, maids,
339 maintenance workers and cafeteria employees, shall have the option
340 to become members in accordance with Section 25-11-105(b), and
341 shall be eligible to receive credit for services before July 1,



342 1973, provided that the contributions and interest are paid by the
343 employee in accordance with that section; in addition, the county
344 or municipal separate school district may pay the employer
345 contribution and pro rata share of interest of the retroactive
346 service from available funds. "State service" shall not include
347 the President of the Mississippi Lottery Corporation and personnel
348 employed by the Mississippi Lottery Corporation. From and after
349 July 1, 1998, retroactive service credit shall be purchased at the
350 actuarial cost in accordance with Section 25-11-105(b).

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

354 (bb) The masculine pronoun, wherever used, includes the
355 feminine pronoun.

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

359 **SECTION 3.** Section 25-11-105, Mississippi Code of 1972, is
360 brought forward as follows:

361 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

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

364 (a) (i) All persons who become employees in the state
365 service after January 31, 1953, and whose wages are subject to
366 payroll taxes and are lawfully reported on IRS Form W-2, except



367 those specifically excluded, or as to whom election is provided in
368 Articles 1 and 3, shall become members of the retirement system as
369 a condition of their employment.

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

380 (b) All persons who become employees in the state
381 service after January 31, 1953, except those specifically excluded
382 or as to whom election is provided in Articles 1 and 3, unless
383 they file with the board before the lapse of sixty (60) days of
384 employment or sixty (60) days after the effective date of the
385 cited articles, whichever is later, on a form prescribed by the
386 board, a notice of election not to be covered by the membership of
387 the retirement system and a duly executed waiver of all present
388 and prospective benefits that would otherwise inure to them on
389 account of their participation in the system, shall become members
390 of the retirement system; however, no credit for prior service
391 will be granted to members who became members of the system before



392 July 1, 2007, until they have contributed to Article 3 of the
393 retirement system for a minimum period of at least four (4) years,
394 or to members who became members of the system on or after July 1,
395 2007, until they have contributed to Article 3 of the retirement
396 system for a minimum period of at least eight (8) years. Those
397 members shall receive credit for services performed before January
398 1, 1953, in employment now covered by Article 3, but no credit
399 shall be granted for retroactive services between January 1, 1953,
400 and the date of their entry into the retirement system, unless the
401 employee pays into the retirement system both the employer's and
402 the employee's contributions on wages paid him during the period
403 from January 31, 1953, to the date of his becoming a contributing
404 member, together with interest at the rate determined by the board
405 of trustees. Members reentering after withdrawal from service
406 shall qualify for prior service under the provisions of Section
407 25-11-117. From and after July 1, 1998, upon eligibility as noted
408 above, the member may receive credit for such retroactive service
409 provided:

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

413 (ii) The member shall pay to the retirement system
414 on the date he or she is eligible for that credit or at any time
415 thereafter before the date of retirement the actuarial cost for
416 each year of that creditable service. The provisions of this



417 subparagraph (ii) shall be subject to the limitations of Section
418 415 of the Internal Revenue Code and regulations promulgated under
419 Section 415.

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

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

430 (d) All persons who are employees in the state service
431 on January 31, 1953, and who are members of any nonfunded
432 retirement system operated by the State of Mississippi, or any of
433 its departments or agencies, shall become members of this system
434 with prior service credit unless, before February 1, 1953, they
435 file a written notice with the board of trustees that they do not
436 elect to become members.

437 (e) All persons who are employees in the state service
438 on January 31, 1953, and who under existing laws are members of
439 any fund operated for the retirement of employees by the State of
440 Mississippi, or any of its departments or agencies, shall not be
441 entitled to membership in this retirement system unless, before



442 February 1, 1953, any such person indicates by a notice filed with
443 the board, on a form prescribed by the board, his individual
444 election and choice to participate in this system, but no such
445 person shall receive prior service credit unless he becomes a
446 member on or before February 1, 1953.

447 (f) Each political subdivision of the state and each
448 instrumentality of the state or a political subdivision, or both,
449 is authorized to submit, for approval by the board of trustees, a
450 plan for extending the benefits of this article to employees of
451 any such political subdivision or instrumentality. Each such plan
452 or any amendment to the plan for extending benefits thereof shall
453 be approved by the board of trustees if it finds that the plan, or
454 the plan as amended, is in conformity with such requirements as
455 are provided in Articles 1 and 3; however, upon approval of the
456 plan or any such plan previously approved by the board of
457 trustees, the approved plan shall not be subject to cancellation
458 or termination by the political subdivision or instrumentality.
459 No such plan shall be approved unless:

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



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

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

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

480 (v) It authorizes the board of trustees to
481 terminate the plan in its entirety in the discretion of the board
482 if it finds that there has been a failure to comply substantially
483 with any provision contained in the plan, the termination to take
484 effect at the expiration of such notice and on such conditions as
485 may be provided by regulations of the board and as may be
486 consistent with applicable federal law.

487 1. The board of trustees shall not finally
488 refuse to approve a plan submitted under paragraph (f), and shall
489 not terminate an approved plan without reasonable notice and
490 opportunity for hearing to each political subdivision or
491 instrumentality affected by the board's decision. The board's



492 decision in any such case shall be final, conclusive and binding
493 unless an appeal is taken by the political subdivision or
494 instrumentality aggrieved by the decision to the Circuit Court of
495 the First Judicial District of Hinds County, Mississippi, in
496 accordance with the provisions of law with respect to civil causes
497 by certiorari.

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

505 3. Every political subdivision or
506 instrumentality required to make payments under paragraph (f)(v)2
507 of this section is authorized, in consideration of the employees'
508 retention in or entry upon employment after enactment of Articles
509 1 and 3, to impose upon its employees, as to services that are
510 covered by an approved plan, a contribution with respect to wages
511 (as defined in Section 25-11-5) not exceeding the amount provided
512 in Section 25-11-123(d) if those services constituted employment
513 within the meaning of Articles 1 and 3, and to deduct the amount
514 of the contribution from the wages as and when paid.
515 Contributions so collected shall be paid into the contribution
516 fund as partial discharge of the liability of the political



517 subdivisions or instrumentalities under paragraph (f)(v)2 of this
518 section. Failure to deduct the contribution shall not relieve the
519 employee or employer of liability for the contribution.

520 4. Any state agency, school, political
521 subdivision, instrumentality or any employer that is required to
522 submit contribution payments or wage reports under any section of
523 this chapter shall be assessed interest on delinquent payments or
524 wage reports as determined by the board of trustees in accordance
525 with rules and regulations adopted by the board and delinquent
526 payments, assessed interest and any other amount certified by the
527 board as owed by an employer, may be recovered by action in a
528 court of competent jurisdiction against the reporting agency
529 liable therefor or may, upon due certification of delinquency and
530 at the request of the board of trustees, be deducted from any
531 other monies payable to the reporting agency by any department or
532 agency of the state.

533 5. Each political subdivision of the state
534 and each instrumentality of the state or a political subdivision
535 or subdivisions that submit a plan for approval of the board, as
536 provided in this section, shall reimburse the board for coverage
537 into the expense account, its pro rata share of the total expense
538 of administering Articles 1 and 3 as provided by regulations of
539 the board.

540 (g) The board may, in its discretion, deny the right of
541 membership in this system to any class of employees whose



542 compensation is only partly paid by the state or who are occupying
543 positions on a part-time or intermittent basis. The board may, in
544 its discretion, make optional with employees in any such classes
545 their individual entrance into this system.

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

552 (i) If any member of this system changes his employment
553 to any agency of the state having an actuarially funded retirement
554 system, the board of trustees may authorize the transfer of the
555 member's creditable service and of the present value of the
556 member's employer's accumulation account and of the present value
557 of the member's accumulated membership contributions to that other
558 system, provided that the employee agrees to the transfer of his
559 accumulated membership contributions and provided that the other
560 system is authorized to receive and agrees to make the transfer.

561 If any member of any other actuarially funded system
562 maintained by an agency of the state changes his employment to an
563 agency covered by this system, the board of trustees may authorize
564 the receipt of the transfer of the member's creditable service and
565 of the present value of the member's employer's accumulation
566 account and of the present value of the member's accumulated



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

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

574 (k) Employees of a political subdivision or
575 instrumentality who were employed by the political subdivision or
576 instrumentality before an agreement between the entity and the
577 Public Employees' Retirement System to extend the benefits of this
578 article to its employees, and which agreement provides for the
579 establishment of retroactive service credit, and who became
580 members of the retirement system before July 1, 2007, and have
581 remained contributors to the retirement system for four (4) years,
582 or who became members of the retirement system on or after July 1,
583 2007, and have remained contributors to the retirement system for
584 eight (8) years, may receive credit for that retroactive service
585 with the political subdivision or instrumentality, provided that
586 the employee and/or employer, as provided under the terms of the
587 modification of the joinder agreement in allowing that coverage,
588 pay into the retirement system the employer's and employee's
589 contributions on wages paid the member during the previous
590 employment, together with interest or actuarial cost as determined
591 by the board covering the period from the date the service was



592 rendered until the payment for the credit for the service was
593 made. Those wages shall be verified by the Social Security
594 Administration or employer payroll records. Effective July 1,
595 1998, upon eligibility as noted above, a member may receive credit
596 for that retroactive service with the political subdivision or
597 instrumentality provided:

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

603 (ii) The member shall pay to the retirement system
604 on the date he or she is eligible for that credit or at any time
605 thereafter before the date of retirement the actuarial cost for
606 each year of that creditable service. The provisions of this
607 subparagraph (ii) shall be subject to the limitations of Section
608 415 of the Internal Revenue Code and regulations promulgated under
609 Section 415.

610 Nothing contained in this paragraph (k) shall be construed to
611 limit the authority of the board to allow the correction of
612 reporting errors or omissions based on the payment of employee and
613 employer contributions plus applicable interest. Payment for that
614 time shall be made beginning with the most recent service. Upon
615 the payment of all or part of the required contributions, plus
616 interest or the actuarial cost as provided above, the member shall



617 receive credit for the period of creditable service for which full
618 payment has been made to the retirement system.

619 (l) Through June 30, 1998, any state service eligible
620 for retroactive service credit, no part of which has ever been
621 reported, and requiring the payment of employee and employer
622 contributions plus interest, or, from and after July 1, 1998, any
623 state service eligible for retroactive service credit, no part of
624 which has ever been reported to the retirement system, and
625 requiring the payment of the actuarial cost for that creditable
626 service, may, at the member's option, be purchased in quarterly
627 increments as provided above at the time that its purchase is
628 otherwise allowed.

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

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

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

636 (a) Patient or inmate help in state charitable, penal
637 or correctional institutions;

638 (b) Students of any state educational institution
639 employed by any agency of the state for temporary, part-time or
640 intermittent work;



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

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

648 **III. TERMINATION OF MEMBERSHIP**

649 Membership in this system shall cease by a member withdrawing
650 his accumulated contributions, or by a member withdrawing from
651 active service with a retirement allowance, or by a member's
652 death.

653 **SECTION 4.** Section 25-11-106, Mississippi Code of 1972, is
654 brought forward as follows:

655 25-11-106. (1) (a) Any constable in office as of July 1,
656 2005, whose position is covered in the Public Employees'
657 Retirement System by virtue of a plan submitted and approved under
658 Section 25-11-105(f) will remain a member of the Public Employees'
659 Retirement System.

660 (b) (i) The county is responsible for employer
661 contributions on all direct payments to the constable from the
662 county.

663 (ii) Except as otherwise provided in subparagraph
664 (iii) of this paragraph, the constable is responsible for the
665 employee contributions on direct payments to the constable from



666 the county and both the employer and employee share of
667 contributions on his or her net fee income.

668 (iii) For contributions required for calendar year
669 2014 and any calendar year thereafter, the county may elect, by
670 majority vote of the board of supervisors spread upon its minutes,
671 to be responsible for the employer share of contributions on the
672 net fee income of its constables. If the county elects to be
673 responsible for employer contributions under this provision, the
674 election shall be irrevocable until the board of supervisors takes
675 office for the next succeeding term of office at which time the
676 board may elect whether to continue the election. Notice shall be
677 given to the executive director of any election made under this
678 subparagraph (iii) within five (5) days after the election is
679 made.

680 (c) From and after January 1, 2006, in cases in which
681 the constable is responsible for both the employer and employee
682 contributions on net fee income, the county shall withhold from
683 fee income due to the constable a percentage amount, as set by the
684 board, of the gross fee income paid to the constable as estimated
685 retirement contributions and shall remit that amount to the
686 system. Not later than the date on which the annual report of
687 earnings is due to be filed as provided in Section 7-3-45, the
688 constable shall submit to the system a copy of the earnings record
689 and make complete payment of any required contributions on net
690 earnings from his or her office, but not less than the



691 contributions due on the governmental treasuries paid by the
692 county in the prior calendar year. If the constable fails to make
693 full payment of contributions at the time required, the system
694 shall certify the delinquency to the county and the county shall
695 withhold any and all payments and fees due to the constable until
696 such time as his or her retirement contributions are fully
697 reported and made.

698 (2) Any current or former constable for whom appropriate
699 employer and employee contributions and interest on all fees and
700 county income from covered service before January 1, 2006, have
701 not been made shall do one (1) of the following:

702 (a) Make the required payments or enter into an
703 irrevocable agreement by not later than December 31, 2005, to make
704 the payments for all calendar years before January 1, 2006.
705 Contributions and interest due and owing for covered services
706 before January 1, 2006, must be received by the system not later
707 than April 15, 2007, or such date as set forth in the payment
708 schedule mutually adopted by the member and the system.

709 (b) Elect, before December 31, 2005, not to pay
710 delinquent employee and employer contributions and applicable
711 interest for service as a constable before January 1, 2006. By
712 making this election, the current or former constable shall
713 irrevocably forfeit that service credit so as to be relieved of
714 the liability for additional employer and employee contributions
715 and applicable interest.



716 (3) Where a current or former constable fails to make
717 required contributions as provided in subsection (2)(a) of this
718 section, or where a current or former constable irrevocably elects
719 to forfeit service credit as provided in subsection (2)(b) of this
720 section, all employer and employee contributions previously paid
721 on that service shall be credited to the county as the reporting
722 entity to be distributed as appropriate between the county and the
723 constable or former constable. No further contributions shall be
724 due on that past service and any credit on that past service shall
725 be removed from the member's record and may not be reinstated at
726 any time in the future.

727 **SECTION 5.** Section 25-11-106.1, Mississippi Code of 1972, is
728 brought forward as follows:

729 25-11-106.1. (1) Any chancery or circuit clerk in office as
730 of January 1, 2011, whose position is covered in the Public
731 Employees' Retirement System by virtue of a plan submitted and
732 approved under Section 25-11-105(f) will remain a member of the
733 Public Employees' Retirement System.

734 (2) (a) (i) The county is responsible for employer
735 contributions on net income attributable to direct treasury or
736 county payroll income paid to the chancery or circuit clerk from
737 the county.

738 (ii) Except as otherwise provided in this
739 subsection (2), the chancery or circuit clerk is responsible for
740 the employee contributions on net income attributable to direct



741 treasury or county payroll income paid to the clerk and both the
742 employee and employer share of contributions on the proportionate
743 share of net income attributable to fees.

