

By: Representatives Shanks, Newman, Boyd, Calvert, Ford (54th), Massengill, McLeod, Powell, Scoggin, Smith, Weathersby, Yancey

To: Appropriations

HOUSE BILL NO. 1024

1 AN ACT TO AMEND SECTIONS 25-11-103, 25-11-105, 25-11-109,
2 25-11-111, 25-11-113, 25-11-114, 25-11-117, 25-11-311 AND
3 25-11-315, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE NUMBER OF
4 YEARS OF MEMBERSHIP SERVICE REQUIRED TO VEST IN THE PUBLIC
5 EMPLOYEES' RETIREMENT SYSTEM FOR ALL MEMBERS REGARDLESS OF THE
6 DATE UPON WHICH THEY BECAME A MEMBER SHALL BE FOUR YEARS; AND FOR
7 RELATED PURPOSES.

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

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

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

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

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



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

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

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

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

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



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



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

76 (g) "Beneficiary" means any person entitled to receive
77 a retirement allowance, an annuity or other benefit as provided by
78 Articles 1 and 3. The term "beneficiary" may also include an
79 organization, estate, trust or entity; however, a beneficiary
80 designated or entitled to receive monthly payments under an
81 optional settlement based on life contingency or under a statutory
82 monthly benefit may only be a natural person. In the event of the
83 death before retirement of any member * * * whose spouse and/or
84 children are not entitled to a retirement allowance on the basis
85 that the member has less than four (4) years of membership service
86 credit, * * * and/or has not been married for a minimum of one (1)
87 year or the spouse has waived his or her entitlement to a
88 retirement allowance under Section 25-11-114, the lawful spouse of
89 a member at the time of the death of the member shall be the
90 beneficiary of the member unless the member has designated another
91 beneficiary after the date of marriage in writing, and filed that
92 writing in the office of the executive director of the board of
93 trustees. No designation or change of beneficiary shall be made
94 in any other manner.



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

98 (i) "Creditable service" means "prior service,"
99 "retroactive service" and all lawfully credited unused leave not
100 exceeding the accrual rates and limitations provided in Section
101 25-3-91 et seq., as of the date of withdrawal from service plus
102 "membership service" and other service for which credit is
103 allowable as provided in Section 25-11-109. Except to limit
104 creditable service reported to the system for the purpose of
105 computing an employee's retirement allowance or annuity or
106 benefits provided in this article, nothing in this paragraph shall
107 limit or otherwise restrict the power of the governing authority
108 of a municipality or other political subdivision of the state to
109 adopt such vacation and sick leave policies as it deems necessary.

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

118 (k) "Earned compensation" means the full amount earned
119 during a fiscal year by an employee not to exceed the employee



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

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



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

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

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

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

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

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



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

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

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



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

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

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

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

211 (q) "Member" means any person included in the
212 membership of the system as provided in Section 25-11-105. For
213 purposes of * * * Section 25-11-115 * * *, if a member of the
214 system withdrew from state service and received a refund of the
215 amount of the accumulated contributions to the credit of the
216 member in the annuity savings account before July 1, 2007, and the
217 person reenters state service and becomes a member of the system



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

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

236 (s) "Position" means any office or any employment in
237 the state service, or two (2) or more of them, the duties of which
238 call for services to be rendered by one (1) person, including
239 positions jointly employed by federal and state agencies
240 administering federal and state funds. The employer shall
241 determine upon initial employment and during the course of
242 employment of an employee who does not meet the criteria for



243 coverage in the Public Employees' Retirement System based on the
244 position held, whether the employee is or becomes eligible for
245 coverage in the Public Employees' Retirement System based upon any
246 other employment in a covered agency or political subdivision. If
247 or when the employee meets the eligibility criteria for coverage
248 in the other position, then the employer must withhold
249 contributions and report wages from the noncovered position in
250 accordance with the provisions for reporting of earned
251 compensation. Failure to deduct and report those contributions
252 shall not relieve the employee or employer of liability thereof.
253 The board shall adopt such rules and regulations as necessary to
254 implement and enforce this provision.

255 (t) "Prior service" means * * * service rendered before
256 February 1, 1953, for which credit is allowable under Sections
257 25-11-105 and 25-11-109, and which shall allow prior service for
258 any person who is now or becomes a member of the Public Employees'
259 Retirement System and who does contribute to the system for a
260 minimum period of four (4) years.

