

By: Representatives Newman, Shanks, Bain

To: Appropriations

HOUSE BILL NO. 1023

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

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

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

10 25-11-103. (1) The following words and phrases as used in
11 Articles 1 and 3, unless a different meaning is plainly required
12 by the context, have the following meanings:

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

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



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

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

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

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

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



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



70 or agreement of the employee to retire. Nothing in Section
71 25-3-31 shall affect the calculation of the average compensation
72 of any member for the purposes of this article. The average
73 compensation of any member who retires before July 1, 1992, shall
74 not exceed the annual salary of the Governor.

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



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

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

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

114 (j) "Child" means either a natural child of the member,
115 a child that has been made a child of the member by applicable
116 court action before the death of the member, or a child under the
117 permanent care of the member at the time of the latter's death,
118 which permanent care status shall be determined by evidence
119 satisfactory to the board. For purposes of this paragraph, a



120 natural child of the member is a child of the member that is
121 conceived before the death of the member.

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

143 (i) In the case of constables, the net earnings
144 from their office after deduction of expenses shall apply, except



145 that in no case shall earned compensation be less than the total
146 direct payments made by the state or governmental subdivisions to
147 the official.

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

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

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

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

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



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

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

185 (ix) Except as otherwise provided in this
186 paragraph, the value of any in-kind benefits provided by the
187 employer shall not be included in earned compensation. As used in
188 this subparagraph, "in-kind benefits" shall include, but not be
189 limited to, group life insurance premiums, health or dental
190 insurance premiums, nonpaid major medical and personal leave,
191 employer contributions for social security and retirement, tuition
192 reimbursement or educational funding, day care or transportation
193 benefits.



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

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

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

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

210 (p) "Medical board" means the board of physicians or
211 any governmental or nongovernmental disability determination
212 service designated by the board of trustees that is qualified to
213 make disability determinations as provided for in Section
214 25-11-119.

215 (q) "Member" means any person included in the
216 membership of the system as provided in Section 25-11-105. For
217 purposes of Sections 25-11-103, 25-11-105, 25-11-109, 25-11-111,
218 25-11-113, 25-11-114, 25-11-115 and 25-11-117, if a member of the



219 system withdrew from state service and received a refund of the
220 amount of the accumulated contributions to the credit of the
221 member in the annuity savings account before July 1, 2007, and the
222 person reenters state service and becomes a member of the system
223 again on or after July 1, 2007, and repays all or part of the
224 amount received as a refund and interest in order to receive
225 creditable service for service rendered before July 1, 2007, the
226 member shall be considered to have become a member of the system
227 on or after July 1, 2007, subject to the eight-year membership
228 service requirement, as applicable in those sections. For
229 purposes of Sections 25-11-103, 25-11-111, 25-11-114 and
230 25-11-115, if a member of the system withdrew from state service
231 and received a refund of the amount of the accumulated
232 contributions to the credit of the member in the annuity savings
233 account before July 1, 2011, and the person reenters state service
234 and becomes a member of the system again on or after July 1, 2011,
235 and repays all or part of the amount received as a refund and
236 interest in order to receive creditable service for service
237 rendered before July 1, 2011, the member shall be considered to
238 have become a member of the system on or after July 1, 2011.

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

242 (s) "Position" means any office or any employment in
243 the state service, or two (2) or more of them, the duties of which



244 call for services to be rendered by one (1) person, including
245 positions jointly employed by federal and state agencies
246 administering federal and state funds. The employer shall
247 determine upon initial employment and during the course of
248 employment of an employee who does not meet the criteria for
249 coverage in the Public Employees' Retirement System based on the
250 position held, whether the employee is or becomes eligible for
251 coverage in the Public Employees' Retirement System based upon any
252 other employment in a covered agency or political subdivision. If
253 or when the employee meets the eligibility criteria for coverage
254 in the other position, then the employer must withhold
255 contributions and report wages from the noncovered position in
256 accordance with the provisions for reporting of earned
257 compensation. Failure to deduct and report those contributions
258 shall not relieve the employee or employer of liability thereof.
259 The board shall adopt such rules and regulations as necessary to
260 implement and enforce this provision.

261 (t) "Prior service" means:

262 (i) For persons who became members of the system
263 before July 1, 2007, and any first responder regardless of when he
264 or she became a member of the system, service rendered before
265 February 1, 1953, for which credit is allowable under Sections
266 25-11-105 and 25-11-109, and which shall allow prior service for
267 any person who is now or becomes a member of the Public Employees'



268 Retirement System and who does contribute to the system for a
269 minimum period of four (4) years.

270 (ii) For persons who became members of the system
271 on or after July 1, 2007, service rendered before February 1,
272 1953, for which credit is allowable under Sections 25-11-105 and
273 25-11-109, and which shall allow prior service for any person who
274 is now or becomes a member of the Public Employees' Retirement
275 System and who does contribute to the system for a minimum period
276 of eight (8) years.

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

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



291 (w) "Retroactive service" means service rendered after
292 February 1, 1953, for which credit is allowable under Section
293 25-11-105(b) and Section 25-11-105(k).

294 (x) "System" means the Public Employees' Retirement
295 System of Mississippi established and described in Section
296 25-11-101.

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

299 (z) "State service" means all offices and positions of
300 trust or employment in the employ of the state, or any political
301 subdivision or instrumentality of the state, that elect to
302 participate as provided by Section 25-11-105(f), including the
303 position of elected or fee officials of the counties and their
304 deputies and employees performing public services or any
305 department, independent agency, board or commission thereof, and
306 also includes all offices and positions of trust or employment in
307 the employ of joint state and federal agencies administering state
308 and federal funds and service rendered by employees of the public
309 schools. Effective July 1, 1973, all nonprofessional public
310 school employees, such as bus drivers, janitors, maids,
311 maintenance workers and cafeteria employees, shall have the option
312 to become members in accordance with Section 25-11-105(b), and
313 shall be eligible to receive credit for services before July 1,
314 1973, provided that the contributions and interest are paid by the
315 employee in accordance with that section; in addition, the county



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

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

326 (bb) "First responder" has the meaning as defined in
327 Section 25-15-403.

328 (* * *cc) The masculine pronoun, wherever used,
329 includes the feminine pronoun.

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

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

335 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

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

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



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

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

354 (b) All persons who become employees in the state
355 service after January 31, 1953, except those specifically excluded
356 or as to whom election is provided in Articles 1 and 3, unless
357 they file with the board before the lapse of sixty (60) days of
358 employment or sixty (60) days after the effective date of the
359 cited articles, whichever is later, on a form prescribed by the
360 board, a notice of election not to be covered by the membership of
361 the retirement system and a duly executed waiver of all present
362 and prospective benefits that would otherwise inure to them on
363 account of their participation in the system, shall become members
364 of the retirement system; however, no credit for prior service
365 will be granted to members who became members of the system before



366 July 1, 2007, or to any first responder regardless of when he or
367 she became a member of the system, until they have contributed to
368 Article 3 of the retirement system for a minimum period of at
369 least four (4) years, or to members who became members of the
370 system on or after July 1, 2007, until they have contributed to
371 Article 3 of the retirement system for a minimum period of at
372 least eight (8) years. Those members shall receive credit for
373 services performed before January 1, 1953, in employment now
374 covered by Article 3, but no credit shall be granted for
375 retroactive services between January 1, 1953, and the date of
376 their entry into the retirement system, unless the employee pays
377 into the retirement system both the employer's and the employee's
378 contributions on wages paid him during the period from January 31,
379 1953, to the date of his becoming a contributing member, together
380 with interest at the rate determined by the board of trustees.
381 Members reentering after withdrawal from service shall qualify for
382 prior service under the provisions of Section 25-11-117. From and
383 after July 1, 1998, upon eligibility as noted above, the member
384 may receive credit for such retroactive service provided:

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

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



391 each year of that creditable service. The provisions of this
392 subparagraph (ii) shall be subject to the limitations of Section
393 415 of the Internal Revenue Code and regulations promulgated under
394 Section 415.