744 (iii) For contributions required for calendar year
745 2011 and any calendar year thereafter, the county may elect, by
746 majority vote of the board of supervisors spread upon its minutes,
747 to be responsible for the employer share of contributions on the
748 proportionate share of net income of the chancery and circuit
749 clerk attributable to fees. If the county elects to be
750 responsible for employer contributions under this provision, the
751 election shall be irrevocable until the board of supervisors takes
752 office for the next succeeding term of office at which time the
753 board may elect whether to continue the election. Notice shall be
754 given to the executive director of any election made under this
755 subparagraph (iii) within five (5) days after the election is
756 made.

757 (b) Not later than the date on which the annual report
758 of earnings is due to be filed with the Office of the State
759 Auditor, the chancery or circuit clerk shall submit to the system
760 a copy of the earnings record and make complete payment of
761 required contributions on net income from his or her office;
762 however, in no event shall the contributions be less than the
763 contributions due on the governmental treasuries paid by the
764 county in the prior calendar year.



765 (c) If the chancery or circuit clerk fails to make full
766 payment of contributions as required for calendar year 2010 or any
767 calendar year thereafter, the system shall certify the delinquency
768 to the county and the county shall withhold any and all payments
769 and fees, including accrued interest, due to the chancery or
770 circuit clerk in a manner as prescribed by board regulations until
771 such time as the total amount of his or her delinquent
772 contributions are withheld and pay the amount so withheld to the
773 system.

774 (3) Any current or former chancery or circuit clerk for whom
775 appropriate employee and employer contributions and interest on
776 all fees and county income from covered service before January 1,
777 2010, have not been made shall do one (1) of the following:

778 (a) Pay to the system the required contributions and
779 interest by not later than December 31, 2011. Failure to pay the
780 required contributions and interest by December 31, 2011, shall
781 constitute an irrevocable election to forfeit service credit for
782 any period for which contributions are delinquent. Upon such
783 forfeiture, the chancery or circuit clerk shall be relieved of the
784 liability for additional employee and employer contributions and
785 applicable interest for covered service before January 1, 2010.

786 (b) Elect, before December 31, 2011, not to pay
787 delinquent employee and employer contributions and applicable
788 interest for service as a chancery or circuit clerk before January
789 1, 2010. By making this election, the current or former chancery



790 or circuit clerk shall irrevocably forfeit service credit for any
791 period for which contributions are delinquent and shall not be
792 liable for employee and employer contributions and applicable
793 interest for covered service before January 1, 2010.

794 (4) If a current or former chancery or circuit clerk fails
795 to make required contributions as provided in subsection (3) (a) of
796 this section or elects to forfeit service credit as provided in
797 subsection (3) (b) of this section, all employee and employer
798 contributions previously paid on that service shall be credited to
799 the county as the reporting entity to be distributed as
800 appropriate between the county and the chancery or circuit clerk
801 or former chancery or circuit clerk. No further contributions
802 shall be due on that past service and any credit on that past
803 service shall be removed from the member's record and may not be
804 reinstated at any time in the future.

805 **SECTION 6.** Section 25-11-107, Mississippi Code of 1972, is
806 brought forward as follows:

807 25-11-107. The Board of Trustees of the Public Employees'
808 Retirement System is hereby authorized and empowered to include as
809 a coverage group under this article those regular full-time
810 civilian employees of the Mississippi National Guard whose entire
811 salary is paid on certification out of allotted federal funds,
812 provided funds are made available from the federal government or
813 state appropriations to pay employers' contributions on the
814 salaries of such employees. In event the employers' contributions



815 on such salaries should fail to be paid in full to the Public
816 Employees' Retirement System, the Board of Trustees of the Public
817 Employees' Retirement System shall be prevented from allowing
818 service credit for any such period of delinquency and such
819 retirants would be allowed only such service credits as had
820 accrued up to the time of any such delinquency; but members who
821 remain in the system with their service credits suspended during
822 any such period of delinquency may obtain full service credit upon
823 the payment of all employers' contributions due the retirement
824 system for the entire coverage group.

825 **SECTION 7.** Section 25-11-109, Mississippi Code of 1972, is
826 brought forward as follows:

827 25-11-109. (1) Under such rules and regulations as the
828 board of trustees shall adopt, each person who becomes a member of
829 this retirement system, as provided in Section 25-11-105, on or
830 before July 1, 1953, or who became a member of the system before
831 July 1, 2007, and contributes to the system for a minimum period
832 of four (4) years, or who became a member of the system on or
833 after July 1, 2007, and contributes to the system for a minimum
834 period of eight (8) years, shall receive credit for all state
835 service rendered before February 1, 1953. To receive that credit,
836 the member shall file a detailed statement of all services as an
837 employee rendered by him in the state service before February 1,
838 1953. For any member who joined the system after July 1, 1953,
839 and before July 1, 2007, any creditable service for which the



840 member is not required to make contributions shall not be credited
841 to the member until the member has contributed to the system for a
842 minimum period of at least four (4) years. For any member who
843 joined the system on or after July 1, 2007, any creditable service
844 for which the member is not required to make contributions shall
845 not be credited to the member until the member has contributed to
846 the system for a minimum period of at least eight (8) years.

847 (2) (a) (i) In the computation of creditable service for
848 service rendered before July 1, 2017, under the provisions of this
849 article, the total months of accumulative service during any
850 fiscal year shall be calculated in accordance with the schedule as
851 follows: ten (10) or more months of creditable service during any
852 fiscal year shall constitute a year of creditable service; seven
853 (7) months to nine (9) months inclusive, three-quarters (3/4) of a
854 year of creditable service; four (4) months to six (6) months
855 inclusive, one-half (1/2) year of creditable service; one (1)
856 month to three (3) months inclusive, one-quarter (1/4) of a year
857 of creditable service.

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

862 (b) In no case shall credit be allowed for any period
863 of absence without compensation except for disability while in
864 receipt of a disability retirement allowance, nor shall less than



865 fifteen (15) days of service in any month, or service less than
866 the equivalent of one-half (1/2) of the normal working load for
867 the position and less than one-half (1/2) of the normal
868 compensation for the position in any month, constitute a month of
869 creditable service, nor shall more than one (1) year of service be
870 creditable for all services rendered in any one (1) fiscal year;
871 however, for a school employee, substantial completion of the
872 legal school term when and where the service was rendered shall
873 constitute a year of service credit. Any state or local elected
874 official shall be deemed a full-time employee for the purpose of
875 creditable service. However, an appointed or elected official
876 compensated on a per diem basis only shall not be allowed
877 creditable service for terms of office.

878 (c) In the computation of any retirement allowance or
879 any annuity or benefits provided in this article, any fractional
880 period of service of less than one (1) year shall be taken into
881 account and a proportionate amount of such retirement allowance,
882 annuity or benefit shall be granted for any such fractional period
883 of service.

884 (d) (i) In the computation of unused leave for
885 creditable service authorized in Section 25-11-103, the following
886 shall govern for members who retire before July 1, 2017:
887 twenty-one (21) days of unused leave shall constitute one (1)
888 month of creditable service and in no case shall credit be allowed
889 for any period of unused leave of less than fifteen (15) days.



890 The number of months of unused leave shall determine the number of
891 quarters or years of creditable service in accordance with the
892 above schedule for membership and prior service.

893 (ii) In the computation of unused leave for
894 creditable service authorized in Section 25-11-103, the following
895 shall govern for members who retire on or after July 1, 2017:
896 creditable service for unused leave shall be calculated in monthly
897 increments in which one (1) month of service credit shall be
898 awarded for each twenty-one (21) days of unused leave, except that
899 the first fifteen (15) to fifty-seven (57) days of leave shall
900 constitute three (3) months of service for those who became a
901 member of the system before July 1, 2017.

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

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



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

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

920 (ii) For service on and after July 1, 1984, the
921 member shall receive credit for personal and major medical leave
922 beginning July 1, 1984, at the rates authorized in Sections
923 25-3-93 and 25-3-95, computed as a full-time employee.

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

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

936 (4) Upon verification of the statement of prior service, the
937 board shall issue a prior service certificate certifying to each



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

947 When membership ceases, such prior service certificates shall
948 become void. Should the employee again become a member, he shall
949 enter the system as an employee not entitled to prior service
950 credit except as provided in Sections 25-11-105(I), 25-11-113 and
951 25-11-117.

952 (5) Creditable service at retirement, on which the
953 retirement allowance of a member shall be based, shall consist of
954 the membership service rendered by him since he last became a
955 member, and also, if he has a prior service certificate that is in
956 full force and effect, the amount of the service certified on his
957 prior service certificate.

958 (6) Any member who served on active duty in the Armed Forces
959 of the United States, who served in the Commissioned Corps of the
960 United States Public Health Service before 1972 or who served in
961 maritime service during periods of hostility in World War II,
962 shall be entitled to creditable service at no cost for his service



963 on active duty in the Armed Forces, in the Commissioned Corps of
964 the United States Public Health Service before 1972 or in such
965 maritime service, provided he entered state service after his
966 discharge from the Armed Forces or entered state service after he
967 completed such maritime service. The maximum period for such
968 creditable service for all military service as defined in this
969 subsection (6) shall not exceed four (4) years unless positive
970 proof can be furnished by such person that he was retained in the
971 Armed Forces during World War II or in maritime service during
972 World War II by causes beyond his control and without opportunity
973 of discharge. The member shall furnish proof satisfactory to the
974 board of trustees of certification of military service or maritime
975 service records showing dates of entrance into active duty service
976 and the date of discharge. From and after July 1, 1993, no
977 creditable service shall be granted for any military service or
978 maritime service to a member who qualifies for a retirement
979 allowance in another public retirement system administered by the
980 Board of Trustees of the Public Employees' Retirement System
981 based, in whole or in part, on such military or maritime service.
982 In no case shall the member receive creditable service if the
983 member received a dishonorable discharge from the Armed Forces of
984 the United States.

985 (7) (a) Any member of the Public Employees' Retirement
986 System whose membership service is interrupted as a result of
987 qualified military service within the meaning of Section 414(u) (5)



988 of the Internal Revenue Code, and who has received the maximum
989 service credit available under subsection (6) of this section,
990 shall receive creditable service for the period of qualified
991 military service that does not qualify as creditable service under
992 subsection (6) of this section upon reentering membership service
993 in an amount not to exceed five (5) years if:

994 (i) The member pays the contributions he would
995 have made to the retirement system if he had remained in
996 membership service for the period of qualified military service
997 based upon his salary at the time his membership service was
998 interrupted;

999 (ii) The member returns to membership service
1000 within ninety (90) days of the end of his qualified military
1001 service; and

1002 (iii) The employer at the time the member's
1003 service was interrupted and to which employment the member returns
1004 pays the contributions it would have made into the retirement
1005 system for such period based on the member's salary at the time
1006 the service was interrupted.

1007 (b) The payments required to be made in paragraph
1008 (a) (i) of this subsection may be made over a period beginning with
1009 the date of return to membership service and not exceeding three
1010 (3) times the member's qualified military service; however, in no
1011 event shall such period exceed five (5) years.



1012 (c) The member shall furnish proof satisfactory to the
1013 board of trustees of certification of military service showing
1014 dates of entrance into qualified service and the date of discharge
1015 as well as proof that the member has returned to active employment
1016 within the time specified.

1017 (8) Any member of the Public Employees' Retirement System
1018 who became a member of the system before July 1, 2007, and who has
1019 at least four (4) years of membership service credit, or who
1020 became a member of the system on or after July 1, 2007, and who
1021 has at least eight (8) years of membership service credit, shall
1022 be entitled to receive a maximum of five (5) years' creditable
1023 service for service rendered in another state as a public employee
1024 of such other state, or a political subdivision, public education
1025 system or other governmental instrumentality thereof, or service
1026 rendered as a teacher in American overseas dependent schools
1027 conducted by the Armed Forces of the United States for children of
1028 citizens of the United States residing in areas outside the
1029 continental United States, provided that:

1030 (a) The member shall furnish proof satisfactory to the
1031 board of trustees of certification of such services from the
1032 state, public education system, political subdivision or
1033 retirement system of the state where the services were performed
1034 or the governing entity of the American overseas dependent school
1035 where the services were performed; and



1036 (b) The member is not receiving or will not be entitled
1037 to receive from the public retirement system of the other state or
1038 from any other retirement plan, including optional retirement
1039 plans, sponsored by the employer, a retirement allowance including
1040 such services; and

1041 (c) The member shall pay to the retirement system on
1042 the date he or she is eligible for credit for such out-of-state
1043 service or at any time thereafter before the date of retirement
1044 the actuarial cost as determined by the actuary for each year of
1045 out-of-state creditable service. The provisions of this
1046 subsection are subject to the limitations of Section 415 of the
1047 Internal Revenue Code and regulations promulgated under that
1048 section.

1049 (9) Any member of the Public Employees' Retirement System
1050 who became a member of the system before July 1, 2007, and has at
1051 least four (4) years of membership service credit, or who became a
1052 member of the system on or after July 1, 2007, and has at least
1053 eight (8) years of membership service credit, and who receives, or
1054 has received, professional leave without compensation for
1055 professional purposes directly related to the employment in state
1056 service shall receive creditable service for the period of
1057 professional leave without compensation provided:

1058 (a) The professional leave is performed with a public
1059 institution or public agency of this state, or another state or
1060 federal agency;



1061 (b) The employer approves the professional leave
1062 showing the reason for granting the leave and makes a
1063 determination that the professional leave will benefit the
1064 employee and employer;

1065 (c) Such professional leave shall not exceed two (2)
1066 years during any ten-year period of state service;

1067 (d) The employee shall serve the employer on a
1068 full-time basis for a period of time equivalent to the
1069 professional leave period granted immediately following the
1070 termination of the leave period;

1071 (e) The contributing member shall pay to the retirement
1072 system the actuarial cost as determined by the actuary for each
1073 year of professional leave. The provisions of this subsection are
1074 subject to the regulations of the Internal Revenue Code
1075 limitations;

1076 (f) Such other rules and regulations consistent
1077 herewith as the board may adopt and in case of question, the board
1078 shall have final power to decide the questions.

1079 Any actively contributing member participating in the School
1080 Administrator Sabbatical Program established in Section 37-9-77
1081 shall qualify for continued participation under this subsection
1082 (9).

1083 (10) Any member of the Public Employees' Retirement System
1084 who became a member of the system before July 1, 2007, and has at
1085 least four (4) years of credited membership service, or who became



1086 a member of the system on or after July 1, 2007, and has at least
1087 eight (8) years of credited membership service, shall be entitled
1088 to receive a maximum of ten (10) years creditable service for:

1089 (a) Any service rendered as an employee of any
1090 political subdivision of this state, or any instrumentality
1091 thereof, that does not participate in the Public Employees'
1092 Retirement System; or

1093 (b) Any service rendered as an employee of any
1094 political subdivision of this state, or any instrumentality
1095 thereof, that participates in the Public Employees' Retirement
1096 System but did not elect retroactive coverage; or

1097 (c) Any service rendered as an employee of any
1098 political subdivision of this state, or any instrumentality
1099 thereof, for which coverage of the employee's position was or is
1100 excluded; provided that the member pays into the retirement system
1101 the actuarial cost as determined by the actuary for each year, or
1102 portion thereof, of such service. After a member has made full
1103 payment to the retirement system for all or any part of such
1104 service, the member shall receive creditable service for the
1105 period of such service for which full payment has been made to the
1106 retirement system.