261 * * *

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

265 (v) "Retirement allowance" means an annuity for life as
266 provided in this article, payable each year in twelve (12) equal
267 monthly installments beginning as of the date fixed by the board.



268 The retirement allowance shall be calculated in accordance with
269 Section 25-11-111. However, any spouse who received a spouse
270 retirement benefit in accordance with Section 25-11-111(d) before
271 March 31, 1971, and those benefits were terminated because of
272 eligibility for a social security benefit, may again receive his
273 or her spouse retirement benefit from and after making application
274 with the board of trustees to reinstate the spouse retirement
275 benefit.

276 (w) "Retroactive service" means service rendered after
277 February 1, 1953, for which credit is allowable under Section
278 25-11-105(b) and Section 25-11-105(k).

279 (x) "System" means the Public Employees' Retirement
280 System of Mississippi established and described in Section
281 25-11-101.

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

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



293 and federal funds and service rendered by employees of the public
294 schools. Effective July 1, 1973, all nonprofessional public
295 school employees, such as bus drivers, janitors, maids,
296 maintenance workers and cafeteria employees, shall have the option
297 to become members in accordance with Section 25-11-105(b), and
298 shall be eligible to receive credit for services before July 1,
299 1973, provided that the contributions and interest are paid by the
300 employee in accordance with that section; in addition, the county
301 or municipal separate school district may pay the employer
302 contribution and pro rata share of interest of the retroactive
303 service from available funds. "State service" shall not include
304 the President of the Mississippi Lottery Corporation and personnel
305 employed by the Mississippi Lottery Corporation. From and after
306 July 1, 1998, retroactive service credit shall be purchased at the
307 actuarial cost in accordance with Section 25-11-105(b).

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

311 (bb) The masculine pronoun, wherever used, includes the
312 feminine pronoun.

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

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



318 25-11-105. I. **THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

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

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

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

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



343 board, a notice of election not to be covered by the membership of
344 the retirement system and a duly executed waiver of all present
345 and prospective benefits that would otherwise inure to them on
346 account of their participation in the system, shall become members
347 of the retirement system; however, no credit for prior service
348 will be granted to members * * * until they have contributed to
349 Article 3 of the retirement system for a minimum period of at
350 least four (4) years * * *. Those members shall receive credit
351 for services performed before January 1, 1953, in employment now
352 covered by Article 3, but no credit shall be granted for
353 retroactive services between January 1, 1953, and the date of
354 their entry into the retirement system, unless the employee pays
355 into the retirement system both the employer's and the employee's
356 contributions on wages paid him during the period from January 31,
357 1953, to the date of his becoming a contributing member, together
358 with interest at the rate determined by the board of trustees.
359 Members reentering after withdrawal from service shall qualify for
360 prior service under the provisions of Section 25-11-117. From and
361 after July 1, 1998, upon eligibility as noted above, the member
362 may receive credit for such retroactive service provided:

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

366 (ii) The member shall pay to the retirement system
367 on the date he or she is eligible for that credit or at any time



368 thereafter before the date of retirement the actuarial cost for
369 each year of that creditable service. The provisions of this
370 subparagraph (ii) shall be subject to the limitations of Section
371 415 of the Internal Revenue Code and regulations promulgated under
372 Section 415.

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

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

383 (d) All persons who are employees in the state service
384 on January 31, 1953, and who are members of any nonfunded
385 retirement system operated by the State of Mississippi, or any of
386 its departments or agencies, shall become members of this system
387 with prior service credit unless, before February 1, 1953, they
388 file a written notice with the board of trustees that they do not
389 elect to become members.

390 (e) All persons who are employees in the state service
391 on January 31, 1953, and who under existing laws are members of
392 any fund operated for the retirement of employees by the State of



393 Mississippi, or any of its departments or agencies, shall not be
394 entitled to membership in this retirement system unless, before
395 February 1, 1953, any such person indicates by a notice filed with
396 the board, on a form prescribed by the board, his individual
397 election and choice to participate in this system, but no such
398 person shall receive prior service credit unless he becomes a
399 member on or before February 1, 1953.