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

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

405 (d) All persons who are employees in the state service
406 on January 31, 1953, and who are members of any nonfunded
407 retirement system operated by the State of Mississippi, or any of
408 its departments or agencies, shall become members of this system
409 with prior service credit unless, before February 1, 1953, they
410 file a written notice with the board of trustees that they do not
411 elect to become members.

412 (e) All persons who are employees in the state service
413 on January 31, 1953, and who under existing laws are members of
414 any fund operated for the retirement of employees by the State of
415 Mississippi, or any of its departments or agencies, shall not be



416 entitled to membership in this retirement system unless, before
417 February 1, 1953, any such person indicates by a notice filed with
418 the board, on a form prescribed by the board, his individual
419 election and choice to participate in this system, but no such
420 person shall receive prior service credit unless he becomes a
421 member on or before February 1, 1953.

422 (f) Each political subdivision of the state and each
423 instrumentality of the state or a political subdivision, or both,
424 is authorized to submit, for approval by the board of trustees, a
425 plan for extending the benefits of this article to employees of
426 any such political subdivision or instrumentality. Each such plan
427 or any amendment to the plan for extending benefits thereof shall
428 be approved by the board of trustees if it finds that the plan, or
429 the plan as amended, is in conformity with such requirements as
430 are provided in Articles 1 and 3; however, upon approval of the
431 plan or any such plan previously approved by the board of
432 trustees, the approved plan shall not be subject to cancellation
433 or termination by the political subdivision or instrumentality.
434 No such plan shall be approved unless:

435 (i) It provides that all services that constitute
436 employment as defined in Section 25-11-5 and are performed in the
437 employ of the political subdivision or instrumentality, by any
438 employees thereof, shall be covered by the plan, with the
439 exception of municipal employees who are already covered by



440 existing retirement plans; however, those employees in this class
441 may elect to come under the provisions of this article;

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

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

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

455 (v) It authorizes the board of trustees to
456 terminate the plan in its entirety in the discretion of the board
457 if it finds that there has been a failure to comply substantially
458 with any provision contained in the plan, the termination to take
459 effect at the expiration of such notice and on such conditions as
460 may be provided by regulations of the board and as may be
461 consistent with applicable federal law.

462 1. The board of trustees shall not finally
463 refuse to approve a plan submitted under paragraph (f), and shall
464 not terminate an approved plan without reasonable notice and



465 opportunity for hearing to each political subdivision or
466 instrumentality affected by the board's decision. The board's
467 decision in any such case shall be final, conclusive and binding
468 unless an appeal is taken by the political subdivision or
469 instrumentality aggrieved by the decision to the Circuit Court of
470 the First Judicial District of Hinds County, Mississippi, in
471 accordance with the provisions of law with respect to civil causes
472 by certiorari.

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

480 3. Every political subdivision or
481 instrumentality required to make payments under paragraph (f)(v)2
482 of this section is authorized, in consideration of the employees'
483 retention in or entry upon employment after enactment of Articles
484 1 and 3, to impose upon its employees, as to services that are
485 covered by an approved plan, a contribution with respect to wages
486 (as defined in Section 25-11-5) not exceeding the amount provided
487 in Section 25-11-123(d) if those services constituted employment
488 within the meaning of Articles 1 and 3, and to deduct the amount
489 of the contribution from the wages as and when paid.



490 Contributions so collected shall be paid into the contribution
491 fund as partial discharge of the liability of the political
492 subdivisions or instrumentalities under paragraph (f)(v)2 of this
493 section. Failure to deduct the contribution shall not relieve the
494 employee or employer of liability for the contribution.

495 4. Any state agency, school, political
496 subdivision, instrumentality or any employer that is required to
497 submit contribution payments or wage reports under any section of
498 this chapter shall be assessed interest on delinquent payments or
499 wage reports as determined by the board of trustees in accordance
500 with rules and regulations adopted by the board and delinquent
501 payments, assessed interest and any other amount certified by the
502 board as owed by an employer, may be recovered by action in a
503 court of competent jurisdiction against the reporting agency
504 liable therefor or may, upon due certification of delinquency and
505 at the request of the board of trustees, be deducted from any
506 other monies payable to the reporting agency by any department or
507 agency of the state.

508 5. Each political subdivision of the state
509 and each instrumentality of the state or a political subdivision
510 or subdivisions that submit a plan for approval of the board, as
511 provided in this section, shall reimburse the board for coverage
512 into the expense account, its pro rata share of the total expense
513 of administering Articles 1 and 3 as provided by regulations of
514 the board.



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

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

527 (i) If any member of this system changes his employment
528 to any agency of the state having an actuarially funded retirement
529 system, the board of trustees may authorize the transfer of the
530 member's creditable service and of the present value of the
531 member's employer's accumulation account and of the present value
532 of the member's accumulated membership contributions to that other
533 system, provided that the employee agrees to the transfer of his
534 accumulated membership contributions and provided that the other
535 system is authorized to receive and agrees to make the transfer.

536 If any member of any other actuarially funded system
537 maintained by an agency of the state changes his employment to an
538 agency covered by this system, the board of trustees may authorize
539 the receipt of the transfer of the member's creditable service and



540 of the present value of the member's employer's accumulation
541 account and of the present value of the member's accumulated
542 membership contributions from the other system, provided that the
543 employee agrees to the transfer of his accumulated membership
544 contributions to this system and provided that the other system is
545 authorized and agrees to make the transfer.

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

549 (k) Employees of a political subdivision or
550 instrumentality who were employed by the political subdivision or
551 instrumentality before an agreement between the entity and the
552 Public Employees' Retirement System to extend the benefits of this
553 article to its employees, and which agreement provides for the
554 establishment of retroactive service credit, and who became
555 members of the retirement system before July 1, 2007, or any first
556 responder regardless of when he or she became a member of the
557 system, and have remained contributors to the retirement system
558 for four (4) years, or who became members of the retirement system
559 on or after July 1, 2007, and have remained contributors to the
560 retirement system for eight (8) years, may receive credit for that
561 retroactive service with the political subdivision or
562 instrumentality, provided that the employee and/or employer, as
563 provided under the terms of the modification of the joinder
564 agreement in allowing that coverage, pay into the retirement



565 system the employer's and employee's contributions on wages paid
566 the member during the previous employment, together with interest
567 or actuarial cost as determined by the board covering the period
568 from the date the service was rendered until the payment for the
569 credit for the service was made. Those wages shall be verified by
570 the Social Security Administration or employer payroll records.
571 Effective July 1, 1998, upon eligibility as noted above, a member
572 may receive credit for that retroactive service with the political
573 subdivision or instrumentality provided:

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

579 (ii) The member shall pay to the retirement system
580 on the date he or she is eligible for that credit or at any time
581 thereafter before the date of retirement the actuarial cost for
582 each year of that creditable service. The provisions of this
583 subparagraph (ii) shall be subject to the limitations of Section
584 415 of the Internal Revenue Code and regulations promulgated under
585 Section 415.

586 Nothing contained in this paragraph (k) shall be construed to
587 limit the authority of the board to allow the correction of
588 reporting errors or omissions based on the payment of employee and
589 employer contributions plus applicable interest. Payment for that



590 time shall be made beginning with the most recent service. Upon
591 the payment of all or part of the required contributions, plus
592 interest or the actuarial cost as provided above, the member shall
593 receive credit for the period of creditable service for which full
594 payment has been made to the retirement system.