1107 **SECTION 8.** Section 25-11-110, Mississippi Code of 1972, is
1108 brought forward as follows:



1109 25-11-110. (1) With respect to the death of a member that
1110 occurs while the member is performing qualified military service
1111 within the meaning of Section 414(u) of the Internal Revenue Code:

1112 (a) The deceased member's period of qualified military
1113 service must be counted for vesting purposes.

1114 (b) To the extent required by Section 401(a)(37) of the
1115 Internal Revenue Code, the deceased member's survivors are
1116 entitled to any additional benefits that the system would provide
1117 if the member had resumed employment and then died, such as those
1118 purchase rights the deceased member could have exercised under
1119 Section 25-11-109(7).

1120 (2) To the extent required by Section 414(u)(12) of the
1121 Internal Revenue Code, a member receiving differential wage
1122 payments within the meaning of Section 3401(h)(2) of the Internal
1123 Revenue Code from an employer shall be treated as employed by that
1124 employer, and the differential wage payment shall be treated as
1125 compensation for purposes of applying the limits on an annual
1126 addition under Section 415(c) of the Internal Revenue Code. This
1127 provision shall be applied to all similarly situated individuals
1128 in a reasonably equivalent manner.

1129 **SECTION 9.** Section 25-11-111, Mississippi Code of 1972, is
1130 brought forward as follows:

1131 25-11-111. (a) (1) Any member who became a member of the
1132 system before July 1, 2007, upon withdrawal from service upon or
1133 after attainment of the age of sixty (60) years who has completed



1134 at least four (4) years of membership service, or any member who
1135 became a member of the system before July 1, 2011, upon withdrawal
1136 from service regardless of age who has completed at least
1137 twenty-five (25) years of creditable service, shall be entitled to
1138 receive a retirement allowance, which shall begin on the first of
1139 the month following the date the member's application for the
1140 allowance is received by the board, but in no event before
1141 withdrawal from service.

1142 (2) Any member who became a member of the system on or
1143 after July 1, 2007, upon withdrawal from service upon or after
1144 attainment of the age of sixty (60) years who has completed at
1145 least eight (8) years of membership service, or any member who
1146 became a member of the system on or after July 1, 2011, upon
1147 withdrawal from service regardless of age who has completed at
1148 least thirty (30) years of creditable service, shall be entitled
1149 to receive a retirement allowance, which shall begin on the first
1150 of the month following the date the member's application for the
1151 allowance is received by the board, but in no event before
1152 withdrawal from service.

1153 (b) (1) Any member who became a member of the system before
1154 July 1, 2007, whose withdrawal from service occurs before
1155 attaining the age of sixty (60) years who has completed four (4)
1156 or more years of membership service and has not received a refund
1157 of his accumulated contributions, shall be entitled to receive a
1158 retirement allowance, beginning upon his attaining the age of



1159 sixty (60) years, of the amount earned and accrued at the date of
1160 withdrawal from service. The retirement allowance shall begin on
1161 the first of the month following the date the member's application
1162 for the allowance is received by the board, but in no event before
1163 withdrawal from service.

1164 (2) Any member who became a member of the system on or
1165 after July 1, 2007, whose withdrawal from service occurs before
1166 attaining the age of sixty (60) years who has completed eight (8)
1167 or more years of membership service and has not received a refund
1168 of his accumulated contributions, shall be entitled to receive a
1169 retirement allowance, beginning upon his attaining the age of
1170 sixty (60) years, of the amount earned and accrued at the date of
1171 withdrawal from service. The retirement allowance shall begin on
1172 the first of the month following the date the member's application
1173 for the allowance is received by the board, but in no event before
1174 withdrawal from service.

1175 (c) Any member in service who has qualified for retirement
1176 benefits may select any optional method of settlement of
1177 retirement benefits by notifying the Executive Director of the
1178 Board of Trustees of the Public Employees' Retirement System in
1179 writing, on a form prescribed by the board, of the option he has
1180 selected and by naming the beneficiary of the option and
1181 furnishing necessary proof of age. The option, once selected, may
1182 be changed at any time before actual retirement or death, but upon
1183 the death or retirement of the member, the optional settlement



1184 shall be placed in effect upon proper notification to the
1185 executive director.

1186 (d) Any member who became a member of the system before July
1187 1, 2011, shall be entitled to an annual retirement allowance which
1188 shall consist of:

1189 (1) A member's annuity, which shall be the actuarial
1190 equivalent of the accumulated contributions of the member at the
1191 time of retirement computed according to the actuarial table in
1192 use by the system; and

1193 (2) An employer's annuity, which, together with the
1194 member's annuity provided above, shall be equal to two percent
1195 (2%) of the average compensation for each year of service up to
1196 and including twenty-five (25) years of creditable service, and
1197 two and one-half percent (2-1/2%) of the average compensation for
1198 each year of service exceeding twenty-five (25) years of
1199 creditable service.

1200 (3) Any retired member or beneficiary thereof who was
1201 eligible to receive a retirement allowance before July 1, 1991,
1202 and who is still receiving a retirement allowance on July 1, 1992,
1203 shall receive an increase in the annual retirement allowance of
1204 the retired member equal to one-eighth of one percent (1/8 of 1%)
1205 of the average compensation for each year of state service in
1206 excess of twenty-five (25) years of membership service up to and
1207 including thirty (30) years. The maximum increase shall be
1208 five-eighths of one percent (5/8 of 1%). In no case shall a



1209 member who has been retired before July 1, 1987, receive less than
1210 Ten Dollars (\$10.00) per month for each year of creditable service
1211 and proportionately for each quarter year thereof. Persons
1212 retired on or after July 1, 1987, shall receive at least Ten
1213 Dollars (\$10.00) per month for each year of service and
1214 proportionately for each quarter year thereof reduced for the
1215 option selected. However, such Ten Dollars (\$10.00) minimum per
1216 month for each year of creditable service shall not apply to a
1217 retirement allowance computed under Section 25-11-114 based on a
1218 percentage of the member's average compensation.

1219 (e) Any member who became a member of the system on or after
1220 July 1, 2011, shall be entitled to an annual retirement allowance
1221 which shall consist of:

1222 (1) A member's annuity, which shall be the actuarial
1223 equivalent of the accumulated contributions of the member at the
1224 time of retirement computed according to the actuarial table in
1225 use by the system; and

1226 (2) An employer's annuity, which, together with the
1227 member's annuity provided above, shall be equal to two percent
1228 (2%) of the average compensation for each year of service up to
1229 and including thirty (30) years of creditable service, and two and
1230 one-half percent (2-1/2%) of average compensation for each year of
1231 service exceeding thirty (30) years of creditable service.

1232 (f) Any member who became a member of the system on or after
1233 July 1, 2011, upon withdrawal from service upon or after attaining



1234 the age of sixty (60) years who has completed at least eight (8)
1235 years of membership service, or any such member upon withdrawal
1236 from service regardless of age who has completed at least thirty
1237 (30) years of creditable service, shall be entitled to receive a
1238 retirement allowance computed in accordance with the formula set
1239 forth in subsection (e) of this section. In the case of the
1240 retirement of any member who has attained age sixty (60) but who
1241 has not completed at least thirty (30) years of creditable
1242 service, the retirement allowance shall be computed in accordance
1243 with the formula set forth in subsection (e) of this section
1244 except that the total annual retirement allowance shall be reduced
1245 by an actuarial equivalent factor for each year of creditable
1246 service below thirty (30) years or the number of years in age that
1247 the member is below age sixty-five (65), whichever is less.

1248 (g) No member, except members excluded by the Age
1249 Discrimination in Employment Act Amendments of 1986 (Public Law
1250 99-592), under either Article 1 or Article 3 in state service
1251 shall be required to retire because of age.

1252 (h) No payment on account of any benefit granted under the
1253 provisions of this section shall become effective or begin to
1254 accrue until January 1, 1953.

1255 (i) (1) A retiree or beneficiary may, on a form prescribed
1256 by and filed with the retirement system, irrevocably waive all or
1257 a portion of any benefits from the retirement system to which the
1258 retiree or beneficiary is entitled. The waiver shall be binding



1259 on the heirs and assigns of any retiree or beneficiary and the
1260 same must agree to forever hold harmless the Public Employees'
1261 Retirement System of Mississippi from any claim to the waived
1262 retirement benefits.

1263 (2) Any waiver under this subsection shall apply only
1264 to the person executing the waiver. A beneficiary shall be
1265 entitled to benefits according to the option selected by the
1266 member at the time of retirement. However, a beneficiary may, at
1267 the option of the beneficiary, execute a waiver of benefits under
1268 this subsection.

1269 (3) The retirement system shall retain in the annuity
1270 reserve account amounts that are not used to pay benefits because
1271 of a waiver executed under this subsection.

1272 (4) The board of trustees may provide rules and
1273 regulations for the administration of waivers under this
1274 subsection.

1275 **SECTION 10.** Section 25-11-111.1, Mississippi Code of 1972,
1276 is brought forward as follows:

1277 25-11-111.1. The Public Employees' Retirement System shall
1278 make payments of retirement benefits under this chapter to members
1279 and to the beneficiaries of those members, by whatever means the
1280 board prescribes by regulation to be the most appropriate for the
1281 proper and efficient payment of benefits, including, but not
1282 limited to, direct deposit to an account with a financial
1283 institution that is a participant of the Automated Clearing House



1284 designated by the member or beneficiary. The board may provide
1285 for alternative means of payment if the member or beneficiary can
1286 demonstrate that payment by the prescribed means will cause the
1287 member or beneficiary undue hardship.

1288 **SECTION 11.** Section 25-11-112, Mississippi Code of 1972, is
1289 brought forward as follows:

1290 25-11-112. (1) Any member who is receiving a retirement
1291 allowance for service or disability retirement, or any beneficiary
1292 thereof, who has received a monthly benefit for at least one (1)
1293 full fiscal year, shall be eligible to receive an additional
1294 benefit, on December 1 or July 1 of the year as provided in
1295 subsection (3) of this section, equal to an amount calculated
1296 under paragraph (a) or (b) below:

1297 (a) For any member who became a member of the system
1298 before July 1, 2011, the sum of:

1299 (i) An amount equal to three percent (3%) of the
1300 annual retirement allowance multiplied by the number of full
1301 fiscal years in retirement before the end of the fiscal year in
1302 which the member reaches age fifty-five (55), plus

1303 (ii) An additional amount equal to three percent
1304 (3%) compounded by the number of full fiscal years in retirement
1305 beginning with the fiscal year in which the member reaches age
1306 fifty-five (55), multiplied by the amount of the annual retirement
1307 allowance.



1308 (b) For any member who became a member of the system on
1309 or after July 1, 2011, the sum of:

1310 (i) An amount equal to three percent (3%) of the
1311 annual retirement allowance multiplied by the number of full
1312 fiscal years in retirement before the end of the fiscal year in
1313 which the member reaches age sixty (60), plus

1314 (ii) An additional amount equal to three percent
1315 (3%) compounded by the number of full fiscal years in retirement
1316 beginning with the fiscal year in which the member reaches age
1317 sixty (60), multiplied by the amount of the annual retirement
1318 allowance.

1319 (2) The calculation of the beneficiary's additional benefit
1320 under subsection (1)(a) or (b) of this section shall be based on
1321 the member's age and full fiscal years in retirement as if the
1322 member had lived.

1323 (3) (a) The additional benefit provided for under this
1324 section shall be paid in one (1) payment in December of each year
1325 to those persons who are receiving a retirement allowance on
1326 December 1 of that year, unless an election is made under this
1327 subsection. However, if a retiree who is receiving a retirement
1328 allowance that will terminate upon the retiree's death is
1329 receiving the additional benefit in one (1) payment and dies on or
1330 after July 1 but before December 1, the beneficiary designated on
1331 the retirement application, if any, shall receive in a single
1332 payment a fractional part of the additional benefit based on the



1333 number of months in which a retirement allowance was received
1334 during the fiscal year. Likewise, if a retiree is receiving a
1335 retirement allowance that will terminate upon his or her death in
1336 two (2) to six (6) monthly installments, any remaining payments of
1337 the additional benefit will be paid in a lump sum to the
1338 beneficiary designated on the application, or if none, pursuant to
1339 Section 25-11-117.1(1). Any similar remaining payments of
1340 additional benefits payable under this section to a deceased
1341 beneficiary who was receiving a monthly benefit shall be payable
1342 in accordance with the provisions of Section 25-11-117.1(2). If
1343 the additional monthly benefit is being received in one (1)
1344 payment, the additional benefit shall also be prorated based on
1345 the number of months in which a retirement allowance was received
1346 during the fiscal year when (i) the monthly benefit payable to a
1347 beneficiary terminates due to the expiration of an option,
1348 remarriage or cessation of dependent status or due to the
1349 retiree's return to covered employment, and (ii) the monthly
1350 benefit terminates on or after July 1 and before December 1. The
1351 board may, in its discretion, allow a retired member or a
1352 beneficiary thereof who is receiving the additional annual payment
1353 in the manner provided for in this paragraph to change the manner
1354 in which the additional annual payment is received to that
1355 provided for in paragraph (b) of this subsection if the retired
1356 member or beneficiary submits satisfactory documentation that the
1357 continued receipt of the additional annual payment as provided for



1358 in this paragraph will cause a financial hardship to the retired
1359 member or beneficiary.

1360 (b) Retired members or beneficiaries thereof who on
1361 July 1, 1999, or July 1 of any fiscal year thereafter, are
1362 receiving a retirement allowance, may elect by an irrevocable
1363 agreement in writing filed in the Office of the Public Employees'
1364 Retirement System no less than thirty (30) days before July 1 of
1365 the appropriate year, to begin receiving the additional benefit
1366 provided for under this section in twelve (12) equal monthly
1367 installments beginning July 1, 1999, or July 1 of any fiscal year
1368 thereafter. This irrevocable agreement shall be binding on the
1369 member and subsequent beneficiaries. Payment of those monthly
1370 installments shall not extend beyond the month in which a
1371 retirement allowance is due and payable. The board may, in its
1372 discretion, allow a retired member or a beneficiary thereof who is
1373 receiving the additional annual payment in the manner provided for
1374 in this paragraph to change the manner in which the additional
1375 annual payment is received to that provided for in paragraph (a)
1376 of this subsection if the retired member or beneficiary submits
1377 satisfactory documentation that the continued receipt of the
1378 additional annual payment as provided for in this paragraph will
1379 cause a financial hardship to the retired member or beneficiary.

1380 (4) The additional payment or payments provided for under
1381 this section are for the fiscal year in which they are paid.



1382 (5) (a) The amount provided for under subsection (1)
1383 (a)(ii) of this section is calculated using the following formula:
1384 $[(1.03)^n - 1] \times [\text{annual retirement allowance}]$,
1385 where n is the number of full fiscal years in retirement beginning
1386 with the fiscal year in which the member reaches age fifty-five
1387 (55).