400 (f) Each political subdivision of the state and each
401 instrumentality of the state or a political subdivision, or both,
402 is authorized to submit, for approval by the board of trustees, a
403 plan for extending the benefits of this article to employees of
404 any such political subdivision or instrumentality. Each such plan
405 or any amendment to the plan for extending benefits thereof shall
406 be approved by the board of trustees if it finds that the plan, or
407 the plan as amended, is in conformity with such requirements as
408 are provided in Articles 1 and 3; however, upon approval of the
409 plan or any such plan previously approved by the board of
410 trustees, the approved plan shall not be subject to cancellation
411 or termination by the political subdivision or instrumentality.
412 No such plan shall be approved unless:

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



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

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

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

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

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

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



443 opportunity for hearing to each political subdivision or
444 instrumentality affected by the board's decision. The board's
445 decision in any such case shall be final, conclusive and binding
446 unless an appeal is taken by the political subdivision or
447 instrumentality aggrieved by the decision to the Circuit Court of
448 the First Judicial District of Hinds County, Mississippi, in
449 accordance with the provisions of law with respect to civil causes
450 by certiorari.

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

458 3. Every political subdivision or
459 instrumentality required to make payments under paragraph (f)(v)2
460 of this section is authorized, in consideration of the employees'
461 retention in or entry upon employment after enactment of Articles
462 1 and 3, to impose upon its employees, as to services that are
463 covered by an approved plan, a contribution with respect to wages
464 (as defined in Section 25-11-5) not exceeding the amount provided
465 in Section 25-11-123(d) if those services constituted employment
466 within the meaning of Articles 1 and 3, and to deduct the amount
467 of the contribution from the wages as and when paid.



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

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

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



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

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

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

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



518 of the present value of the member's employer's accumulation
519 account and of the present value of the member's accumulated
520 membership contributions from the other system, provided that the
521 employee agrees to the transfer of his accumulated membership
522 contributions to this system and provided that the other system is
523 authorized and agrees to make the transfer.

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

527 (k) Employees of a political subdivision or
528 instrumentality who were employed by the political subdivision or
529 instrumentality before an agreement between the entity and the
530 Public Employees' Retirement System to extend the benefits of this
531 article to its employees, and which agreement provides for the
532 establishment of retroactive service credit, and who * * * have
533 been members of the retirement system * * * and have remained
534 contributors to the retirement system for four (4) years, * * *
535 may receive credit for that retroactive service with the political
536 subdivision or instrumentality, provided that the employee and/or
537 employer, as provided under the terms of the modification of the
538 joinder agreement in allowing that coverage, pay into the
539 retirement system the employer's and employee's contributions on
540 wages paid the member during the previous employment, together
541 with interest or actuarial cost as determined by the board
542 covering the period from the date the service was rendered until



543 the payment for the credit for the service was made. Those wages
544 shall be verified by the Social Security Administration or
545 employer payroll records. Effective July 1, 1998, upon
546 eligibility as noted above, a member may receive credit for that
547 retroactive service with the political subdivision or
548 instrumentality provided:

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

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

561 Nothing contained in this paragraph (k) shall be construed to
562 limit the authority of the board to allow the correction of
563 reporting errors or omissions based on the payment of employee and
564 employer contributions plus applicable interest. Payment for that
565 time shall be made beginning with the most recent service. Upon
566 the payment of all or part of the required contributions, plus
567 interest or the actuarial cost as provided above, the member shall



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

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

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

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

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

587 (a) Patient or inmate help in state charitable, penal
588 or correctional institutions;

589 (b) Students of any state educational institution
590 employed by any agency of the state for temporary, part-time or
591 intermittent work;



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

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

599 **III. TERMINATION OF MEMBERSHIP**

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

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

606 25-11-109. (1) Under such rules and regulations as the
607 board of trustees shall adopt, each person who becomes a member of
608 this retirement system, as provided in Section 25-11-105, on or
609 before July 1, 1953, or who * * * becomes a member of the
610 system * * *, and contributes to the system for a minimum period
611 of four (4) years, * * * shall receive credit for all state
612 service rendered before February 1, 1953. To receive that credit,
613 the member shall file a detailed statement of all services as an
614 employee rendered by him in the state service before February 1,
615 1953. For any member who joined the system after July 1,
616 1953, * * * any creditable service for which the member is not



617 required to make contributions shall not be credited to the member
618 until the member has contributed to the system for a minimum
619 period of at least four (4) years. * * *

620 (2) (a) (i) In the computation of creditable service for
621 service rendered before July 1, 2017, under the provisions of this
622 article, the total months of accumulative service during any
623 fiscal year shall be calculated in accordance with the schedule as
624 follows: ten (10) or more months of creditable service during any
625 fiscal year shall constitute a year of creditable service; seven
626 (7) months to nine (9) months inclusive, three-quarters (3/4) of a
627 year of creditable service; four (4) months to six (6) months
628 inclusive, one-half (1/2) year of creditable service; one (1)
629 month to three (3) months inclusive, one-quarter (1/4) of a year
630 of creditable service.