595 (l) Through June 30, 1998, any state service eligible
596 for retroactive service credit, no part of which has ever been
597 reported, and requiring the payment of employee and employer
598 contributions plus interest, or, from and after July 1, 1998, any
599 state service eligible for retroactive service credit, no part of
600 which has ever been reported to the retirement system, and
601 requiring the payment of the actuarial cost for that creditable
602 service, may, at the member's option, be purchased in quarterly
603 increments as provided above at the time that its purchase is
604 otherwise allowed.

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

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

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

612 (a) Patient or inmate help in state charitable, penal
613 or correctional institutions;



614 (b) Students of any state educational institution
615 employed by any agency of the state for temporary, part-time or
616 intermittent work;

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

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

624 **III. TERMINATION OF MEMBERSHIP**

625 Membership in this system shall cease by a member withdrawing
626 his accumulated contributions, or by a member withdrawing from
627 active service with a retirement allowance, or by a member's
628 death.

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

631 25-11-109. (1) Under such rules and regulations as the
632 board of trustees shall adopt, each person who becomes a member of
633 this retirement system, as provided in Section 25-11-105, on or
634 before July 1, 1953, or who became a member of the system before
635 July 1, 2007, or any first responder regardless of when he or she
636 became a member of the system, and contributes to the system for a
637 minimum period of four (4) years, or who became a member of the
638 system on or after July 1, 2007, and contributes to the system for



639 a minimum period of eight (8) years, shall receive credit for all
640 state service rendered before February 1, 1953. To receive that
641 credit, the member shall file a detailed statement of all services
642 as an employee rendered by him in the state service before
643 February 1, 1953. For any member who joined the system after July
644 1, 1953, and before July 1, 2007, or any first responder
645 regardless of when he or she became a member of the system, any
646 creditable service for which the member is not required to make
647 contributions shall not be credited to the member until the member
648 has contributed to the system for a minimum period of at least
649 four (4) years. For any member who joined the system on or after
650 July 1, 2007, any creditable service for which the member is not
651 required to make contributions shall not be credited to the member
652 until the member has contributed to the system for a minimum
653 period of at least eight (8) years.

654 (2) (a) (i) In the computation of creditable service for
655 service rendered before July 1, 2017, under the provisions of this
656 article, the total months of accumulative service during any
657 fiscal year shall be calculated in accordance with the schedule as
658 follows: ten (10) or more months of creditable service during any
659 fiscal year shall constitute a year of creditable service; seven
660 (7) months to nine (9) months inclusive, three-quarters (3/4) of a
661 year of creditable service; four (4) months to six (6) months
662 inclusive, one-half (1/2) year of creditable service; one (1)



663 month to three (3) months inclusive, one-quarter (1/4) of a year
664 of creditable service.

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

669 (b) In no case shall credit be allowed for any period
670 of absence without compensation except for disability while in
671 receipt of a disability retirement allowance, nor shall less than
672 fifteen (15) days of service in any month, or service less than
673 the equivalent of one-half (1/2) of the normal working load for
674 the position and less than one-half (1/2) of the normal
675 compensation for the position in any month, constitute a month of
676 creditable service, nor shall more than one (1) year of service be
677 creditable for all services rendered in any one (1) fiscal year;
678 however, for a school employee, substantial completion of the
679 legal school term when and where the service was rendered shall
680 constitute a year of service credit. Any state or local elected
681 official shall be deemed a full-time employee for the purpose of
682 creditable service. However, an appointed or elected official
683 compensated on a per diem basis only shall not be allowed
684 creditable service for terms of office.

685 (c) In the computation of any retirement allowance or
686 any annuity or benefits provided in this article, any fractional
687 period of service of less than one (1) year shall be taken into



688 account and a proportionate amount of such retirement allowance,
689 annuity or benefit shall be granted for any such fractional period
690 of service.

691 (d) (i) In the computation of unused leave for
692 creditable service authorized in Section 25-11-103, the following
693 shall govern for members who retire before July 1, 2017:
694 twenty-one (21) days of unused leave shall constitute one (1)
695 month of creditable service and in no case shall credit be allowed
696 for any period of unused leave of less than fifteen (15) days.
697 The number of months of unused leave shall determine the number of
698 quarters or years of creditable service in accordance with the
699 above schedule for membership and prior service.

700 (ii) In the computation of unused leave for
701 creditable service authorized in Section 25-11-103, the following
702 shall govern for members who retire on or after July 1, 2017:
703 creditable service for unused leave shall be calculated in monthly
704 increments in which one (1) month of service credit shall be
705 awarded for each twenty-one (21) days of unused leave, except that
706 the first fifteen (15) to fifty-seven (57) days of leave shall
707 constitute three (3) months of service for those who became a
708 member of the system before July 1, 2017.

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



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

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

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

727 (ii) For service on and after July 1, 1984, the
728 member shall receive credit for personal and major medical leave
729 beginning July 1, 1984, at the rates authorized in Sections
730 25-3-93 and 25-3-95, computed as a full-time employee.

731 (iii) If a member is employed in a covered
732 nonelected position and a covered elected position simultaneously,
733 that member may not receive service credit for accumulated unused
734 leave for both positions at retirement for the period during which
735 the member was dually employed. During the period during which
736 the member is dually employed, the member shall only receive



737 credit for leave as provided for in this paragraph for an elected
738 official.

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

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

754 When membership ceases, such prior service certificates shall
755 become void. Should the employee again become a member, he shall
756 enter the system as an employee not entitled to prior service
757 credit except as provided in Sections 25-11-105(I), 25-11-113 and
758 25-11-117.

759 (5) Creditable service at retirement, on which the
760 retirement allowance of a member shall be based, shall consist of
761 the membership service rendered by him since he last became a



762 member, and also, if he has a prior service certificate that is in
763 full force and effect, the amount of the service certified on his
764 prior service certificate.

765 (6) Any member who served on active duty in the Armed Forces
766 of the United States, who served in the Commissioned Corps of the
767 United States Public Health Service before 1972 or who served in
768 maritime service during periods of hostility in World War II,
769 shall be entitled to creditable service at no cost for his service
770 on active duty in the Armed Forces, in the Commissioned Corps of
771 the United States Public Health Service before 1972 or in such
772 maritime service, provided he entered state service after his
773 discharge from the Armed Forces or entered state service after he
774 completed such maritime service. The maximum period for such
775 creditable service for all military service as defined in this
776 subsection (6) shall not exceed four (4) years unless positive
777 proof can be furnished by such person that he was retained in the
778 Armed Forces during World War II or in maritime service during
779 World War II by causes beyond his control and without opportunity
780 of discharge. The member shall furnish proof satisfactory to the
781 board of trustees of certification of military service or maritime
782 service records showing dates of entrance into active duty service
783 and the date of discharge. From and after July 1, 1993, no
784 creditable service shall be granted for any military service or
785 maritime service to a member who qualifies for a retirement
786 allowance in another public retirement system administered by the



787 Board of Trustees of the Public Employees' Retirement System
788 based, in whole or in part, on such military or maritime service.
789 In no case shall the member receive creditable service if the
790 member received a dishonorable discharge from the Armed Forces of
791 the United States.