1388 (b) The amount provided for under subsection (1)(b)(ii)
1389 of this section is calculated using the following formula:
1390 $[(1.03)^n - 1] \times [\text{annual retirement allowance}]$,
1391 where n is the number of full fiscal years in retirement beginning
1392 with the fiscal year in which the member reaches age sixty (60).

1393 (6) Any retired member or beneficiary thereof who has
1394 previously elected to receive the additional annual payment in
1395 monthly installments may elect, upon application on a form
1396 prescribed by the board of trustees, to have that payment made in
1397 one (1) additional payment each year. This written election must
1398 be filed in the Office of the Public Employees' Retirement System
1399 before June 1, 2000, and shall be effective for the fiscal year
1400 beginning July 1, 2000.

1401 (7) In the event of death of a retired member or a
1402 beneficiary thereof who is receiving the additional annual payment
1403 in two (2) to six (6) monthly installments pursuant to an election
1404 made before July 1, 1999, and who would otherwise be eligible to
1405 receive the additional benefit provided for under this section in
1406 one (1) payment in December of the current fiscal year, any



1407 remaining amounts shall be paid in a lump sum to the designated
1408 beneficiary.

1409 (8) When a member retires after July 1 and has previously
1410 received a retirement allowance for one or more full fiscal years,
1411 the retired member shall be eligible immediately for the
1412 additional benefit. The additional benefit shall be based on the
1413 current retirement allowance and the number of full fiscal years
1414 in retirement and shall be prorated and paid in monthly
1415 installments based on the number of months a retirement allowance
1416 is paid during the fiscal year.

1417 **SECTION 12.** Section 25-11-114, Mississippi Code of 1972, is
1418 brought forward as follows:

1419 25-11-114. (1) The applicable benefits provided in
1420 subsections (2) and (3) of this section shall be paid to eligible
1421 beneficiaries of any member who became a member of the system
1422 before July 1, 2007, and has completed four (4) or more years of
1423 membership service, or who became a member of the system on or
1424 after July 1, 2007, and has completed eight (8) or more years of
1425 membership service, and who dies before retirement and who has not
1426 filed a Pre-Retirement Optional Retirement Form as provided in
1427 Section 25-11-111.

1428 (2) (a) The surviving spouse of a member who dies before
1429 retirement shall receive a monthly benefit computed in accordance
1430 with paragraph (d) of this subsection (2) as if the member had
1431 nominated his spouse as beneficiary if:



1432 (i) The member completed the requisite minimum
1433 number of years of membership service to qualify for a retirement
1434 allowance at age sixty (60);

1435 (ii) The spouse has been married to the member for
1436 not less than one (1) year preceding the death of the member;

1437 (iii) The member has not exercised any other
1438 option.

1439 (b) If, at the time of the member's death, there are no
1440 dependent children, and the surviving spouse, who otherwise would
1441 receive the annuity under this subsection (2), has filed with the
1442 system a signed written waiver of his or her rights to the annuity
1443 and that waiver was in effect at the time of the member's death, a
1444 lump-sum distribution of the deceased member's accumulated
1445 contributions shall be refunded in accordance with Section
1446 25-11-117.

1447 (c) The spouse annuity shall begin on the first day of
1448 the month following the date of the member's death, but in case of
1449 late filing, retroactive payments will be made for a period of not
1450 more than one (1) year.

1451 (d) The spouse of a member who is eligible to receive a
1452 monthly benefit under paragraph (a) of this subsection (2) shall
1453 receive a benefit for life equal to the higher of the following:

1454 (i) The greater of twenty percent (20%) of the
1455 deceased member's average compensation as defined in Section



1456 25-11-103 at the time of death or Fifty Dollars (\$50.00) monthly;
1457 or

1458 (ii) Benefits calculated under Option 2 of Section
1459 25-11-115. The method of calculating the retirement benefits
1460 shall be on the same basis as provided in Section 25-11-111(d) or
1461 (e), as applicable. However, if the member dies before being
1462 qualified for a full, unreduced retirement allowance, then the
1463 benefits shall be reduced by an actuarially determined percentage
1464 or factor based on the lesser of either the number of years of
1465 service credit or the number of years in age required to qualify
1466 for a full, unreduced retirement allowance in Section 25-11-111(d)
1467 or (e), as applicable.

1468 (e) The surviving spouse of a deceased member who
1469 previously received spouse retirement benefits under paragraph
1470 (d)(i) of this subsection from and after July 1, 1992, and whose
1471 benefits were terminated before July 1, 2004, because of
1472 remarriage, may again receive the retirement benefits authorized
1473 under paragraph (d)(i) of this subsection by making application
1474 with the board to reinstate those benefits. Any reinstatement of
1475 the benefits shall be prospective only and shall begin after the
1476 first of the month following the date of the application for
1477 reinstatement, but no earlier than July 1, 2004. From and after
1478 July 1, 2010, any spouse who chose Option 2 from and after July 1,
1479 1992, but before July 1, 2004, where the benefit, although payable
1480 for life, was less than the benefit available under the



1481 calculation in paragraph (d)(i) of this subsection shall have his
1482 or her benefit increased to the amount which provides the greater
1483 benefit.

1484 (3) (a) Subject to the maximum limitation provided in this
1485 paragraph, the member's dependent children each shall receive an
1486 annuity of the greater of ten percent (10%) of the member's
1487 average compensation as defined in Section 25-11-103 at the time
1488 of the death of the member or Fifty Dollars (\$50.00) monthly;
1489 however, if there are more than three (3) dependent children, each
1490 dependent child shall receive an equal share of a total annuity
1491 equal to thirty percent (30%) of the member's average
1492 compensation, provided that the total annuity shall not be less
1493 than One Hundred Fifty Dollars (\$150.00) per month for all
1494 children.

1495 (b) A child shall be considered to be a dependent child
1496 until marriage, or the attainment of age nineteen (19), whichever
1497 comes first; however, this age limitation shall be extended beyond
1498 age nineteen (19), but in no event beyond the attainment of age
1499 twenty-three (23), as long as the child is a student regularly
1500 pursuing a full-time course of resident study or training in an
1501 accredited high school, trade school, technical or vocational
1502 institute, junior or community college, college, university or
1503 comparable recognized educational institution duly licensed by a
1504 state. A student child who is receiving a retirement allowance as
1505 of June 30, 2016, whose birthday falls during the school year



1506 (September 1 through June 30) is considered not to reach age
1507 twenty-three (23) until the July 1 following the actual
1508 twenty-third birthday. A full-time course of resident study or
1509 training means a day or evening noncorrespondence course that
1510 includes school attendance at the rate of at least thirty-six (36)
1511 weeks per academic year or other applicable period with a subject
1512 load sufficient, if successfully completed, to attain the
1513 educational or training objective within the period generally
1514 accepted as minimum for completion, by a full-time day student, of
1515 the academic or training program concerned. Any child who is
1516 physically or mentally incompetent, as adjudged by either a
1517 Mississippi court of competent jurisdiction or by the board, shall
1518 receive benefits for as long as the incompetency exists.

1519 (c) If there are more than three (3) dependent
1520 children, upon a child's ceasing to be a dependent child, his
1521 annuity shall terminate and there shall be a redetermination of
1522 the amounts payable to any remaining dependent children.

1523 (d) Annuities payable under this subsection (3) shall
1524 begin the first day of the month following the date of the
1525 member's death or in case of late filing, retroactive payments
1526 will be made for a period of not more than one (1) year. Those
1527 benefits may be paid to a surviving parent or the lawful custodian
1528 of a dependent child for the use and benefit of the child without
1529 the necessity of appointment as guardian.



1530 (4) (a) Death benefits in the line of duty. Regardless of
1531 the number of years of the member's creditable service, the spouse
1532 and/or the dependent children of an active member who is killed or
1533 dies as a direct result of a physical injury sustained from an
1534 accident or a traumatic event caused by external violence or
1535 physical force occurring in the line of performance of duty shall
1536 qualify, on approval of the board, for a retirement allowance on
1537 the first of the month following the date of death, but in the
1538 case of late filing, retroactive payments will be made for a
1539 period of not more than one (1) year. The spouse shall receive a
1540 retirement allowance for life equal to one-half (1/2) of the
1541 average compensation as defined in Section 25-11-103. In addition
1542 to the retirement allowance for the spouse, or if there is no
1543 surviving spouse, the member's dependent child shall receive a
1544 retirement allowance in the amount of one-fourth (1/4) of the
1545 member's average compensation as defined in Section 25-11-103;
1546 however, if there are two (2) or more dependent children, each
1547 dependent child shall receive an equal share of a total annuity
1548 equal to one-half (1/2) of the member's average compensation. If
1549 there are more than two (2) dependent children, upon a child's
1550 ceasing to be a dependent child, his annuity shall terminate and
1551 there shall be a redetermination of the amounts payable to any
1552 remaining dependent children. Those benefits shall cease to be
1553 paid for the support and maintenance of each child upon the child
1554 attaining the age of nineteen (19) years; however, the spouse



1555 shall continue to be eligible for the aforesaid retirement
1556 allowance. Those benefits may be paid to a surviving parent or
1557 lawful custodian of the children for the use and benefit of the
1558 children without the necessity of appointment as guardian. Any
1559 spouse who received spouse retirement benefits under this
1560 paragraph (a) from and after April 4, 1984, and whose benefits
1561 were terminated before July 1, 2004, because of remarriage, may
1562 again receive the retirement benefits authorized under this
1563 paragraph (a) by making application with the board to reinstate
1564 those benefits. Any reinstatement of the benefits shall be
1565 prospective only and shall begin after the first of the month
1566 following the date of the application for reinstatement, but not
1567 earlier than July 1, 2004.

1568 (b) A child shall be considered to be a dependent child
1569 until marriage, or the attainment of age nineteen (19), whichever
1570 comes first; however, this age limitation shall be extended beyond
1571 age nineteen (19), but in no event beyond the attainment of age
1572 twenty-three (23), as long as the child is a student regularly
1573 pursuing a full-time course of resident study or training in an
1574 accredited high school, trade school, technical or vocational
1575 institute, junior or community college, college, university or
1576 comparable recognized educational institution duly licensed by a
1577 state. A student child who is receiving a retirement allowance as
1578 of June 30, 2016, whose birthday falls during the school year
1579 (September 1 through June 30) is considered not to reach age



1580 twenty-three (23) until the July 1 following the actual
1581 twenty-third birthday. A full-time course of resident study or
1582 training means a day or evening noncorrespondence course that
1583 includes school attendance at the rate of at least thirty-six (36)
1584 weeks per academic year or other applicable period with a subject
1585 load sufficient, if successfully completed, to attain the
1586 educational or training objective within the period generally
1587 accepted as minimum for completion, by a full-time day student, of
1588 the academic or training program concerned. Any child who is
1589 physically or mentally incompetent, as adjudged by either a
1590 Mississippi court of competent jurisdiction or by the board, shall
1591 receive benefits for as long as the incompetency exists.

1592 (5) If all the annuities provided for in this section
1593 payable on account of the death of a member terminate before there
1594 has been paid an aggregate amount equal to the member's
1595 accumulated contributions standing to the member's credit in the
1596 annuity savings account at the time of the member's death, the
1597 difference between the accumulated contributions and the aggregate
1598 amount of annuity payments shall be paid to the person that the
1599 member has nominated by written designation duly executed and
1600 filed with the board. If there is no designated beneficiary
1601 surviving at termination of benefits, the difference shall be
1602 payable under Section 25-11-117.1(1).

1603 (6) Regardless of the number of years of creditable service,
1604 upon the application of a member or employer, any active member



1605 who becomes disabled as a direct result of a physical injury
1606 sustained from an accident or traumatic event caused by external
1607 violence or physical force occurring in the line of performance of
1608 duty, provided that the medical board or other designated
1609 governmental agency after a medical examination certifies that the
1610 member is mentally or physically incapacitated for the further
1611 performance of duty and the incapacity is likely to be permanent,
1612 may be retired by the board of trustees on the first of the month
1613 following the date of filing the application but in no event shall
1614 the retirement allowance begin before the termination of state
1615 service. If a member who has been approved for a retirement
1616 allowance under this subsection does not terminate state service
1617 within ninety (90) days after the approval, the retirement
1618 allowance and the application for the allowance shall be void.
1619 The retirement allowance shall equal the allowance on disability
1620 retirement as provided in Section 25-11-113 but shall not be less
1621 than fifty percent (50%) of average compensation. Line of duty
1622 disability benefits under this section shall be administered in
1623 accordance with the provisions of Section 25-11-113(1)(b), (c),
1624 (d), (e) and (f), (3), (4), (5) and (6).

1625 (7) For purposes of determining death or disability benefits
1626 under this section, the following shall apply:

1627 (a) Death or permanent and total disability resulting
1628 from a cardiovascular, pulmonary or musculoskeletal condition that
1629 was not a direct result of a physical injury sustained from an



1630 accident or a traumatic event caused by external violence or
1631 physical force occurring in the performance of duty shall be
1632 deemed a natural death or an ordinary disability.

1633 (b) A mental disability based exclusively on employment
1634 duties occurring on an ongoing basis shall be deemed an ordinary
1635 disability.

1636 (8) If the deceased or disabled member has less than four
1637 (4) years of membership service, the average compensation as
1638 defined in Section 25-11-103 shall be the average of all annual
1639 earned compensation in state service for the purposes of benefits
1640 provided in this section.

1641 (9) In case of death or total and permanent disability under
1642 subsection (4) or subsection (6) of this section and before the
1643 board shall consider any application for a retirement allowance,
1644 the employer must certify to the board that the member's death or
1645 disability was a direct result of an accident or a traumatic event
1646 occurring during and as a result of the performance of the regular
1647 and assigned duties of the employee and that the death or
1648 disability was not the result of the willful negligence of the
1649 employee.

1650 (10) The application for the retirement allowance must be
1651 filed within one (1) year after death of an active member who is
1652 killed in the line of performance of duty or dies as a direct
1653 result of an accident occurring in the line of performance of duty
1654 or traumatic event; but the board of trustees may consider an



1655 application for disability filed after the one-year period if it
1656 can be factually demonstrated to the satisfaction of the board of
1657 trustees that the disability is due to the accident and that the
1658 filing was not accomplished within the one-year period due to a
1659 delayed manifestation of the disability or to circumstances beyond
1660 the control of the member. However, in case of late filing,
1661 retroactive payments will be made for a period of not more than
1662 one (1) year only.

1663 (11) (a) Notwithstanding any other section of this article
1664 and in lieu of any payments to a designated beneficiary for a
1665 refund of contributions under Section 25-11-117, the spouse and/or
1666 children shall be eligible for the benefits payable under this
1667 section, and the spouse may elect, for both the spouse and/or
1668 children, to receive benefits in accordance with either
1669 subsections (2) and (3) or subsection (4) of this section;
1670 otherwise, the contributions to the credit of the deceased member
1671 shall be refunded in accordance with Section 25-11-117.

1672 (b) Notwithstanding any other section of this article,
1673 a spouse who is entitled to receive a monthly benefit under either
1674 subsection (2) or (4) of this section and who is also the named
1675 beneficiary for a refund of accumulated contributions in the
1676 member's annuity savings account, may, after the death of the
1677 member, elect to receive a refund of accumulated contributions in
1678 lieu of a monthly allowance, provided that there are no dependent



1679 children entitled to benefits under subsection (3) of this
1680 section.