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

635 (b) In no case shall credit be allowed for any period
636 of absence without compensation except for disability while in
637 receipt of a disability retirement allowance, nor shall less than
638 fifteen (15) days of service in any month, or service less than
639 the equivalent of one-half (1/2) of the normal working load for
640 the position and less than one-half (1/2) of the normal
641 compensation for the position in any month, constitute a month of



642 creditable service, nor shall more than one (1) year of service be
643 creditable for all services rendered in any one (1) fiscal year;
644 however, for a school employee, substantial completion of the
645 legal school term when and where the service was rendered shall
646 constitute a year of service credit. Any state or local elected
647 official shall be deemed a full-time employee for the purpose of
648 creditable service. However, an appointed or elected official
649 compensated on a per diem basis only shall not be allowed
650 creditable service for terms of office.

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

657 (d) (i) In the computation of unused leave for
658 creditable service authorized in Section 25-11-103, the following
659 shall govern for members who retire before July 1, 2017:
660 twenty-one (21) days of unused leave shall constitute one (1)
661 month of creditable service and in no case shall credit be allowed
662 for any period of unused leave of less than fifteen (15) days.
663 The number of months of unused leave shall determine the number of
664 quarters or years of creditable service in accordance with the
665 above schedule for membership and prior service.



666 (ii) In the computation of unused leave for
667 creditable service authorized in Section 25-11-103, the following
668 shall govern for members who retire on or after July 1, 2017:
669 creditable service for unused leave shall be calculated in monthly
670 increments in which one (1) month of service credit shall be
671 awarded for each twenty-one (21) days of unused leave, except that
672 the first fifteen (15) to fifty-seven (57) days of leave shall
673 constitute three (3) months of service for those who became a
674 member of the system before July 1, 2017.

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

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

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

689 (i) For service before July 1, 1984, the members
690 shall receive credit for leave (combined personal and major



691 medical) for service as an elected official before that date at
692 the rate of thirty (30) days per year.

693 (ii) For service on and after July 1, 1984, the
694 member shall receive credit for personal and major medical leave
695 beginning July 1, 1984, at the rates authorized in Sections
696 25-3-93 and 25-3-95, computed as a full-time employee.

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

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

709 (4) Upon verification of the statement of prior service, the
710 board shall issue a prior service certificate certifying to each
711 member the length of prior service for which credit shall have
712 been allowed on the basis of his statement of service. So long as
713 membership continues, a prior service certificate shall be final
714 and conclusive for retirement purposes as to such service,
715 provided that any member may within five (5) years from the date



716 of issuance or modification of such certificate request the board
717 of trustees to modify or correct his prior service certificate.
718 Any modification or correction authorized shall only apply
719 prospectively.

720 When membership ceases, such prior service certificates shall
721 become void. Should the employee again become a member, he shall
722 enter the system as an employee not entitled to prior service
723 credit except as provided in Sections 25-11-105(I), 25-11-113 and
724 25-11-117.

725 (5) Creditable service at retirement, on which the
726 retirement allowance of a member shall be based, shall consist of
727 the membership service rendered by him since he last became a
728 member, and also, if he has a prior service certificate that is in
729 full force and effect, the amount of the service certified on his
730 prior service certificate.

731 (6) Any member who served on active duty in the Armed Forces
732 of the United States, who served in the Commissioned Corps of the
733 United States Public Health Service before 1972 or who served in
734 maritime service during periods of hostility in World War II,
735 shall be entitled to creditable service at no cost for his service
736 on active duty in the Armed Forces, in the Commissioned Corps of
737 the United States Public Health Service before 1972 or in such
738 maritime service, provided he entered state service after his
739 discharge from the Armed Forces or entered state service after he
740 completed such maritime service. The maximum period for such



741 creditable service for all military service as defined in this
742 subsection (6) shall not exceed four (4) years unless positive
743 proof can be furnished by such person that he was retained in the
744 Armed Forces during World War II or in maritime service during
745 World War II by causes beyond his control and without opportunity
746 of discharge. The member shall furnish proof satisfactory to the
747 board of trustees of certification of military service or maritime
748 service records showing dates of entrance into active duty service
749 and the date of discharge. From and after July 1, 1993, no
750 creditable service shall be granted for any military service or
751 maritime service to a member who qualifies for a retirement
752 allowance in another public retirement system administered by the
753 Board of Trustees of the Public Employees' Retirement System
754 based, in whole or in part, on such military or maritime service.
755 In no case shall the member receive creditable service if the
756 member received a dishonorable discharge from the Armed Forces of
757 the United States.