792 (7) (a) Any member of the Public Employees' Retirement
793 System whose membership service is interrupted as a result of
794 qualified military service within the meaning of Section 414(u) (5)
795 of the Internal Revenue Code, and who has received the maximum
796 service credit available under subsection (6) of this section,
797 shall receive creditable service for the period of qualified
798 military service that does not qualify as creditable service under
799 subsection (6) of this section upon reentering membership service
800 in an amount not to exceed five (5) years if:

801 (i) The member pays the contributions he would
802 have made to the retirement system if he had remained in
803 membership service for the period of qualified military service
804 based upon his salary at the time his membership service was
805 interrupted;

806 (ii) The member returns to membership service
807 within ninety (90) days of the end of his qualified military
808 service; and

809 (iii) The employer at the time the member's
810 service was interrupted and to which employment the member returns
811 pays the contributions it would have made into the retirement



812 system for such period based on the member's salary at the time
813 the service was interrupted.

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

819 (c) The member shall furnish proof satisfactory to the
820 board of trustees of certification of military service showing
821 dates of entrance into qualified service and the date of discharge
822 as well as proof that the member has returned to active employment
823 within the time specified.

824 (8) Any member of the Public Employees' Retirement System
825 who became a member of the system before July 1, 2007, or any
826 first responder regardless of when he or she became a
827 member of the system, and who has at least four (4) years of
828 membership service credit, or who became a member of the system on
829 or after July 1, 2007, and who has at least eight (8) years of
830 membership service credit, shall be entitled to receive a maximum
831 of five (5) years' creditable service for service rendered in
832 another state as a public employee of such other state, or a
833 political subdivision, public education system or other
834 governmental instrumentality thereof, or service rendered as a
835 teacher in American overseas dependent schools conducted by the
836 Armed Forces of the United States for children of citizens of the



837 United States residing in areas outside the continental United
838 States, provided that:

839 (a) The member shall furnish proof satisfactory to the
840 board of trustees of certification of such services from the
841 state, public education system, political subdivision or
842 retirement system of the state where the services were performed
843 or the governing entity of the American overseas dependent school
844 where the services were performed; and

845 (b) The member is not receiving or will not be entitled
846 to receive from the public retirement system of the other state or
847 from any other retirement plan, including optional retirement
848 plans, sponsored by the employer, a retirement allowance including
849 such services; and

850 (c) The member shall pay to the retirement system on
851 the date he or she is eligible for credit for such out-of-state
852 service or at any time thereafter before the date of retirement
853 the actuarial cost as determined by the actuary for each year of
854 out-of-state creditable service. The provisions of this
855 subsection are subject to the limitations of Section 415 of the
856 Internal Revenue Code and regulations promulgated under that
857 section.

858 (9) Any member of the Public Employees' Retirement System
859 who became a member of the system before July 1, 2007, or any
860 first responder regardless of when he or she became a member of
861 the system, and has at least four (4) years of membership service



862 credit, or who became a member of the system on or after July 1,
863 2007, and has at least eight (8) years of membership service
864 credit, and who receives, or has received, professional leave
865 without compensation for professional purposes directly related to
866 the employment in state service shall receive creditable service
867 for the period of professional leave without compensation
868 provided:

869 (a) The professional leave is performed with a public
870 institution or public agency of this state, or another state or
871 federal agency;

872 (b) The employer approves the professional leave
873 showing the reason for granting the leave and makes a
874 determination that the professional leave will benefit the
875 employee and employer;

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

878 (d) The employee shall serve the employer on a
879 full-time basis for a period of time equivalent to the
880 professional leave period granted immediately following the
881 termination of the leave period;

882 (e) The contributing member shall pay to the retirement
883 system the actuarial cost as determined by the actuary for each
884 year of professional leave. The provisions of this subsection are
885 subject to the regulations of the Internal Revenue Code
886 limitations;



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

890 Any actively contributing member participating in the School
891 Administrator Sabbatical Program established in Section 37-9-77
892 shall qualify for continued participation under this subsection
893 (9).

894 (10) Any member of the Public Employees' Retirement System
895 who became a member of the system before July 1, 2007, or any
896 first responder regardless of when he or she became a member of
897 the system, and has at least four (4) years of credited membership
898 service, or who became a member of the system on or after July 1,
899 2007, and has at least eight (8) years of credited membership
900 service, shall be entitled to receive a maximum of ten (10) years
901 creditable service for:

902 (a) Any service rendered as an employee of any
903 political subdivision of this state, or any instrumentality
904 thereof, that does not participate in the Public Employees'
905 Retirement System; or

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

910 (c) Any service rendered as an employee of any
911 political subdivision of this state, or any instrumentality



912 thereof, for which coverage of the employee's position was or is
913 excluded; provided that the member pays into the retirement system
914 the actuarial cost as determined by the actuary for each year, or
915 portion thereof, of such service. After a member has made full
916 payment to the retirement system for all or any part of such
917 service, the member shall receive creditable service for the
918 period of such service for which full payment has been made to the
919 retirement system.

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

922 25-11-111. (a) (1) Any member who became a member of the
923 system before July 1, 2007, or any first responder regardless of
924 when he or she became a member of the system, upon withdrawal from
925 service upon or after attainment of the age of sixty (60) years
926 who has completed at least four (4) years of membership service,
927 or any member who became a member of the system before July 1,
928 2011, upon withdrawal from service regardless of age who has
929 completed at least twenty-five (25) years of creditable service,
930 shall be entitled to receive a retirement allowance, which shall
931 begin on the first of the month following the date the member's
932 application for the allowance is received by the board, but in no
933 event before withdrawal from service.

934 (2) Any member who became a member of the system on or
935 after July 1, 2007, upon withdrawal from service upon or after
936 attainment of the age of sixty (60) years who has completed at



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

945 (b) (1) Any member who became a member of the system before
946 July 1, 2007, or any first responder regardless of when he or she
947 became a member of the system, whose withdrawal from service
948 occurs before attaining the age of sixty (60) years who has
949 completed four (4) or more years of membership service and has not
950 received a refund of his accumulated contributions, shall be
951 entitled to receive a retirement allowance, beginning upon his
952 attaining the age of sixty (60) years, of the amount earned and
953 accrued at the date of withdrawal from service. The retirement
954 allowance shall begin on the first of the month following the date
955 the member's application for the allowance is received by the
956 board, but in no event before withdrawal from service.

957 (2) Any member who became a member of the system on or
958 after July 1, 2007, whose withdrawal from service occurs before
959 attaining the age of sixty (60) years who has completed eight (8)
960 or more years of membership service and has not received a refund
961 of his accumulated contributions, shall be entitled to receive a



962 retirement allowance, beginning upon his attaining the age of
963 sixty (60) years, of the amount earned and accrued at the date of
964 withdrawal from service. The retirement allowance shall begin on
965 the first of the month following the date the member's application
966 for the allowance is received by the board, but in no event before
967 withdrawal from service.

968 (c) Any member in service who has qualified for retirement
969 benefits may select any optional method of settlement of
970 retirement benefits by notifying the Executive Director of the
971 Board of Trustees of the Public Employees' Retirement System in
972 writing, on a form prescribed by the board, of the option he has
973 selected and by naming the beneficiary of the option and
974 furnishing necessary proof of age. The option, once selected, may
975 be changed at any time before actual retirement or death, but upon
976 the death or retirement of the member, the optional settlement
977 shall be placed in effect upon proper notification to the
978 executive director.

979 (d) Any member who became a member of the system before July
980 1, 2011, shall be entitled to an annual retirement allowance which
981 shall consist of:

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



986 (2) An employer's annuity, which, together with the
987 member's annuity provided above, shall be equal to two percent
988 (2%) of the average compensation for each year of service up to
989 and including twenty-five (25) years of creditable service, and
990 two and one-half percent (2-1/2%) of the average compensation for
991 each year of service exceeding twenty-five (25) years of
992 creditable service.