1681 (12) If the member has previously received benefits from the
1682 system to which he was not entitled and has not repaid in full all
1683 amounts payable by him to the system, the annuity amounts
1684 otherwise provided by this section shall be withheld and used to
1685 effect repayment until the total of the withholdings repays in
1686 full all amounts payable by him to the system.

1687 **SECTION 13.** Section 25-11-115, Mississippi Code of 1972, is
1688 brought forward as follows:

1689 25-11-115. (1) Upon application for superannuation or
1690 disability retirement, any member may elect to receive his or her
1691 benefit in a retirement allowance payable throughout life with no
1692 further payments to anyone at the member's death, except that if
1693 the member's total retirement payments under this article do not
1694 equal the member's total contributions under this article, the
1695 named beneficiary shall receive the difference in cash at the
1696 member's death. Or the member may elect upon retirement, or upon
1697 becoming eligible for retirement, to receive the actuarial
1698 equivalent subject to the provisions of subsection (3) of this
1699 section of his or her retirement allowance in a reduced retirement
1700 allowance payable throughout life with the provision that:

1701 **Option 1.** If the retired member dies before he or she has
1702 received in annuity payment the value of the member's annuity
1703 savings account as it was at the time of the member's retirement,



1704 the balance shall be paid to the legal representative or to such
1705 person as the member has nominated by written designation duly
1706 acknowledged and filed with the board;

1707 **Option 2.** Upon the retired member's death, his or her
1708 reduced retirement allowance shall be continued throughout the
1709 life of, and paid to, such person as the member has nominated by
1710 written designation duly acknowledged and filed with the board of
1711 trustees at the time of his or her retirement;

1712 **Option 3.** Upon the retired member's death, one-half (1/2) of
1713 his or her reduced retirement allowance shall be continued
1714 throughout the life of, and paid to, such person as the member has
1715 nominated by written designation duly acknowledged and filed with
1716 the board of trustees at the time of his or her retirement, and
1717 the other one-half (1/2) of his or her reduced retirement
1718 allowance to some other designated beneficiary;

1719 **Option 4.** Upon the retired member's death, three-fourths
1720 (3/4) of his or her reduced retirement allowance, or such other
1721 specified amount, shall be continued throughout the life of, and
1722 paid to, such person as the member has nominated by written
1723 designation duly acknowledged and filed with the board of trustees
1724 at the time of his or her retirement;

1725 **Option 4-A.** Upon the retired member's death, one-half (1/2)
1726 of his or her reduced retirement allowance, or such other
1727 specified amount, shall be continued throughout the life of, and
1728 paid to, such person as the member has nominated by written



1729 designation duly acknowledged and filed with the board of trustees
1730 at the time of his or her retirement;

1731 **Option 4-B.** A reduced retirement allowance shall be
1732 continued throughout the life of the retirant, but with the
1733 further guarantee of payments to the named beneficiary or
1734 beneficiaries for a specified number of years certain. If the
1735 retired member or the last designated beneficiary both die before
1736 receiving all guaranteed payments due, the actuarial equivalent of
1737 the remaining payments shall be paid to the successors of the
1738 retired member under Section 25-11-117.1(1);

1739 **Option 6.** Any member who became a member of the system
1740 before July 1, 2007, and who has at least twenty-eight (28) years
1741 of creditable service at the time of retirement or who is at least
1742 sixty-three (63) years of age and eligible to retire, may select
1743 the maximum retirement benefit or an optional benefit as provided
1744 in this subsection together with a partial lump-sum distribution.
1745 Any member who became a member of the system on or after July 1,
1746 2007, but before July 1, 2011, and who has at least twenty-eight
1747 (28) years of creditable service at the time of retirement may
1748 select the maximum retirement benefit or any optional benefit as
1749 provided in this subsection together with a partial lump-sum
1750 distribution. Any member who became a member of the system on or
1751 after July 1, 2011, and who has at least thirty-three (33) years
1752 of creditable service at the time of retirement may select the
1753 maximum retirement benefit or any optional benefit as provided in



1754 this subsection together with a partial lump-sum distribution.
1755 The amount of the lump-sum distribution under this option shall be
1756 equal to the maximum monthly benefit multiplied by twelve (12),
1757 twenty-four (24) or thirty-six (36) as selected by the member.
1758 The maximum retirement benefit shall be actuarially reduced to
1759 reflect the amount of the lump-sum distribution selected and
1760 further reduced for any other optional benefit selected. The
1761 annuity and lump-sum distribution shall be computed to result in
1762 no actuarial loss to the system. The lump-sum distribution shall
1763 be made as a single payment payable at the time the first monthly
1764 annuity payment is paid to the retiree. The amount of the
1765 lump-sum distribution shall be deducted from the member's annuity
1766 savings account in computing what contributions remain at the
1767 death of the retiree and/or a beneficiary. The lump-sum
1768 distribution option may be elected only once by a member upon
1769 initial retirement, and may not be elected by a retiree, by
1770 members applying for a disability retirement annuity, or by
1771 survivors.

1772 (2) No change in the option selected shall be permitted
1773 after the member's death or after the member has received his or
1774 her first retirement check except as provided in subsections (3)
1775 and (4) of this section and in Section 25-11-127. Members who are
1776 pursuing a disability retirement allowance and simultaneously or
1777 later elect to begin to receive a service retirement allowance
1778 while continuing to pursue a disability retirement allowance,



1779 shall not be eligible to select Option 6 and that option may not
1780 be selected at a later time if the application for a disability
1781 retirement allowance is voided or denied. However, any retired
1782 member who is receiving a retirement allowance under Option 2 or
1783 Option 4-A upon July 1, 1992, and whose designated beneficiary
1784 predeceased him or her or whose marriage to a spouse who is his or
1785 her designated beneficiary is terminated by divorce or other
1786 dissolution, upon written notification to the retirement system of
1787 the death of the designated beneficiary or of the termination of
1788 the retired member's marriage to the designated beneficiary, the
1789 retirement allowance payable to the member after receipt of that
1790 notification by the retirement system shall be equal to the
1791 retirement allowance that would have been payable if the member
1792 had not elected the option. In addition, any retired member who
1793 is receiving the maximum retirement allowance for life, a
1794 retirement allowance under Option 1 or who is receiving a
1795 retirement allowance under Option 2 or Option 4-A on July 1, 1992,
1796 may elect to provide survivor benefits under Option 2 or Option
1797 4-A to a spouse who was not previously the member's beneficiary
1798 and whom the member married before July 1, 1992.

1799 (3) Any retired member who is receiving a reduced retirement
1800 allowance under Option 2, Option 4 or Option 4-A whose designated
1801 beneficiary predeceases him or her, or whose marriage to a spouse
1802 who is his or her designated beneficiary is terminated by divorce
1803 or other dissolution, may elect to cancel the reduced retirement



1804 allowance and receive the maximum retirement allowance for life in
1805 an amount equal to the amount that would have been payable if the
1806 member had not elected Option 2, Option 4 or Option 4-A. That
1807 election must be made in writing to the office of the executive
1808 director of the system on a form prescribed by the board. Any
1809 such election shall be effective the first of the month following
1810 the date the election is received by the system; however, the
1811 election may be applied retroactively for not more than three (3)
1812 months but no earlier than the first of the month following the
1813 date of the death of the beneficiary.

1814 (4) Any retired member who is receiving the maximum
1815 retirement allowance for life, or a retirement allowance under
1816 Option 1, and who marries after his or her retirement may elect to
1817 cancel the maximum retirement allowance and receive a reduced
1818 retirement allowance under Option 2, Option 4 or Option 4-A to
1819 provide continuing lifetime benefits to his or her spouse. That
1820 election must be made in writing to the office of the executive
1821 director of the system on a form prescribed by the board not
1822 earlier than the date of the marriage and not later than one (1)
1823 year from the date of the marriage. Any such election shall be
1824 effective the first of the month following the date the election
1825 is received by the system.

1826 (5) (a) Except as otherwise provided in this subsection, if
1827 the election of an optional benefit is made after the member has
1828 attained the age of sixty-five (65) years, the actuarial



1829 equivalent factor shall be used to compute the reduced retirement
1830 allowance as if the election had been made on his or her
1831 sixty-fifth birthday; however, from and after January 1, 2003, if
1832 there is an election of Option 6 after the member has attained the
1833 age of sixty-five (65) years, the actuarial equivalent factor
1834 based on the retiree's age at the time of retirement shall be used
1835 to compute the reduced maximum monthly retirement allowance.
1836 However, if a retiree marries or remarries after retirement and
1837 elects either Option 2 or Option 4-A as provided in subsection (2)
1838 or (4) of this section, the actuarial equivalent factor used to
1839 compute the reduced retirement allowance shall be the factor for
1840 the age of the retiree and his or her beneficiary at the time such
1841 election for recalculation of benefits is made.

1842 (b) For members who retire on or after July 1, 2012,
1843 the actuarial equivalent factor used to compute the reduced
1844 retirement allowance at retirement or upon any subsequent
1845 recalculation of the benefit shall be the factor for the age of
1846 the retiree and his or her beneficiary at the time of retirement
1847 or at the time an election for recalculation of benefits is made.

1848 (6) Notwithstanding any provision of Section 25-11-1 et
1849 seq., no payments may be made for a retirement allowance on a
1850 monthly basis for a period of time in excess of that allowed by
1851 federal law.

1852 (7) If a retirant and his or her eligible beneficiary, if
1853 any, both die before they have received in annuity payments a



1854 total amount equal to the accumulated contributions standing to
1855 the retirant's credit in the annuity savings account at the time
1856 of his or her retirement, the difference between the accumulated
1857 contributions and the total amount of annuities received by them
1858 shall be paid to such persons as the retirant has nominated by
1859 written designation duly executed and filed in the office of the
1860 executive director. If no designated person survives the retirant
1861 and his or her beneficiary, the difference, if any, shall be paid
1862 under Section 25-11-117.1(1).

1863 (8) Any retired member who retired on Option 2(5) or 4-A(5)
1864 before July 1, 1992, who is still receiving a retirement allowance
1865 on July 1, 1994, shall receive an increase in the annual
1866 retirement allowance effective July 1, 1994, equal to the amount
1867 they would have received under Option 2 or Option 4-A without a
1868 reduction for Option 5 based on the ages at retirement of the
1869 retiree and beneficiary and option factors in effect on July 1,
1870 1992. That increase shall be prospective only.

1871 **SECTION 14.** Section 25-11-115.1, Mississippi Code of 1972,
1872 is brought forward as follows:

1873 25-11-115.1. Any retired member who died in 1993, who
1874 retired under Option 4-A before January 1, 1980, with his spouse
1875 as his designated beneficiary, whose spouse predeceased him, and
1876 who remarried before July 1, 1992, shall be deemed to have
1877 designated his new spouse as his beneficiary under Option 4-A
1878 before his death. Monthly survivor benefits to the member's



1879 surviving spouse will be payable beginning on the first of the
1880 month after April 5, 1996. In addition, retroactive benefits will
1881 be payable to the surviving spouse back to the date of death of
1882 the retired member.

1883 **SECTION 15.** Section 25-11-115.2, Mississippi Code of 1972,
1884 is brought forward as follows:

1885 25-11-115.2. (1) It is the intent of the Public Employees'
1886 Retirement System to provide benefit payments in an efficient
1887 manner consistent with the member's best interest. The system
1888 shall not knowingly allow payments to be made directly to persons
1889 who are determined legally incompetent or incapable of managing or
1890 directing the management of benefits. Any person applying for or
1891 receiving benefits who comes to be known as incapable of applying
1892 for, managing or directing the management of benefits by reason of
1893 mental or physical impairment, as certified by a medical doctor,
1894 shall be directed to obtain a conservator or legal guardian for
1895 purposes of applying for, receiving, managing and/or directing
1896 benefit payments. In the absence of a conservator or legal
1897 guardian or valid durable power of attorney, the Public Employees'
1898 Retirement System may designate a representative payee for such
1899 purposes. The benefit recipient may nominate a representative
1900 payee for consideration by the system in selecting a payee, and
1901 the system is responsible for selecting a payee, including an
1902 agency, organization or institution, that will serve the interest
1903 of the benefit recipient. The system may also accept the Social



1904 Security Administration's designation of a representative payee to
1905 manage and direct funds paid by the system. The system shall have
1906 the authority to establish rules for the administration of this
1907 section.

1908 (2) A representative payee shall be directed to apply
1909 benefits paid from the system only for the use and benefit of the
1910 benefit recipient. The system's obligations to a benefit
1911 recipient shall be discharged when it makes a correct payment to a
1912 representative payee on the benefit recipient's behalf. The
1913 system is without liability for the theft or misuse of benefits if
1914 the benefits were properly paid based upon the information
1915 available to the system at the time the payments were made.

1916 (3) In the absence of a conservator, legal guardian or valid
1917 durable power of attorney, an unmarried benefit applicant who is
1918 deemed to be incapable of applying for, managing or directing his
1919 or her benefits, shall be entitled to receive annuity payments in
1920 an amount equal to a retirement allowance based on the maximum
1921 benefit payable to the member for life and with any remaining
1922 benefit at the death of the member payable pursuant to Section
1923 25-11-117.1(1). Such payments shall be paid to the representative
1924 payee, designated by the system in accordance with the provisions
1925 of this section during the period of the benefit recipient's
1926 incapacity.

1927 (4) In the absence of a conservator, legal guardian or valid
1928 durable power of attorney, any married benefit applicant who is



1929 deemed to be incapable of applying for, managing or directing his
1930 or her benefits, shall be paid a reduced retirement allowance
1931 under Option 2 as provided in Section 25-11-115, with the lawful
1932 spouse as the beneficiary. Such payments shall be paid to a
1933 representative payee as designated by the system in accordance
1934 with the provisions of this section during the period of the
1935 benefit recipient's incapacity.

1936 **SECTION 16.** Section 25-11-118, Mississippi Code of 1972, is
1937 brought forward as follows:

1938 25-11-118. Effective July 1, 2000, and subject to the rules
1939 adopted by the board of trustees, the system shall accept an
1940 eligible rollover distribution or a direct transfer of funds from
1941 another eligible retirement plan, as defined under applicable
1942 federal law, or an individual retirement account, in payment of
1943 all or a portion of the cost to purchase optional service credit
1944 or to reinstate previously withdrawn service credit as permitted
1945 by the system. The system may only accept rollover payments in an
1946 amount equal to or less than the balance due for purchase or
1947 reinstatement of service credit. The rules adopted by the board
1948 of trustees shall condition the acceptance of a rollover or
1949 transfer from another eligible retirement plan or an individual
1950 retirement account on the receipt of information necessary to
1951 enable the system to determine the eligibility of any transferred
1952 funds for tax-free rollover treatment or other treatment under
1953 federal income tax law.



1954 **SECTION 17.** Section 25-11-119, Mississippi Code of 1972, is
1955 brought forward as follows:

1956 25-11-119. (1) The board shall keep such data as shall be
1957 necessary for actuarial valuation of the assets and liabilities of
1958 the system and for checking its operating experience.