758 (7) (a) Any member of the Public Employees' Retirement
759 System whose membership service is interrupted as a result of
760 qualified military service within the meaning of Section 414(u)(5)
761 of the Internal Revenue Code, and who has received the maximum
762 service credit available under subsection (6) of this section,
763 shall receive creditable service for the period of qualified
764 military service that does not qualify as creditable service under



765 subsection (6) of this section upon reentering membership service
766 in an amount not to exceed five (5) years if:

767 (i) The member pays the contributions he would
768 have made to the retirement system if he had remained in
769 membership service for the period of qualified military service
770 based upon his salary at the time his membership service was
771 interrupted;

772 (ii) The member returns to membership service
773 within ninety (90) days of the end of his qualified military
774 service; and

775 (iii) The employer at the time the member's
776 service was interrupted and to which employment the member returns
777 pays the contributions it would have made into the retirement
778 system for such period based on the member's salary at the time
779 the service was interrupted.

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

785 (c) The member shall furnish proof satisfactory to the
786 board of trustees of certification of military service showing
787 dates of entrance into qualified service and the date of discharge
788 as well as proof that the member has returned to active employment
789 within the time specified.



790 (8) Any member of the Public Employees' Retirement
791 System * * * who has at least four (4) years of membership service
792 credit * * * shall be entitled to receive a maximum of five (5)
793 years' creditable service for service rendered in another state as
794 a public employee of such other state, or a political subdivision,
795 public education system or other governmental instrumentality
796 thereof, or service rendered as a teacher in American overseas
797 dependent schools conducted by the Armed Forces of the United
798 States for children of citizens of the United States residing in
799 areas outside the continental United States, provided that:

800 (a) The member shall furnish proof satisfactory to the
801 board of trustees of certification of such services from the
802 state, public education system, political subdivision or
803 retirement system of the state where the services were performed
804 or the governing entity of the American overseas dependent school
805 where the services were performed; and

806 (b) The member is not receiving or will not be entitled
807 to receive from the public retirement system of the other state or
808 from any other retirement plan, including optional retirement
809 plans, sponsored by the employer, a retirement allowance including
810 such services; and

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



815 out-of-state creditable service. The provisions of this
816 subsection are subject to the limitations of Section 415 of the
817 Internal Revenue Code and regulations promulgated under that
818 section.

819 (9) Any member of the Public Employees' Retirement System
820 who * * * has at least four (4) years of membership service
821 credit, * * * and who receives, or has received, professional
822 leave without compensation for professional purposes directly
823 related to the employment in state service shall receive
824 creditable service for the period of professional leave without
825 compensation provided:

826 (a) The professional leave is performed with a public
827 institution or public agency of this state, or another state or
828 federal agency;

829 (b) The employer approves the professional leave
830 showing the reason for granting the leave and makes a
831 determination that the professional leave will benefit the
832 employee and employer;

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

835 (d) The employee shall serve the employer on a
836 full-time basis for a period of time equivalent to the
837 professional leave period granted immediately following the
838 termination of the leave period;



839 (e) The contributing member shall pay to the retirement
840 system the actuarial cost as determined by the actuary for each
841 year of professional leave. The provisions of this subsection are
842 subject to the regulations of the Internal Revenue Code
843 limitations;

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

847 Any actively contributing member participating in the School
848 Administrator Sabbatical Program established in Section 37-9-77
849 shall qualify for continued participation under this subsection
850 (9).