993 (3) Any retired member or beneficiary thereof who was
994 eligible to receive a retirement allowance before July 1, 1991,
995 and who is still receiving a retirement allowance on July 1, 1992,
996 shall receive an increase in the annual retirement allowance of
997 the retired member equal to one-eighth of one percent (1/8 of 1%)
998 of the average compensation for each year of state service in
999 excess of twenty-five (25) years of membership service up to and
1000 including thirty (30) years. The maximum increase shall be
1001 five-eighths of one percent (5/8 of 1%). In no case shall a
1002 member who has been retired before July 1, 1987, receive less than
1003 Ten Dollars (\$10.00) per month for each year of creditable service
1004 and proportionately for each quarter year thereof. Persons
1005 retired on or after July 1, 1987, shall receive at least Ten
1006 Dollars (\$10.00) per month for each year of service and
1007 proportionately for each quarter year thereof reduced for the
1008 option selected. However, such Ten Dollars (\$10.00) minimum per
1009 month for each year of creditable service shall not apply to a



1010 retirement allowance computed under Section 25-11-114 based on a
1011 percentage of the member's average compensation.

1012 (e) Any member who became a member of the system on or after
1013 July 1, 2011, shall be entitled to an annual retirement allowance
1014 which shall consist of:

1015 (1) A member's annuity, which shall be the actuarial
1016 equivalent of the accumulated contributions of the member at the
1017 time of retirement computed according to the actuarial table in
1018 use by the system; and

1019 (2) An employer's annuity, which, together with the
1020 member's annuity provided above, shall be equal to two percent
1021 (2%) of the average compensation for each year of service up to
1022 and including thirty (30) years of creditable service, and two and
1023 one-half percent (2-1/2%) of average compensation for each year of
1024 service exceeding thirty (30) years of creditable service.

1025 (f) Any member who became a member of the system on or after
1026 July 1, 2011, upon withdrawal from service upon or after attaining
1027 the age of sixty (60) years who has completed at least eight (8)
1028 years of membership service, or any such member upon withdrawal
1029 from service regardless of age who has completed at least thirty
1030 (30) years of creditable service, shall be entitled to receive a
1031 retirement allowance computed in accordance with the formula set
1032 forth in subsection (e) of this section. In the case of the
1033 retirement of any member who has attained age sixty (60) but who
1034 has not completed at least thirty (30) years of creditable



1035 service, the retirement allowance shall be computed in accordance
1036 with the formula set forth in subsection (e) of this section
1037 except that the total annual retirement allowance shall be reduced
1038 by an actuarial equivalent factor for each year of creditable
1039 service below thirty (30) years or the number of years in age that
1040 the member is below age sixty-five (65), whichever is less.

1041 (g) No member, except members excluded by the Age
1042 Discrimination in Employment Act Amendments of 1986 (Public Law
1043 99-592), under either Article 1 or Article 3 in state service
1044 shall be required to retire because of age.

1045 (h) No payment on account of any benefit granted under the
1046 provisions of this section shall become effective or begin to
1047 accrue until January 1, 1953.

1048 (i) (1) A retiree or beneficiary may, on a form prescribed
1049 by and filed with the retirement system, irrevocably waive all or
1050 a portion of any benefits from the retirement system to which the
1051 retiree or beneficiary is entitled. The waiver shall be binding
1052 on the heirs and assigns of any retiree or beneficiary and the
1053 same must agree to forever hold harmless the Public Employees'
1054 Retirement System of Mississippi from any claim to the waived
1055 retirement benefits.

1056 (2) Any waiver under this subsection shall apply only
1057 to the person executing the waiver. A beneficiary shall be
1058 entitled to benefits according to the option selected by the
1059 member at the time of retirement. However, a beneficiary may, at



1060 the option of the beneficiary, execute a waiver of benefits under
1061 this subsection.

1062 (3) The retirement system shall retain in the annuity
1063 reserve account amounts that are not used to pay benefits because
1064 of a waiver executed under this subsection.

1065 (4) The board of trustees may provide rules and
1066 regulations for the administration of waivers under this
1067 subsection.

1068 **SECTION 5.** Section 25-11-113, Mississippi Code of 1972, is
1069 amended as follows:

1070 25-11-113. (1) (a) Upon the application of a member or his
1071 employer, any active member in state service who became a member
1072 of the system before July 1, 2007, or any first responder
1073 regardless of when he or she became a member of the system, and
1074 who has at least four (4) years of membership service credit, or
1075 any active member in state service who became a member of the
1076 system on or after July 1, 2007, who has at least eight (8) years
1077 of membership service credit, may be retired by the board of
1078 trustees on the first of the month following the date of filing
1079 the application on a disability retirement allowance, but in no
1080 event shall the disability retirement allowance begin before
1081 termination of state service, provided that the medical board,
1082 after an evaluation of medical evidence that may or may not
1083 include an actual physical examination by the medical board,
1084 certifies that the member is mentally or physically incapacitated



1085 for the further performance of duty, that the incapacity is likely
1086 to be permanent, and that the member should be retired; however,
1087 the board of trustees may accept a disability medical
1088 determination from the Social Security Administration in lieu of a
1089 certification from the medical board. If a member who has been
1090 approved for a disability retirement allowance does not terminate
1091 state service within ninety (90) days after approval, the
1092 disability retirement and the application for disability
1093 retirement shall be void. For the purposes of disability
1094 determination, the medical board shall apply the following
1095 definition of disability: the inability to perform the usual
1096 duties of employment or the incapacity to perform such lesser
1097 duties, if any, as the employer, in its discretion, may assign
1098 without material reduction in compensation, or the incapacity to
1099 perform the duties of any employment covered by the Public
1100 Employees' Retirement System (Section 25-11-101 et seq.) that is
1101 actually offered and is within the same general territorial work
1102 area, without material reduction in compensation. The employer
1103 shall be required to furnish the job description and duties of the
1104 member. The employer shall further certify whether the employer
1105 has offered the member other duties and has complied with the
1106 applicable provisions of the Americans With Disabilities Act in
1107 affording reasonable accommodations that would allow the employee
1108 to continue employment.



1109 (b) Any member applying for a disability retirement
1110 allowance must provide sufficient objective medical evidence in
1111 support of his or her claim. All disability determinations,
1112 whether the initial examination or reexamination, shall be based
1113 on objective medical evidence. "Objective medical evidence" means
1114 reports of examinations or treatments; medical signs that are
1115 anatomical, physiological, or psychological abnormalities that are
1116 observed and documented by medical professionals; psychiatric
1117 signs that are medically demonstrable phenomena indicating
1118 specific abnormalities of behavior, affect, thought, memory,
1119 orientation, or contact with reality; or laboratory findings that
1120 are anatomical, physiological, or psychological phenomena that are
1121 shown by medically acceptable laboratory diagnostic techniques,
1122 including, but not limited to, chemical tests, electrocardiograms,
1123 electroencephalograms, X-rays, and psychological tests.
1124 Nonmedical information shall not be considered objective medical
1125 evidence.

1126 (c) Any inactive member who became a member of the
1127 system before July 1, 2007, or any first responder regardless of
1128 when he or she became a member of the system, with four (4) or
1129 more years of membership service credit, or any inactive member
1130 who became a member of the system on or after July 1, 2007, with
1131 eight (8) or more years of membership service credit, who has
1132 withdrawn from active state service, is not eligible for a
1133 disability retirement allowance unless the disability occurs



1134 within six (6) months of the termination of active service and
1135 unless satisfactory proof is presented to the board of trustees
1136 that the disability was the direct cause of withdrawal from state
1137 service. Application for a disability retirement allowance must
1138 be filed within one (1) year of termination from active service.
1139 This period may be extended by an additional year if it can be
1140 factually demonstrated to the satisfaction of the board of
1141 trustees that throughout the initial one-year period the member
1142 was incapable of applying for benefits by reason of mental or
1143 physical impairment as certified by a medical doctor.