1959 (2) The board shall keep minutes which shall be open to
1960 public inspection. It shall have the accounts of the system
1961 audited annually by the State Audit Department and shall publish
1962 as of the end of each fiscal year a report showing the fiscal
1963 transactions of the system for the preceding fiscal year, the
1964 amount of the accumulated cash and securities of the system, a
1965 statement of income and expenditures, a statement of investments
1966 acquired and disposed of, and a balance sheet showing the
1967 financial condition of the system by means of an actuarial
1968 valuation of its assets and liabilities. It shall also publish a
1969 synopsis of the report.

1970 (3) The board shall establish a general office for the
1971 meeting of the board and for the administrative personnel; provide
1972 for the installation of an adequate system of books, accounts, and
1973 records which will give effect to all requirements of Articles 1
1974 and 3; and credit all assets received by the funds according to
1975 the purposes for which they are held. All books, accounts and
1976 records shall be kept in the general office of the board and shall
1977 be public records except for individual member records. The
1978 system shall not disclose the name, address or contents of any



1979 individual member records without the prior written consent of the
1980 individual to whom the record pertains, except as authorized by
1981 regulations of the board.

1982 (4) The board shall hold regular meetings at least quarterly
1983 in each year and such special meetings as may be deemed necessary.
1984 All meetings shall be open to the public.

1985 (5) The board shall have power to make contracts, and to sue
1986 and be sued, under the name of the Board of Trustees of the Public
1987 Employees' Retirement System of Mississippi.

1988 (6) Legal advisor. The Attorney General shall be the legal
1989 advisor of the board; and the board may employ counsel when
1990 needed.

1991 (7) Medical board. The board may designate a medical board
1992 to be composed of three (3) physicians or may contract with
1993 another governmental agency or nongovernmental disability
1994 determination service that is qualified to make disability
1995 determinations. If required, other physicians may be engaged to
1996 report on special cases. The medical board or other governmental
1997 or nongovernmental disability determination service agency so
1998 designated shall arrange for, and pass upon, all medical
1999 examinations required under the provisions of this article; shall
2000 investigate all essential statements and certificates by or on
2001 behalf of a member in connection with an application for
2002 disability retirement; and shall report in writing to the board of



2003 trustees its conclusions and recommendations upon all the matters
2004 referred to it.

2005 (8) Duties of actuary. The board of trustees shall
2006 designate an actuary who shall be the technical advisor of the
2007 board on matters regarding the operation of the system, and shall
2008 perform such other duties as are required in connection therewith.

2009 (9) At least once in each two-year period, the actuary shall
2010 make an actuarial survey of the mortality, service, withdrawal and
2011 compensation experience of the members and beneficiaries of the
2012 retirement system, and shall make a valuation of the assets and
2013 liabilities of the system. Taking into account the result of such
2014 investigation and valuation, the board of trustees shall adopt for
2015 the retirement system such mortality, service, and other tables as
2016 shall be deemed necessary. On the basis of such tables as the
2017 board of trustees shall adopt, the actuary shall make valuations
2018 of the assets and liabilities of the funds of the system.

2019 **SECTION 18.** Section 25-11-119.1, Mississippi Code of 1972,
2020 is brought forward as follows:

2021 25-11-119.1. (1) (a) The system may perform on-site
2022 compliance audits of employers to determine compliance with
2023 reporting, contributions, and certification requirements under
2024 this title.

2025 (b) The system may request records to be provided by
2026 the employer at the time of the audit.



2027 (c) Audits shall be conducted at the sole discretion of
2028 the system after reasonable notice to the employer of at least
2029 five (5) working days.

2030 (d) The employer shall extract and provide records as
2031 requested by the office in an appropriate, organized and usable
2032 format.

2033 (e) Failure of an employer to allow access, provide
2034 records or comply in any way with an audit by the system under
2035 this section shall result in the employer being liable to the
2036 system for:

2037 (i) Any liabilities and expenses, including
2038 administrative expenses and travel expenses, resulting from the
2039 employer's failure to comply with the audit; and

2040 (ii) A penalty equal to one percent (1%) of the
2041 employer's contribution for the month preceding the notification
2042 of the audit.

2043 (2) If the audit reveals an employer's failure to make
2044 contributions as required under Section 25-11-124, a failure to
2045 correctly report eligibility as required under Section
2046 25-11-103(s), or a failure to maintain records as required under
2047 the rules and regulations of the system, the employer shall
2048 reimburse the system for the cost of the audit.

2049 (3) The executive director may waive all or any part of the
2050 penalties and expenses if the executive director finds there were



2051 extenuating circumstances surrounding the employer's failure to
2052 comply with this section.

2053 **SECTION 19.** Section 25-11-120, Mississippi Code of 1972, is
2054 brought forward as follows:

2055 25-11-120. (1) Any individual aggrieved by an
2056 administrative determination, including a determination of the
2057 medical board, relating to the eligibility for or payment of
2058 benefits, or the calculation of creditable service or other
2059 similar matters relating to the Public Employees' Retirement
2060 System or any other retirement system or program administered by
2061 the board, may request a hearing before a hearing officer
2062 designated by the board. Such hearings shall be conducted in
2063 accordance with rules and regulations adopted by the board and
2064 formal rules of evidence shall not apply. The hearing officer is
2065 authorized to administer oaths, hear testimony of witnesses and
2066 receive documentary and other evidence. In case of disability
2067 appeals, the hearing officer shall have the authority to defer a
2068 decision in order to request a medical evaluation or test or
2069 additional existing medical records not previously furnished by
2070 the claimant. After the hearing and the receipt of any additional
2071 medical evidence requested by the hearing officer, the hearing
2072 officer shall certify the record to the board, which shall include
2073 the hearing officer's proposed statement of facts, conclusions of
2074 law and recommendation. The record may include a taped recording
2075 of the proceedings of the hearing in lieu of a transcribed copy of



2076 the proceedings. The board shall receive the record and make its
2077 determination based solely on matters contained therein.

2078 (2) Any individual aggrieved by the determination of the
2079 board may appeal to the Circuit Court of the First Judicial
2080 District of Hinds County, Mississippi, in accordance with the
2081 Uniform Circuit Court Rules governing appeals to the circuit court
2082 in civil cases. Such appeal shall be made solely on the record
2083 before the board and this procedure shall be the exclusive method
2084 of appealing determinations of the board.

2085 (3) The board is authorized to appoint a committee of the
2086 board to serve as hearing officer or to employ or contract with
2087 qualified personnel to perform the duties of hearing officer and
2088 court reporter as may be necessary for conducting, recording and
2089 transcribing such hearings. The board may assess and collect fees
2090 to offset costs related to such hearings. Those fees shall be
2091 deposited to the credit of the Public Employees' Retirement
2092 System.

2093 (4) Interest shall not be paid on any benefits, including,
2094 but not limited to, benefits that are delayed as a result of an
2095 administrative determination or an appeal from an administrative
2096 determination.

2097 **SECTION 20.** Section 25-11-121, Mississippi Code of 1972, is
2098 brought forward as follows:

2099 25-11-121. (1) The board shall, from time to time,
2100 determine the current requirements for benefit payments and



2101 administrative expense which shall be maintained as a cash working
2102 balance, except that such cash working balance shall not exceed at
2103 any time an amount necessary to meet the current obligations of
2104 the system for a period of ninety (90) days. Any amounts in
2105 excess of such cash working balance shall be invested, as follows:

2106 (a) Funds may be deposited in any institution insured
2107 by the Federal Deposit Insurance Corporation that maintains a
2108 facility that takes deposits in the State of Mississippi or a
2109 custodial bank;

2110 (b) Corporate bonds and taxable municipal bonds; or
2111 corporate short-term obligations of corporations or of wholly
2112 owned subsidiaries of corporations, whose short-term obligations
2113 are rated A-2 or better by Standard and Poor's, rated P-2 or
2114 better by Moody's Investment Service, F-2 or better by Fitch
2115 Ratings, Ltd., or the equivalent of these ratings if assigned by
2116 another United States Securities and Exchange Commission
2117 designated Nationally Recognized Statistical Rating Organization;

2118 (c) Agency and nonagency residential and commercial
2119 mortgage-backed securities and collateralized mortgage
2120 obligations;

2121 (d) Asset-backed securities;

2122 (e) Bank loans;

2123 (f) Convertible bonds;

2124 (g) Bonds of the Tennessee Valley Authority;



2125 (h) Bonds, notes, certificates and other valid
2126 obligations of the United States, and other valid obligations of
2127 any federal instrumentality that issues securities under authority
2128 of an act of Congress and are exempt from registration with the
2129 Securities and Exchange Commission;

2130 (i) Bonds, notes, debentures and other securities
2131 issued by any federal instrumentality and fully guaranteed by the
2132 United States;

2133 (j) Interest-bearing revenue bonds or notes or bonds or
2134 notes which are general obligations of any state in the United
2135 States or of any city or county therein;

2136 (k) Bonds of established non-United States companies
2137 and foreign government securities. The board may take requisite
2138 action to effectuate or hedge transactions or invest in currency
2139 through foreign or domestic banks, including the purchase and
2140 sale, transfer, exchange, or otherwise disposal of, and generally
2141 deal in foreign exchange through the use of foreign currency,
2142 interbank forward contracts, futures contracts, options contracts,
2143 swaps and other related derivative instruments, notwithstanding
2144 any other provisions of this article to the contrary;

2145 (l) Shares of stocks, common and/or preferred, of
2146 corporations created by or existing under the laws of the United
2147 States or any state, district or territory thereof and shares of
2148 stocks, common and/or preferred, and convertible securities of
2149 non-United States companies; provided:



2150 (i) The maximum investments in stocks shall not
2151 exceed eighty percent (80%) of the total book value of the total
2152 investment fund of the system;

2153 (ii) The stock of such corporation shall:

2154 1. Be listed on a national stock exchange; or

2155 2. Be traded in the over-the-counter market;

2156 (iii) The outstanding shares of such corporation
2157 shall have a total market value of not less than Fifty Million
2158 Dollars (\$50,000,000.00);

2159 (iv) The amount of investment in any one (1)
2160 corporation shall not exceed three percent (3%) of the book value
2161 of the assets of the system;

2162 (v) The shares of any one (1) corporation owned by
2163 the system shall not exceed five percent (5%) of that
2164 corporation's outstanding stock.

2165 The board may take requisite action utilizing foreign
2166 currency as an investment vehicle, or to effectuate or hedge
2167 transactions for shares of stocks and convertible securities of
2168 non-United States companies through foreign or domestic banks,
2169 including the purchase and sale, transfer, exchange, or otherwise
2170 disposal of, and generally deal in foreign exchange through the
2171 use of foreign currency, interbank forward contracts, futures
2172 contracts, options contracts, swaps and other related derivative
2173 instruments, notwithstanding any other provisions of this article
2174 to the contrary;



2175 (m) Covered call and put options on securities or
2176 indices traded on one or more of the regulated exchanges;

2177 (n) Pooled or commingled funds managed by a corporate
2178 trustee or by a Securities and Exchange Commission registered
2179 investment advisory firm retained as an investment manager by the
2180 board of trustees, and shares of investment companies and unit
2181 investment trusts registered under the Investment Company Act of
2182 1940, where such pooled or commingled funds or shares are
2183 comprised of common or preferred stocks, bonds, money market
2184 instruments or other investments authorized under this section.
2185 Such investment in commingled funds or shares shall be held in
2186 trust; provided that the total book value of investments under
2187 this paragraph shall at no time exceed five percent (5%) of the
2188 total book value of all investments of the system. Any investment
2189 manager approved by the board of trustees shall invest such
2190 commingled funds or shares as a fiduciary;

2191 (o) Pooled or commingled real estate funds or real
2192 estate securities managed by a corporate trustee or by a
2193 Securities and Exchange Commission registered investment advisory
2194 firm retained as an investment manager by the board of trustees.
2195 Such investment in commingled funds or shares shall be held in
2196 trust; provided that the total book value of investments under
2197 this paragraph shall at no time exceed ten percent (10%) of the
2198 total book value of all investments of the system. Any investment
2199 manager approved by the board of trustees shall invest such



2200 commingled funds or shares as a fiduciary. The ten percent (10%)
2201 limitation in this paragraph shall not be subject to the five
2202 percent (5%) limitation in paragraph (n) of this subsection;

2203 (p) Types of investments not specifically authorized by
2204 this subsection if the investments are in the form of a separate
2205 account managed by a Securities and Exchange Commission registered
2206 investment advisory firm retained as an investment manager by the
2207 board; or a limited partnership or commingled fund approved by the
2208 board; provided that the total book value of investments under
2209 this paragraph shall at no time exceed ten percent (10%) of the
2210 total book value of all investments of the system. Any person or
2211 entity who exercises any discretionary authority or discretionary
2212 control respecting management of the separate account, limited
2213 partnership or commingled fund, or who exercises any authority or
2214 control respecting management or disposition of the assets of the
2215 separate account, limited partnership or commingled fund, shall
2216 exercise such authority or control as a fiduciary.

2217 (2) All investments shall be acquired at prices not
2218 exceeding the prevailing market values for such investments.

2219 (3) Any limitations herein set forth shall be applicable
2220 only at the time of purchase and shall not require the liquidation
2221 of any investment at any time. All investments shall be clearly
2222 marked to indicate ownership by the system and to the extent
2223 possible shall be registered in the name of the system.



2224 (4) Subject to the above terms, conditions, limitations and
2225 restrictions, the board shall have power to sell, assign, transfer
2226 and dispose of any of the securities and investments of the
2227 system, provided that said sale, assignment or transfer has the
2228 majority approval of the entire board. The board may employ or
2229 contract with investment managers, evaluation services or other
2230 such services as determined by the board to be necessary for the
2231 effective and efficient operation of the system.

2232 (5) Except as otherwise provided herein, no trustee and no
2233 employee of the board shall have any direct or indirect interest
2234 in the income, gains or profits of any investment made by the
2235 board, nor shall any such person receive any pay or emolument for
2236 his services in connection with any investment made by the board.
2237 No trustee or employee of the board shall become an endorser or
2238 surety, or in any manner an obligor for money loaned by or
2239 borrowed from the system.

2240 (6) All interest derived from investments and any gains from
2241 the sale or exchange of investments shall be credited by the board
2242 to the account of the system.

2243 (7) The board of trustees shall credit regular interest to
2244 the annuity savings account monthly. Regular interest shall mean
2245 such per centum rate to be compounded annually as set by the board
2246 of trustees through regulation.

2247 (8) The board of trustees shall be the custodian of the
2248 funds of the system. All retirement allowance payrolls shall be



2249 certified by the executive director who shall furnish the board a
2250 surety bond in a company authorized to do business in Mississippi
2251 in such an amount as shall be required by the board, the premium
2252 to be paid by the board from the expense account.

2253 (9) For the purpose of meeting disbursements for retirement
2254 allowances, annuities and other payments, cash may be kept
2255 available, not exceeding the requirements of the system for a
2256 period of ninety (90) days, on deposit in one or more banks or
2257 trust companies organized under the laws of the State of
2258 Mississippi or the laws of the United States, provided that the
2259 sum on deposit in any one (1) bank or trust company shall not
2260 exceed thirty-five percent (35%) of the paid-up capital and
2261 regular surplus of such bank or trust company.

2262 (10) The board, the executive director and employees shall
2263 discharge their duties with respect to the investments of the
2264 system solely for the interest of the system with the care, skill,
2265 prudence and diligence under the circumstances then prevailing
2266 that a prudent investor acting in a like capacity and familiar
2267 with such matters would use in the conduct of an enterprise of a
2268 like character and with like aims, including diversifying the
2269 investments of the system so as to minimize the risk of large
2270 losses, unless under the circumstances it is clearly prudent not
2271 to do so.

2272 (11) Documentary material or data made or received by the
2273 system which consists of trade secrets or commercial or financial



2274 information that relates to the investments of the system shall be
2275 exempt from the Mississippi Public Records Act of 1983 if the
2276 disclosure of the material or data is likely to impair the
2277 system's ability to obtain such information in the future, or is
2278 likely to cause substantial harm to the competitive position of
2279 the person or entity from whom the information was obtained.

2280 **SECTION 21.** Section 25-11-123, Mississippi Code of 1972, is
2281 brought forward as follows:

2282 25-11-123. All of the assets of the system shall be credited
2283 according to the purpose for which they are held to one (1) of
2284 four (4) reserves; namely, the annuity savings account, the
2285 annuity reserve, the employer's accumulation account, and the
2286 expense account.

2287 (a) **Annuity savings account.** In the annuity savings account
2288 shall be accumulated the contributions made by members to provide
2289 for their annuities, including interest thereon which shall be
2290 posted monthly. Credits to and charges against the annuity
2291 savings account shall be made as follows:

2292 (1) Beginning July 1, 2010, the employer shall cause to
2293 be deducted from the salary of each member on each and every
2294 payroll of the employer for each and every payroll period nine
2295 percent (9%) of earned compensation as defined in Section
2296 25-11-103. Future contributions shall be fixed biennially by the
2297 board on the basis of the liabilities of the retirement system for
2298 the various allowances and benefits as shown by actuarial



2299 valuation; however, any member earning at a rate less than Sixteen
2300 Dollars and Sixty-seven Cents (\$16.67) per month, or Two Hundred
2301 Dollars (\$200.00) per year, shall contribute not less than One
2302 Dollar (\$1.00) per month, or Twelve Dollars (\$12.00) per year.

2303 (2) The deductions provided in paragraph (1) of this
2304 subsection shall be made notwithstanding that the minimum
2305 compensation provided by law for any member is reduced by the
2306 deduction. Every member shall be deemed to consent and agree to
2307 the deductions made and provided for in paragraph (1) of this
2308 subsection and shall receipt for his full salary or compensation,
2309 and payment of salary or compensation less the deduction shall be
2310 a full and complete discharge and acquittance of all claims and
2311 demands whatsoever for the services rendered by the person during
2312 the period covered by the payment, except as to the benefits
2313 provided under Articles 1 and 3. The board shall provide by rules
2314 for the methods of collection of contributions from members and
2315 the employer. The board shall have full authority to require the
2316 production of evidence necessary to verify the correctness of
2317 amounts contributed.

2318 (b) **Annuity reserve.** The annuity reserve shall be the
2319 account representing the actuarial value of all annuities in
2320 force, and to it shall be charged all annuities and all benefits
2321 in lieu of annuities, payable as provided in this article. If a
2322 beneficiary retired on account of disability is restored to active
2323 service with a compensation not less than his average final



2324 compensation at the time of his last retirement, the remainder of
2325 his contributions shall be transferred from the annuity reserve to
2326 the annuity savings account and credited to his individual account
2327 therein, and the balance of his annuity reserve shall be
2328 transferred to the employer's accumulation account.

2329 (c) **Employer's accumulation account.** The employer's
2330 accumulation account shall represent the accumulation of all
2331 reserves for the payment of all retirement allowances and other
2332 benefits payable from contributions made by the employer, and
2333 against this account shall be charged all retirement allowances
2334 and other benefits on account of members. Credits to and charges
2335 against the employer's accumulation account shall be made as
2336 follows:

2337 (1) On account of each member there shall be paid
2338 monthly into the employer's accumulation account by the employers
2339 for the preceding fiscal year an amount equal to a certain
2340 percentage of the total earned compensation, as defined in Section
2341 25-11-103, of each member. The percentage rate of those
2342 contributions shall be fixed biennially by the board on the basis
2343 of the liabilities of the retirement system for the various
2344 allowances and benefits as shown by actuarial valuation.
2345 Beginning January 1, 1990, the rate shall be fixed at nine and
2346 three-fourths percent (9-3/4%). The board shall reduce the
2347 employer's contribution rate by one percent (1%) from and after
2348 July 1 of the year following the year in which the board



2349 determines and the board's actuary certifies that the employer's
2350 contribution rate can be reduced by that amount without causing
2351 the unfunded accrued actuarial liability amortization period for
2352 the retirement system to exceed twenty (20) years. Political
2353 subdivisions joining Article 3 of the Public Employees' Retirement
2354 System after July 1, 1968, may adjust the employer's contributions
2355 by agreement with the Board of Trustees of the Public Employees'
2356 Retirement System to provide service credits for any period before
2357 execution of the agreement based upon an actuarial determination
2358 of employer's contribution rates.

2359 (2) On the basis of regular interest and of such
2360 mortality and other tables as are adopted by the board of
2361 trustees, the actuary engaged by the board to make each valuation
2362 required by this article during the period over which the accrued
2363 liability contribution is payable, immediately after making that
2364 valuation, shall determine the uniform and constant percentage of
2365 the earnable compensation of each member which, if contributed by
2366 the employer on the basis of compensation of the member throughout
2367 his entire period of membership service, would be sufficient to
2368 provide for the payment of any retirement allowance payable on his
2369 account for that service. The percentage rate so determined shall
2370 be known as the "normal contribution rate." After the accrued
2371 liability contribution has ceased to be payable, the normal
2372 contribution rate shall be the percentage rate of the salary of
2373 all members obtained by deducting from the total liabilities on



2374 account of membership service the amount in the employer's
2375 accumulation account, and dividing the remainder by one percent
2376 (1%) of the present value of the prospective future salaries of
2377 all members as computed on the basis of the mortality and service
2378 tables adopted by the board of trustees and regular interest. The
2379 normal rate of contributions shall be determined by the actuary
2380 after each valuation.

2381 (3) The total amount payable in each year to the
2382 employer's accumulation account shall not be less than the sum of
2383 the percentage rate known as the "normal contribution rate" and
2384 the "accrued liability contribution rate" of the total
2385 compensation earnable by all members during the preceding year,
2386 provided that the payment by the employer shall be sufficient,
2387 when combined with the amounts in the account, to provide the
2388 allowances and other benefits chargeable to this account during
2389 the year then current.

2390 (4) The accrued liability contribution shall be
2391 discontinued as soon as the accumulated balance in the employer's
2392 accumulation account shall equal the present value, computed on
2393 the basis of the normal contribution rate then in force, or the
2394 prospective normal contributions to be received on account of all
2395 persons who are at that time members.

2396 (5) All allowances and benefits in lieu thereof, with
2397 the exception of those payable on account of members who receive



2398 no prior service credit, payable from contributions of the
2399 employer, shall be paid from the employer's accumulation account.

2400 (6) Upon the retirement of a member, an amount equal to
2401 his retirement allowance shall be transferred from the employer's
2402 accumulation account to the annuity reserve.

2403 (7) The employer's accumulation account shall be
2404 credited with any assets authorized by law to be credited to the
2405 account.

2406 (d) **Expense account.** The expense account shall be the
2407 account to which the expenses of the administration of the system
2408 shall be charged, exclusive of amounts payable as retirement
2409 allowances and as other benefits provided herein. The Legislature
2410 shall make annual appropriations in amounts sufficient to
2411 administer the system, which shall be credited to this account.
2412 There shall be transferred to the State Treasury from this
2413 account, not less than once per month, an amount sufficient for
2414 payment of the estimated expenses of the system for the succeeding
2415 thirty (30) days. Any interest earned on the expense account
2416 shall accrue to the benefit of the system. However,
2417 notwithstanding the provisions of Sections 25-11-15(10) and
2418 25-11-105(f)(v)5, all expenses of the administration of the system
2419 shall be paid from the interest earnings, provided the interest
2420 earnings are in excess of the actuarial interest assumption as
2421 determined by the board, and provided the present cost of the
2422 administrative expense fee of two percent (2%) of the



2423 contributions reported by the political subdivisions and
2424 instrumentalities shall be reduced to one percent (1%) from and
2425 after July 1, 1983, through June 30, 1984, and shall be eliminated
2426 thereafter.

2427 (e) **Collection of contributions.** The employer shall cause
2428 to be deducted on each and every payroll of a member for each and
2429 every payroll period, beginning subsequent to January 31, 1953,
2430 the contributions payable by the member as provided in Articles 1
2431 and 3.

2432 The employer shall make deductions from salaries of employees
2433 as provided in Articles 1 and 3 and shall transmit monthly, or at
2434 such time as the board of trustees designates, the amount
2435 specified to be deducted to the Executive Director of the Public
2436 Employees' Retirement System. The executive director, after
2437 making a record of all those receipts, shall deposit such amounts
2438 as provided by law.

2439 (f) (1) Upon the basis of each actuarial valuation provided
2440 herein, the board of trustees shall biennially determine the
2441 normal contribution rate and the accrued liability contribution
2442 rate as provided in this section. The sum of these two (2) rates
2443 shall be known as the "employer's contribution rate." Beginning
2444 on earned compensation effective January 1, 1990, the rate
2445 computed as provided in this section shall be nine and
2446 three-fourths percent (9-3/4%). The board shall reduce the
2447 employer's contribution rate by one percent (1%) from and after



2448 July 1 of the year following the year in which the board
2449 determines and the board's actuary certifies that the employer's
2450 contribution rate can be reduced by that amount without causing
2451 the unfunded accrued actuarial liability amortization period for
2452 the retirement system to exceed twenty (20) years. The percentage
2453 rate of those contributions shall be fixed biennially by the board
2454 on the basis of the liabilities of the retirement system for the
2455 various allowances and benefits as shown by actuarial valuation.

2456 (2) The amount payable by the employer on account of
2457 normal and accrued liability contributions shall be determined by
2458 applying the employer's contribution rate to the amount of
2459 compensation earned by employees who are members of the system.
2460 Monthly, or at such time as the board of trustees designates, each
2461 department or agency shall compute the amount of the employer's
2462 contribution payable, with respect to the salaries of its
2463 employees who are members of the system, and shall cause that
2464 amount to be paid to the board of trustees from the personal
2465 service allotment of the amount appropriated for the operation of
2466 the department or agency, or from funds otherwise available to the
2467 agency, for the payment of salaries to its employees.

2468 (3) Except as otherwise provided in Section 25-11-106:

2469 (i) Constables shall pay employer and employee
2470 contributions on their net fee income as well as the employee
2471 contributions on all direct treasury or county payroll income.



2472 (ii) The county shall be responsible for the
2473 employer contribution on all direct treasury or county payroll
2474 income of constables.

2475 (4) Except as otherwise provided in Section
2476 25-11-106.1, chancery and circuit clerks shall be responsible for
2477 both the employer and employee share of contributions on the
2478 proportionate share of net income attributable to fees, as well as
2479 the employee share of net income attributable to direct treasury
2480 or county payroll income, and the employing county shall be
2481 responsible for the employer contributions on the net income
2482 attributable to direct treasury or county payroll income.

2483 (5) Once each year, under procedures established by the
2484 system, each employer shall submit to the Public Employees'
2485 Retirement System a copy of their report to Social Security of all
2486 employees' earnings.

2487 (6) The board shall provide by rules for the methods of
2488 collection of contributions of employers and members. The amounts
2489 determined due by an agency to the various funds as specified in
2490 Articles 1 and 3 are made obligations of the agency to the board
2491 and shall be paid as provided herein. Failure to deduct those
2492 contributions shall not relieve the employee and employer from
2493 liability thereof. Delinquent employee contributions and any
2494 accrued interest shall be the obligation of the employee and
2495 delinquent employer contributions and any accrued interest shall
2496 be the obligation of the employer. The employer may, in its



2497 discretion, elect to pay any or all of the interest on delinquent
2498 employee contributions. From and after July 1, 1996, under rules
2499 and regulations established by the board, all employers are
2500 authorized and shall transfer all funds due to the Public
2501 Employees' Retirement System electronically and shall transmit any
2502 wage or other reports by computerized reporting systems.

2503 **SECTION 22.** Section 25-11-125, Mississippi Code of 1972, is
2504 brought forward as follows:

2505 25-11-125. (1) The board of supervisors may appropriate and
2506 include in its budget for public purposes a sufficient sum to pay
2507 the required employer contribution to the Public Employees'
2508 Retirement System for all fee-paid elected officials in judicial
2509 capacities of the county and supervisors districts, and those
2510 contributions shall be included by the clerk of the board in his
2511 regular reports and remittals to the Executive Director of the
2512 Public Employees' Retirement System for other county officers and
2513 regular county employees whose employer contributions are not
2514 included in and paid from the annual county budget.

2515 (2) If the county elects to be responsible for contributions
2516 on the net fee income of the constable, the board of supervisors
2517 of the county shall appropriate and include in its budget a
2518 sufficient sum to pay to the Public Employees' Retirement System
2519 for each constable holding office in that county the required
2520 employer contributions on the net fee income and all direct
2521 payments to the constable from the county, and those contributions



2522 shall be handled by the clerk of the board in the manner required
2523 by subsection (1) of this section.

2524 **SECTION 23.** Section 25-11-127, Mississippi Code of 1972, is
2525 brought forward as follows:

2526 25-11-127. (1) (a) No person who is being paid a
2527 retirement allowance or a pension after retirement under this
2528 article shall be employed or paid for any service by the State of
2529 Mississippi, including services as an employee, contract worker,
2530 contractual employee or independent contractor, until the retired
2531 person has been retired for not less than ninety (90) consecutive
2532 days from his or her effective date of retirement. After the
2533 person has been retired for not less than ninety (90) consecutive
2534 days from his or her effective date of retirement or such later
2535 date as established by the board, he or she may be reemployed
2536 while being paid a retirement allowance under the terms and
2537 conditions provided in this section.

2538 (b) No retiree of this retirement system who is
2539 reemployed or is reelected to office after retirement shall
2540 continue to draw retirement benefits while so reemployed, except
2541 as provided in this section.

2542 (c) No person employed or elected under the exceptions
2543 provided for in this section shall become a member under Article 3
2544 of the retirement system.

2545 (2) Any person who has been retired under the provisions of
2546 Article 3 and who is later reemployed in service covered by this



2547 article shall cease to receive benefits under this article and
2548 shall again become a contributing member of the retirement system.
2549 When the person retires again, if the reemployment exceeds six (6)
2550 months, the person shall have his or her benefit recomputed,
2551 including service after again becoming a member, provided that the
2552 total retirement allowance paid to the retired member in his or
2553 her previous retirement shall be deducted from the member's
2554 retirement reserve and taken into consideration in recalculating
2555 the retirement allowance under a new option selected.