1144 (d) Any member who is or becomes eligible for service
1145 retirement benefits under Section 25-11-111 while pursuing a
1146 disability retirement allowance under this section or Section
1147 25-11-114 may elect to receive a service retirement allowance
1148 pending a final determination on eligibility for a disability
1149 retirement allowance or withdrawal of the application for the
1150 disability retirement allowance. In such a case, an application
1151 for a disability retirement allowance must be on file with the
1152 system before the beginning of a service retirement allowance. If
1153 the application is approved, the option selected and beneficiary
1154 designated on the retirement application shall be used to
1155 determine the disability retirement allowance. If the application
1156 is not approved or if the application is withdrawn, the service
1157 retirement allowance shall continue to be paid in accordance with
1158 the option selected. No person may apply for a disability



1159 retirement allowance after the person begins to receive a service
1160 retirement allowance.

1161 (e) If the medical board certifies that the member is
1162 not mentally or physically incapacitated for the future
1163 performance of duty, the member may request, within sixty (60)
1164 days, a hearing before the hearing officer as provided in Section
1165 25-11-120. All hearings shall be held in accordance with rules
1166 and regulations adopted by the board to govern those hearings.
1167 The hearing may be closed upon the request of the member.

1168 (f) The medical board may request additional medical
1169 evidence and/or other physicians to conduct an evaluation of the
1170 member's condition. If the medical board requests additional
1171 medical evidence and the member refuses the request, the
1172 application shall be considered void.

1173 (2) Allowance on disability retirement.

1174 (a) Upon retirement for disability, an eligible member
1175 shall receive a retirement allowance if he has attained the age of
1176 sixty (60) years.

1177 (b) Except as provided in paragraph (c) of this
1178 subsection (2), an eligible member who is retired for disability
1179 and who has not attained sixty (60) years of age shall receive a
1180 disability benefit as computed in Section 25-11-111(d), which
1181 shall consist of:



1182 (i) A member's annuity, which shall be the
1183 actuarial equivalent of his accumulated contributions at the time
1184 of retirement; and

1185 (ii) An employer's annuity equal to the amount
1186 that would have been payable as a retirement allowance for
1187 eligible creditable service if the member had continued in service
1188 to the age of sixty (60) years, which shall apply to the allowance
1189 for disability retirement paid to retirees receiving such
1190 allowance upon and after April 12, 1977. This employer's annuity
1191 shall be computed on the basis of the average "earned
1192 compensation" as defined in Section 25-11-103.

1193 (c) For persons who become members after June 30, 1992,
1194 and for active members on June 30, 1992, who elect benefits under
1195 this paragraph (c) instead of those provided under paragraph (b)
1196 of this subsection (2), the disability allowance shall consist of
1197 two (2) parts: a temporary allowance and a deferred allowance.

1198 The temporary allowance shall equal the greater of (i) forty
1199 percent (40%) of average compensation at the time of disability,
1200 plus ten percent (10%) of average compensation for each of the
1201 first two (2) dependent children, as defined in Sections 25-11-103
1202 and 25-11-114, or (ii) the accrued benefit based on actual
1203 service. It shall be payable for a period of time based on the
1204 member's age at disability, as follows:

1205	Age at Disability	Duration
1206	60 and earlier	to age 65



1207	61	to age 66
1208	62	to age 66
1209	63	to age 67
1210	64	to age 67
1211	65	to age 68
1212	66	to age 68
1213	67	to age 69
1214	68	to age 70
1215	69 and over	one year

1216 The deferred allowance shall begin when the temporary
1217 allowance ends and shall be payable for life. The deferred
1218 allowance shall equal the greater of (i) the allowance that would
1219 have been payable had the member continued in service to the
1220 termination age of the temporary allowance, but no more than forty
1221 percent (40%) of average compensation, or (ii) the accrued benefit
1222 based on actual service at the time of disability. The deferred
1223 allowance as determined at the time of disability shall be
1224 adjusted in accordance with Section 25-11-112 for the period
1225 during which the temporary annuity is payable. In no case shall a
1226 member receive less than Ten Dollars (\$10.00) per month for each
1227 year of service and proportionately for each quarter year thereof
1228 reduced for the option selected.

1229 (d) The member may elect to receive the actuarial
1230 equivalent of the disability retirement allowance in a reduced



1231 allowance payable throughout life under any of the provisions of
1232 the options provided under Section 25-11-115.

1233 (e) If a disability retiree who has not selected an
1234 option under Section 25-11-115 dies before being repaid in
1235 disability benefits the sum of his total contributions, then his
1236 named beneficiary shall receive the difference in cash, which
1237 shall apply to all deceased disability retirees from and after
1238 January 1, 1953.

1239 (3) Reexamination of retirees retired on account of
1240 disability. Except as otherwise provided in this section, once
1241 each year during the first five (5) years following retirement of
1242 a member on a disability retirement allowance, and once in every
1243 period of three (3) years thereafter, the board of trustees may,
1244 and upon his application shall, require any disability retiree who
1245 has not yet attained the age of sixty (60) years or the
1246 termination age of the temporary allowance under subsection (2)(c)
1247 of this section to undergo a medical examination, the examination
1248 to be made at the place of residence of the retiree or other place
1249 mutually agreed upon by a physician or physicians designated by
1250 the board. The board, however, in its discretion, may authorize
1251 the medical board to establish reexamination schedules appropriate
1252 to the medical condition of individual disability retirees. If
1253 any disability retiree who has not yet attained the age of sixty
1254 (60) years or the termination age of the temporary allowance under
1255 subsection (2)(c) of this section refuses to submit to any medical



1256 examination provided in this section, his allowance may be
1257 discontinued until his withdrawal of that refusal; and if his
1258 refusal continues for one (1) year, all his rights to a disability
1259 benefit shall be revoked by the board of trustees.

1260 (4) If the medical board reports and certifies to the board
1261 of trustees, after a comparable job analysis or other similar
1262 study, that the disability retiree is engaged in, or is able to
1263 engage in, a gainful occupation paying more than the difference
1264 between his disability allowance, exclusive of cost-of-living
1265 adjustments, and the average compensation, and if the board of
1266 trustees concurs in the report, the disability benefit shall be
1267 reduced to an amount that, together with the amount earnable by
1268 him, equals the amount of his average compensation. If his
1269 earning capacity is later changed, the amount of the benefit may
1270 be further modified, provided that the revised benefit shall not
1271 exceed the amount originally granted. A retiree receiving a
1272 disability benefit who is restored to active service at a salary
1273 less than the average compensation shall not become a member of
1274 the retirement system.

1275 (5) If a disability retiree under the age of sixty (60)
1276 years or the termination age of the temporary allowance under
1277 subsection (2) (c) of this section is restored to active service at
1278 a compensation not less than his average compensation, his
1279 disability benefit shall end, he shall again become a member of
1280 the retirement system, and contributions shall be withheld and



1281 reported. Any such prior service certificate, on the basis of
1282 which his service was computed at the time of retirement, shall be
1283 restored to full force and effect. In addition, upon his later
1284 retirement he shall be credited with all creditable service as a
1285 member, but the total retirement allowance paid to the retired
1286 member in his previous retirement shall be deducted from his
1287 retirement reserve and taken into consideration in recalculating
1288 the retirement allowance under a new option selected.