2556 (3) The board shall have the right to prescribe rules and
2557 regulations for carrying out the provisions of this section.

2558 (4) The provisions of this section shall not be construed to
2559 prohibit any retiree, regardless of age, from being employed and
2560 drawing a retirement allowance either:

2561 (a) For a period of time not to exceed one-half (1/2)
2562 of the normal working days for the position in any fiscal year
2563 during which the retiree will receive no more than one-half (1/2)
2564 of the salary in effect for the position at the time of
2565 employment, or

2566 (b) For a period of time in any fiscal year sufficient
2567 in length to permit a retiree to earn not in excess of twenty-five
2568 percent (25%) of retiree's average compensation.

2569 To determine the normal working days for a position under
2570 paragraph (a) of this subsection, the employer shall determine the
2571 required number of working days for the position on a full-time



2572 basis and the equivalent number of hours representing the
2573 full-time position. The retiree then may work up to one-half
2574 (1/2) of the required number of working days or up to one-half
2575 (1/2) of the equivalent number of hours and receive up to one-half
2576 (1/2) of the salary for the position. In the case of employment
2577 with multiple employers, the limitation shall equal one-half (1/2)
2578 of the number of days or hours for a single full-time position.

2579 Notice shall be given in writing to the executive director,
2580 setting forth the facts upon which the employment is being made,
2581 and the notice shall be given within five (5) days from the date
2582 of employment and also from the date of termination of the
2583 employment.

2584 (5) Except as otherwise provided in subsection (6) of this
2585 section, the employer of any person who is receiving a retirement
2586 allowance and who is employed in service covered by subsection (4)
2587 of this section as an employee or a contractual employee shall pay
2588 to the board the full amount of the employer's contribution on the
2589 amount of compensation received by the retiree for his or her
2590 employment in accordance with regulations prescribed by the board.
2591 The retiree shall not receive any additional creditable service in
2592 the retirement system as a result of the payment of the employer's
2593 contribution. This subsection does not apply to persons who are
2594 receiving a retirement allowance and who contract with an employer
2595 to provide services as a true independent contractor, as defined
2596 by the board through regulation.



2597 (6) (a) A member may retire and continue in municipal or
2598 county elective office provided that the member has reached the
2599 age and/or service requirement that will not result in a
2600 prohibited in-service distribution as defined by the Internal
2601 Revenue Service, or a retiree may be elected to a municipal or
2602 county office, provided that the person:

2603 (i) Files annually, in writing, in the office of
2604 the employer and the office of the executive director of the
2605 system before the person takes office or as soon as possible after
2606 retirement, a waiver of all salary or compensation and elects to
2607 receive in lieu of that salary or compensation a retirement
2608 allowance as provided in this section, in which event no salary or
2609 compensation shall thereafter be due or payable for those
2610 services; however, any such officer or employee may receive, in
2611 addition to the retirement allowance, office expense allowance,
2612 mileage or travel expense authorized by any statute of the State
2613 of Mississippi; or

2614 (ii) Elects to receive compensation for that
2615 elective office in an amount not to exceed twenty-five percent
2616 (25%) of the retiree's average compensation. In order to receive
2617 compensation as allowed in this subparagraph, the retiree shall
2618 file annually, in writing, in the office of the employer and the
2619 office of the executive director of the system, an election to
2620 receive, in addition to a retirement allowance, compensation as
2621 allowed in this subparagraph.



2622 (b) The municipality or county in which the retired
2623 person holds elective office shall pay to the board the amount of
2624 the employer's contributions on the full amount of the regular
2625 compensation for the elective office that the retired person
2626 holds.

2627 (c) As used in this subsection, the term "compensation"
2628 does not include office expense allowance, mileage or travel
2629 expense authorized by a statute of the State of Mississippi.

2630 **SECTION 24.** Section 25-11-129, Mississippi Code of 1972, is
2631 brought forward as follows:

2632 25-11-129. (1) The right of a person to an annuity, a
2633 retirement allowance or benefit, or to the return of
2634 contributions, or to any optional benefit or any other right
2635 accrued or accruing to any person under the provisions of Articles
2636 1 and 3, the system and the monies in the system created by said
2637 articles, are hereby exempt from any state, county or municipal ad
2638 valorem taxes, income taxes, premium taxes, privilege taxes,
2639 property taxes, sales and use taxes or other taxes not so named,
2640 notwithstanding any other provision of law to the contrary, and
2641 exempt from levy and sale, garnishment, attachment or any other
2642 process whatsoever, and shall be unassignable except as
2643 specifically otherwise provided in this article and except as
2644 otherwise provided in subsection (2) of this section.

2645 (2) Any retired member or beneficiary receiving a retirement
2646 allowance or benefit under this article may authorize the system



2647 to make deductions from the retirement allowance or benefit for
2648 the payment of employer or system sponsored group life or health
2649 insurance. The deductions authorized under this subsection shall
2650 be subject to rules and regulations adopted by the board.

2651 **SECTION 25.** Section 25-11-131, Mississippi Code of 1972, is
2652 brought forward as follows:

2653 25-11-131. (1) Any person or corporation who shall receive
2654 and retain any payment, after the death of a member or after the
2655 death of the beneficiary of any member, which amount is not
2656 lawfully due, shall be liable for the repayment of such amount to
2657 the retirement system plus interest thereon at ten percent (10%)
2658 per annum plus all costs of collection. Any person who shall
2659 knowingly make any false statement or shall falsify or permit to
2660 be falsified any record or records of this retirement system in
2661 any attempt to defraud such system as a result of such act shall
2662 be guilty of a misdemeanor if the amount obtained or attempted to
2663 be obtained does not exceed the amount of Five Hundred Dollars
2664 (\$500.00), and, on conviction thereof by any court of competent
2665 jurisdiction, shall be punished by a fine not exceeding Five
2666 Hundred Dollars (\$500.00) or imprisonment in the county jail not
2667 exceeding six (6) months, or both; if such amount obtained or
2668 attempted to be obtained shall exceed the sum of Five Hundred
2669 Dollars (\$500.00), such person or persons shall be guilty of a
2670 felony and, on conviction thereof by any court of competent
2671 jurisdiction, shall be punished by a fine not exceeding Ten



2672 Thousand Dollars (\$10,000.00) or by imprisonment in the State
2673 Penitentiary not exceeding five (5) years, or both.

2674 (2) Should any change or error in the records result in any
2675 member or beneficiary receiving from the retirement system more or
2676 less than he would have been entitled to receive had the records
2677 been correct, the board of trustees shall correct such error upon
2678 detection, regardless of the length of time between the reporting
2679 error or the time payment started and the time the board became
2680 aware of the error, and, as far as practicable, adjust the payment
2681 in such a manner that the actuarial equivalent of the benefit to
2682 which such member or beneficiary was correctly entitled shall be
2683 paid. This responsibility is, and has been, the duty of the board
2684 since the creation of the retirement system.

2685 **SECTION 26.** Section 25-11-133, Mississippi Code of 1972, is
2686 brought forward as follows:

2687 25-11-133. (1) The maintenance of actuarial reserves for
2688 the various allowances and benefits under Articles 1 and 3, and
2689 the payment of all annuities, retirement allowances, refunds and
2690 other benefits granted hereunder are made obligations of the
2691 employer's accumulation accounts. All income, interest and
2692 dividends derived from deposits and investments authorized by
2693 those articles shall be used for the payment of the obligations of
2694 the system.

2695 (2) In the event of the termination of the Public Employees'
2696 Retirement System established pursuant to the provisions of



2697 Section 25-11-101 et seq., all members of the system as of the
2698 date of termination of the system shall be deemed to have a vested
2699 right to benefits to the extent and in the same manner that rights
2700 would be vested under the statute existing as of the date of
2701 termination of the system, except that any member who, because of
2702 a termination of the system has not fulfilled the requirements for
2703 length of service, shall nonetheless be entitled to compensation
2704 as of the date that such member would otherwise be eligible, with
2705 such compensation to be computed on the basis of time actually a
2706 member of the service and compensation actually earned during the
2707 time a member, in the manner now provided by statute.

2708 In the event of a deficit in the availability of funds for
2709 payment due under the provisions of the Public Employees'
2710 Retirement System, an appropriation shall be made sufficient for
2711 the payment thereof as an obligation of the state.

2712 (3) (a) Notwithstanding any provisions of this section or
2713 this title to the contrary, the maximum annual retirement
2714 allowance attributable to the employer contributions payable by
2715 the system to a member shall be subject to the limitations set
2716 forth in Section 415 of the Internal Revenue Code and any
2717 regulations issued thereunder as applicable to governmental plans
2718 as the term is defined under Section 414(d) of the Internal
2719 Revenue Code.

2720 (b) The board is authorized to provide by rule or
2721 regulation for the payment of benefits as provided under this



2722 chapter to members or beneficiaries of the retirement system at a
2723 time and under circumstances not otherwise provided for in this
2724 chapter to the extent that the payment is required to maintain the
2725 system as a qualified retirement plan for purposes of federal
2726 income tax laws.

2727 (4) Notwithstanding any other provision of this plan, all
2728 distributions from this plan shall conform to the regulations
2729 issued under Section 401(a)(9) of the Internal Revenue Code,
2730 applicable to governmental plans, as defined in Section 414(d) of
2731 the Internal Revenue Code, including the incidental death benefit
2732 provisions of Section 401(a)(9)(G) of the Internal Revenue Code.
2733 Further, the regulations shall override any plan provision that is
2734 inconsistent with Section 401(a)(9) of the Internal Revenue Code.

2735 (5) The actuarial assumptions used to convert a retirement
2736 allowance from the normal form of payment to an optional form of
2737 payment shall be an appendix to Article 3 and subject to approval
2738 by the board based upon certification by the actuary.

2739 (6) Notwithstanding any other provision of this plan, the
2740 maximum compensation that can be considered for all plan purposes
2741 shall not be greater than that allowed under Section 401(a)(17) of
2742 the Internal Revenue Code.

2743 **SECTION 27.** Section 25-11-135, Mississippi Code of 1972, is
2744 brought forward as follows:



2745 25-11-135. Nothing contained in this article shall be construed as
2746 repealing any existing law of this state providing for the retirement of
2747 teachers, firemen, policemen, or any other public employees.

2748 **SECTION 28.** Section 25-11-137, Mississippi Code of 1972, is
2749 brought forward as follows:

2750 25-11-137. (1) (a) Any law enforcement officer or fireman
2751 who has been covered under this article or under Section 21-29-101
2752 et seq., Section 21-29-201 et seq., or Section 25-13-1 et seq.,
2753 and who changes his employment from one jurisdiction to another
2754 jurisdiction, or has previously made that change, may elect to
2755 transfer retirement service credit earned while covered under the
2756 retirement system of the former jurisdiction to that of the latter
2757 as provided in this section.

2758 (b) Any law enforcement officer or fireman transferring
2759 as described in paragraph (a) of this subsection and having paid
2760 retirement funds under this article or under Section 21-29-101 et
2761 seq., Section 21-29-201 et seq., or Section 25-13-1 et seq., must
2762 pay into the retirement system to which he is transferring the
2763 full amount of employee contributions that he would have paid into
2764 that system if he had been a member of that system for each year
2765 of creditable service that is being transferred, together with
2766 regular interest that would have been earned by that system on
2767 those contributions, and he must also pay, or the system from
2768 which he is transferring must pay, into the system to which he is
2769 being transferred, an amount equal to that which the employer



2770 would have paid if he had been a member of that system for each
2771 year transferred, together with regular interest that would have
2772 been earned by that system on those contributions. The retirement
2773 system from which he is being transferred shall be required to pay
2774 into the system to which he is transferring any funds credited to
2775 his account. Any additional funds that may be required shall be
2776 paid by the person being transferred. Those payments may be made
2777 in quarterly increments. Failure to make these proper adjustment
2778 payments will void any transfer of service credits.

2779 (2) The benefits that are being currently paid by the system
2780 in which the law enforcement officer or fireman has last been a
2781 member, and the requirements for retirement or disability
2782 benefits, shall be those applicable to the officer falling under
2783 the provisions of this section. Any law enforcement officer or
2784 fireman who elects to transfer retirement service credit may
2785 immediately transfer the funds and service as provided for in
2786 subsection (1) of this section; however, the amounts that are
2787 transferred by the law enforcement officer or fireman and his
2788 employer, if applicable, and the service credit related to the
2789 transfer of funds, shall not be used in any benefit calculation or
2790 determination of eligibility for benefits until the person has
2791 remained a contributing member of the retirement system to which
2792 he is transferring for the minimum period necessary to qualify for
2793 a monthly retirement allowance or benefit. Upon the complete
2794 transfer and payment of that credit, all time spent in the covered



2795 law enforcement or fire department service, as noted above, within
2796 and for the State of Mississippi or the political subdivisions
2797 thereof, shall apply to the time required by law necessary to
2798 effect the retirement or disability of the officer.

2799 **SECTION 29.** Section 25-11-139, Mississippi Code of 1972, is
2800 brought forward as follows:

2801 25-11-139. Any retirement allowance or other annuity or
2802 benefit provided by Articles 1 and 3 shall be paid in equal
2803 monthly installments for life and shall not be increased,
2804 decreased, revoked or repealed, except for error upon detection,
2805 regardless of the length of time between the reporting error or
2806 the time payment started and the time the board became aware of
2807 the error, or except where specifically otherwise provided by said
2808 articles. This responsibility is, and has been, the duty of the
2809 board since the creation of the retirement system.

2810 Pursuant to Section 25-11-111, Mississippi Code of 1972, it
2811 is and has been the sole responsibility of the member or
2812 beneficiary thereof to apply for benefits and no benefits shall be
2813 paid for any period prior to the first of the month following the
2814 receipt of such application for such benefits, but in no event
2815 prior to termination of employment, except as authorized in
2816 Section 25-11-114.

2817 **SECTION 30.** Section 25-11-141, Mississippi Code of 1972, is
2818 brought forward as follows:



2819 25-11-141. The board of trustees may enter into an agreement
2820 with insurance companies, hospital service associations, medical
2821 or health care corporations, health maintenance organizations, or
2822 government agencies authorized to do business in the state for
2823 issuance of a policy or contract of life, health, medical,
2824 hospital or surgical benefits, or any combination thereof, for
2825 those persons receiving a service, disability or survivor
2826 retirement allowance from any system administered by the board.
2827 Notwithstanding any other provision of this chapter, the policy or
2828 contract also may include coverage for the spouse and dependent
2829 children of such eligible person and for such sponsored dependents
2830 as the board considers appropriate. If all or any portion of the
2831 policy or contract premium is to be paid by any person receiving a
2832 service, disability or survivor retirement allowance, such person
2833 shall, by written authorization, instruct the board to deduct from
2834 the retirement allowance the premium cost and to make payments to
2835 such companies, associations, corporations or agencies.

2836 The board may contract for such coverage on the basis that
2837 the cost of the premium for the coverage will be paid by the
2838 person receiving a retirement allowance.

2839 The board is authorized to accept bids for such optional
2840 coverage and benefits and to make all necessary rules pursuant to
2841 the purpose and intent of this section.

2842 **SECTION 31.** This act shall take effect and be in force from
2843 and after July 1, 2021.