1289 (6) If following reexamination in accordance with the
1290 provisions contained in this section, the medical board determines
1291 that a retiree retired on account of disability is physically and
1292 mentally able to return to the employment from which he is
1293 retired, the board of trustees, upon certification of those
1294 findings from the medical board, shall, after a reasonable period
1295 of time, terminate the disability allowance, whether or not the
1296 retiree is reemployed or seeks that reemployment. In addition, if
1297 the board of trustees determines that the retiree is no longer
1298 sustaining a loss of income as established by documented evidence
1299 of the retiree's earned income, the eligibility for a disability
1300 allowance shall terminate and the allowance terminated within a
1301 reasonable period of time. If the retirement allowance is
1302 terminated under the provisions of this section, the retiree may
1303 later qualify for a retirement allowance under Section 25-11-111
1304 based on actual years of service credit plus credit for the period
1305 during which a disability allowance was paid.



1306 (7) Any current member as of June 30, 1992, who retires on a
1307 disability retirement allowance after June 30, 1992, and who has
1308 not elected to receive benefits under subsection (2)(c) of this
1309 section, shall relinquish all rights under the Age Discrimination
1310 in Employment Act of 1967, as amended, with regard to the benefits
1311 payable under this section.

1312 **SECTION 6.** Section 25-11-114, Mississippi Code of 1972, is
1313 amended as follows:

1314 25-11-114. (1) The applicable benefits provided in
1315 subsections (2) and (3) of this section shall be paid to eligible
1316 beneficiaries of any member who became a member of the system
1317 before July 1, 2007, or any first responder regardless of when he
1318 or she became a member of the system, and has completed four (4)
1319 or more years of membership service, or who became a member of the
1320 system on or after July 1, 2007, and has completed eight (8) or
1321 more years of membership service, and who dies before retirement
1322 and who has not filed a Pre-Retirement Optional Retirement Form as
1323 provided in Section 25-11-111.

1324 (2) (a) The surviving spouse of a member who dies before
1325 retirement shall receive a monthly benefit computed in accordance
1326 with paragraph (d) of this subsection (2) as if the member had
1327 nominated his spouse as beneficiary if:

1328 (i) The member completed the requisite minimum
1329 number of years of membership service to qualify for a retirement
1330 allowance at age sixty (60);



1331 (ii) The spouse has been married to the member for
1332 not less than one (1) year preceding the death of the member;

1333 (iii) The member has not exercised any other
1334 option.

1335 (b) If, at the time of the member's death, there are no
1336 dependent children, and the surviving spouse, who otherwise would
1337 receive the annuity under this subsection (2), has filed with the
1338 system a signed written waiver of his or her rights to the annuity
1339 and that waiver was in effect at the time of the member's death, a
1340 lump-sum distribution of the deceased member's accumulated
1341 contributions shall be refunded in accordance with Section
1342 25-11-117.

1343 (c) The spouse annuity shall begin on the first day of
1344 the month following the date of the member's death, but in case of
1345 late filing, retroactive payments will be made for a period of not
1346 more than one (1) year.

1347 (d) The spouse of a member who is eligible to receive a
1348 monthly benefit under paragraph (a) of this subsection (2) shall
1349 receive a benefit for life equal to the higher of the following:

1350 (i) The greater of twenty percent (20%) of the
1351 deceased member's average compensation as defined in Section
1352 25-11-103 at the time of death or Fifty Dollars (\$50.00) monthly;
1353 or

1354 (ii) Benefits calculated under Option 2 of Section
1355 25-11-115. The method of calculating the retirement benefits



1356 shall be on the same basis as provided in Section 25-11-111(d) or
1357 (e), as applicable. However, if the member dies before being
1358 qualified for a full, unreduced retirement allowance, then the
1359 benefits shall be reduced by an actuarially determined percentage
1360 or factor based on the lesser of either the number of years of
1361 service credit or the number of years in age required to qualify
1362 for a full, unreduced retirement allowance in Section 25-11-111(d)
1363 or (e), as applicable.

1364 (e) The surviving spouse of a deceased member who
1365 previously received spouse retirement benefits under paragraph
1366 (d)(i) of this subsection from and after July 1, 1992, and whose
1367 benefits were terminated before July 1, 2004, because of
1368 remarriage, may again receive the retirement benefits authorized
1369 under paragraph (d)(i) of this subsection by making application
1370 with the board to reinstate those benefits. Any reinstatement of
1371 the benefits shall be prospective only and shall begin after the
1372 first of the month following the date of the application for
1373 reinstatement, but no earlier than July 1, 2004. From and after
1374 July 1, 2010, any spouse who chose Option 2 from and after July 1,
1375 1992, but before July 1, 2004, where the benefit, although payable
1376 for life, was less than the benefit available under the
1377 calculation in paragraph (d)(i) of this subsection shall have his
1378 or her benefit increased to the amount which provides the greater
1379 benefit.



1380 (3) (a) Subject to the maximum limitation provided in this
1381 paragraph, the member's dependent children each shall receive an
1382 annuity of the greater of ten percent (10%) of the member's
1383 average compensation as defined in Section 25-11-103 at the time
1384 of the death of the member or Fifty Dollars (\$50.00) monthly;
1385 however, if there are more than three (3) dependent children, each
1386 dependent child shall receive an equal share of a total annuity
1387 equal to thirty percent (30%) of the member's average
1388 compensation, provided that the total annuity shall not be less
1389 than One Hundred Fifty Dollars (\$150.00) per month for all
1390 children.

1391 (b) A child shall be considered to be a dependent child
1392 until marriage, or the attainment of age nineteen (19), whichever
1393 comes first; however, this age limitation shall be extended beyond
1394 age nineteen (19), but in no event beyond the attainment of age
1395 twenty-three (23), as long as the child is a student regularly
1396 pursuing a full-time course of resident study or training in an
1397 accredited high school, trade school, technical or vocational
1398 institute, junior or community college, college, university or
1399 comparable recognized educational institution duly licensed by a
1400 state. A student child who is receiving a retirement allowance as
1401 of June 30, 2016, whose birthday falls during the school year
1402 (September 1 through June 30) is considered not to reach age
1403 twenty-three (23) until the July 1 following the actual
1404 twenty-third birthday. A full-time course of resident study or



1405 training means a day or evening noncorrespondence course that
1406 includes school attendance at the rate of at least thirty-six (36)
1407 weeks per academic year or other applicable period with a subject
1408 load sufficient, if successfully completed, to attain the
1409 educational or training objective within the period generally
1410 accepted as minimum for completion, by a full-time day student, of
1411 the academic or training program concerned. Any child who is
1412 physically or mentally incompetent, as adjudged by either a
1413 Mississippi court of competent jurisdiction or by the board, shall
1414 receive benefits for as long as the incompetency exists.

1415 (c) If there are more than three (3) dependent
1416 children, upon a child's ceasing to be a dependent child, his
1417 annuity shall terminate and there shall be a redetermination of
1418 the amounts payable to any remaining dependent children.

1419 (d) Annuities payable under this subsection (3) shall
1420 begin the first day of the month following the date of the
1421 member's death or in case of late filing, retroactive payments
1422 will be made for a period of not more than one (1) year. Those
1423 benefits may be paid to a surviving parent or the lawful custodian
1424 of a dependent child for the use and benefit of the child without
1425 the necessity of appointment as guardian.

1426 (4) (a) Death benefits in the line of duty. Regardless of
1427 the number of years of the member's creditable service, the spouse
1428 and/or the dependent children of an active member who is killed or
1429 dies as a direct result of a physical injury sustained from an



1430 accident or a traumatic event caused by external violence or
1431 physical force occurring in the line of performance of duty shall
1432 qualify, on approval of the board, for a retirement allowance on
1433 the first of the month following the date of death, but in the
1434 case of late filing, retroactive payments will be made for a
1435 period of not more than one (1) year. The spouse shall receive a
1436 retirement allowance for life equal to one-half (1/2) of the
1437 average compensation as defined in Section 25-11-103. In addition
1438 to the retirement allowance for the spouse, or if there is no
1439 surviving spouse, the member's dependent child shall receive a
1440 retirement allowance in the amount of one-fourth (1/4) of the
1441 member's average compensation as defined in Section 25-11-103;
1442 however, if there are two (2) or more dependent children, each
1443 dependent child shall receive an equal share of a total annuity
1444 equal to one-half (1/2) of the member's average compensation. If
1445 there are more than two (2) dependent children, upon a child's
1446 ceasing to be a dependent child, his annuity shall terminate and
1447 there shall be a redetermination of the amounts payable to any
1448 remaining dependent children. Those benefits shall cease to be
1449 paid for the support and maintenance of each child upon the child
1450 attaining the age of nineteen (19) years; however, the spouse
1451 shall continue to be eligible for the aforesaid retirement
1452 allowance. Those benefits may be paid to a surviving parent or
1453 lawful custodian of the children for the use and benefit of the
1454 children without the necessity of appointment as guardian. Any



1455 spouse who received spouse retirement benefits under this
1456 paragraph (a) from and after April 4, 1984, and whose benefits
1457 were terminated before July 1, 2004, because of remarriage, may
1458 again receive the retirement benefits authorized under this
1459 paragraph (a) by making application with the board to reinstate
1460 those benefits. Any reinstatement of the benefits shall be
1461 prospective only and shall begin after the first of the month
1462 following the date of the application for reinstatement, but not
1463 earlier than July 1, 2004.

1464 (b) A child shall be considered to be a dependent child
1465 until marriage, or the attainment of age nineteen (19), whichever
1466 comes first; however, this age limitation shall be extended beyond
1467 age nineteen (19), but in no event beyond the attainment of age
1468 twenty-three (23), as long as the child is a student regularly
1469 pursuing a full-time course of resident study or training in an
1470 accredited high school, trade school, technical or vocational
1471 institute, junior or community college, college, university or
1472 comparable recognized educational institution duly licensed by a
1473 state. A student child who is receiving a retirement allowance as
1474 of June 30, 2016, whose birthday falls during the school year
1475 (September 1 through June 30) is considered not to reach age
1476 twenty-three (23) until the July 1 following the actual
1477 twenty-third birthday. A full-time course of resident study or
1478 training means a day or evening noncorrespondence course that
1479 includes school attendance at the rate of at least thirty-six (36)



1480 weeks per academic year or other applicable period with a subject
1481 load sufficient, if successfully completed, to attain the
1482 educational or training objective within the period generally
1483 accepted as minimum for completion, by a full-time day student, of
1484 the academic or training program concerned. Any child who is
1485 physically or mentally incompetent, as adjudged by either a
1486 Mississippi court of competent jurisdiction or by the board, shall
1487 receive benefits for as long as the incompetency exists.

1488 (5) If all the annuities provided for in this section
1489 payable on account of the death of a member terminate before there
1490 has been paid an aggregate amount equal to the member's
1491 accumulated contributions standing to the member's credit in the
1492 annuity savings account at the time of the member's death, the
1493 difference between the accumulated contributions and the aggregate
1494 amount of annuity payments shall be paid to the person that the
1495 member has nominated by written designation duly executed and
1496 filed with the board. If there is no designated beneficiary
1497 surviving at termination of benefits, the difference shall be
1498 payable under Section 25-11-117.1(1).

1499 (6) Regardless of the number of years of creditable service,
1500 upon the application of a member or employer, any active member
1501 who becomes disabled as a direct result of a physical injury
1502 sustained from an accident or traumatic event caused by external
1503 violence or physical force occurring in the line of performance of
1504 duty, provided that the medical board or other designated



1505 governmental agency after a medical examination certifies that the
1506 member is mentally or physically incapacitated for the further
1507 performance of duty and the incapacity is likely to be permanent,
1508 may be retired by the board of trustees on the first of the month
1509 following the date of filing the application but in no event shall
1510 the retirement allowance begin before the termination of state
1511 service. If a member who has been approved for a retirement
1512 allowance under this subsection does not terminate state service
1513 within ninety (90) days after the approval, the retirement
1514 allowance and the application for the allowance shall be void.
1515 The retirement allowance shall equal the allowance on disability
1516 retirement as provided in Section 25-11-113 but shall not be less
1517 than fifty percent (50%) of average compensation. Line of duty
1518 disability benefits under this section shall be administered in
1519 accordance with the provisions of Section 25-11-113(1)(b), (c),
1520 (d), (e) and (f), (3), (4), (5) and (6).

1521 (7) For purposes of determining death or disability benefits
1522 under this section, the following shall apply:

1523 (a) Death or permanent and total disability resulting
1524 from a cardiovascular, pulmonary or musculoskeletal condition that
1525 was not a direct result of a physical injury sustained from an
1526 accident or a traumatic event caused by external violence or
1527 physical force occurring in the performance of duty shall be
1528 deemed a natural death or an ordinary disability.



1529 (b) A mental disability based exclusively on employment
1530 duties occurring on an ongoing basis shall be deemed an ordinary
1531 disability.

1532 (8) If the deceased or disabled member has less than four
1533 (4) years of membership service, the average compensation as
1534 defined in Section 25-11-103 shall be the average of all annual
1535 earned compensation in state service for the purposes of benefits
1536 provided in this section.

1537 (9) In case of death or total and permanent disability under
1538 subsection (4) or subsection (6) of this section and before the
1539 board shall consider any application for a retirement allowance,
1540 the employer must certify to the board that the member's death or
1541 disability was a direct result of an accident or a traumatic event
1542 occurring during and as a result of the performance of the regular
1543 and assigned duties of the employee and that the death or
1544 disability was not the result of the willful negligence of the
1545 employee.

1546 (10) The application for the retirement allowance must be
1547 filed within one (1) year after death of an active member who is
1548 killed in the line of performance of duty or dies as a direct
1549 result of an accident occurring in the line of performance of duty
1550 or traumatic event; but the board of trustees may consider an
1551 application for disability filed after the one-year period if it
1552 can be factually demonstrated to the satisfaction of the board of
1553 trustees that the disability is due to the accident and that the



1554 filing was not accomplished within the one-year period due to a
1555 delayed manifestation of the disability or to circumstances beyond
1556 the control of the member. However, in case of late filing,
1557 retroactive payments will be made for a period of not more than
1558 one (1) year only.

1559 (11) (a) Notwithstanding any other section of this article
1560 and in lieu of any payments to a designated beneficiary for a
1561 refund of contributions under Section 25-11-117, the spouse and/or
1562 children shall be eligible for the benefits payable under this
1563 section, and the spouse may elect, for both the spouse and/or
1564 children, to receive benefits in accordance with either
1565 subsections (2) and (3) or subsection (4) of this section;
1566 otherwise, the contributions to the credit of the deceased member
1567 shall be refunded in accordance with Section 25-11-117.

1568 (b) Notwithstanding any other section of this article,
1569 a spouse who is entitled to receive a monthly benefit under either
1570 subsection (2) or (4) of this section and who is also the named
1571 beneficiary for a refund of accumulated contributions in the
1572 member's annuity savings account, may, after the death of the
1573 member, elect to receive a refund of accumulated contributions in
1574 lieu of a monthly allowance, provided that there are no dependent
1575 children entitled to benefits under subsection (3) of this
1576 section.

1577 (12) If the member has previously received benefits from the
1578 system to which he was not entitled and has not repaid in full all



1579 amounts payable by him to the system, the annuity amounts
1580 otherwise provided by this section shall be withheld and used to
1581 effect repayment until the total of the withholdings repays in
1582 full all amounts payable by him to the system.

1583 **SECTION 7.** This act shall take effect and be in force from
1584 and after July 1, 2022.