851 (10) Any member of the Public Employees' Retirement System
852 who * * * has at least four (4) years of credited membership
853 service * * * shall be entitled to receive a maximum of ten (10)
854 years creditable service for:

855 (a) Any service rendered as an employee of any
856 political subdivision of this state, or any instrumentality
857 thereof, that does not participate in the Public Employees'
858 Retirement System; or

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



863 (c) Any service rendered as an employee of any
864 political subdivision of this state, or any instrumentality
865 thereof, for which coverage of the employee's position was or is
866 excluded; provided that the member pays into the retirement system
867 the actuarial cost as determined by the actuary for each year, or
868 portion thereof, of such service. After a member has made full
869 payment to the retirement system for all or any part of such
870 service, the member shall receive creditable service for the
871 period of such service for which full payment has been made to the
872 retirement system.

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

875 25-11-111. (a) (1) Any member * * *, upon withdrawal from
876 service upon or after attainment of the age of sixty (60) years
877 who has completed at least four (4) years of membership service,
878 or any member who became a member of the system before July 1,
879 2011, upon withdrawal from service regardless of age who has
880 completed at least twenty-five (25) years of creditable service,
881 shall be entitled to receive a retirement allowance, which shall
882 begin on the first of the month following the date the member's
883 application for the allowance is received by the board, but in no
884 event before withdrawal from service.

885 (2) * * * Any member who became a member of the system
886 on or after July 1, 2011, upon withdrawal from service regardless
887 of age who has completed at least thirty (30) years of creditable



888 service, shall be entitled to receive a retirement allowance,
889 which shall begin on the first of the month following the date the
890 member's application for the allowance is received by the board,
891 but in no event before withdrawal from service.

892 (b) * * * Any member * * * whose withdrawal from service
893 occurs before attaining the age of sixty (60) years who has
894 completed four (4) or more years of membership service and has not
895 received a refund of his accumulated contributions, shall be
896 entitled to receive a retirement allowance, beginning upon his
897 attaining the age of sixty (60) years, of the amount earned and
898 accrued at the date of withdrawal from service. The retirement
899 allowance shall begin on the first of the month following the date
900 the member's application for the allowance is received by the
901 board, but in no event before withdrawal from service.

902 * * *

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



912 shall be placed in effect upon proper notification to the
913 executive director.

914 (d) Any member who became a member of the system before July
915 1, 2011, shall be entitled to an annual retirement allowance which
916 shall consist of:

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

921 (2) An employer's annuity, which, together with the
922 member's annuity provided above, shall be equal to two percent
923 (2%) of the average compensation for each year of service up to
924 and including twenty-five (25) years of creditable service, and
925 two and one-half percent (2-1/2%) of the average compensation for
926 each year of service exceeding twenty-five (25) years of
927 creditable service.

928 (3) Any retired member or beneficiary thereof who was
929 eligible to receive a retirement allowance before July 1, 1991,
930 and who is still receiving a retirement allowance on July 1, 1992,
931 shall receive an increase in the annual retirement allowance of
932 the retired member equal to one-eighth of one percent (1/8 of 1%)
933 of the average compensation for each year of state service in
934 excess of twenty-five (25) years of membership service up to and
935 including thirty (30) years. The maximum increase shall be
936 five-eighths of one percent (5/8 of 1%). In no case shall a



937 member who has been retired before July 1, 1987, receive less than
938 Ten Dollars (\$10.00) per month for each year of creditable service
939 and proportionately for each quarter year thereof. Persons
940 retired on or after July 1, 1987, shall receive at least Ten
941 Dollars (\$10.00) per month for each year of service and
942 proportionately for each quarter year thereof reduced for the
943 option selected. However, such Ten Dollars (\$10.00) minimum per
944 month for each year of creditable service shall not apply to a
945 retirement allowance computed under Section 25-11-114 based on a
946 percentage of the member's average compensation.

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

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

954 (2) An employer's annuity, which, together with the
955 member's annuity provided above, shall be equal to two percent
956 (2%) of the average compensation for each year of service up to
957 and including thirty (30) years of creditable service, and two and
958 one-half percent (2-1/2%) of average compensation for each year of
959 service exceeding thirty (30) years of creditable service.

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



962 the age of sixty (60) years who has completed at least * * * four
963 (4) years of membership service, or any such member upon
964 withdrawal from service regardless of age who has completed at
965 least thirty (30) years of creditable service, shall be entitled
966 to receive a retirement allowance computed in accordance with the
967 formula set forth in subsection (e) of this section. In the case
968 of the retirement of any member who has attained age sixty (60)
969 but who has not completed at least thirty (30) years of creditable
970 service, the retirement allowance shall be computed in accordance
971 with the formula set forth in subsection (e) of this section
972 except that the total annual retirement allowance shall be reduced
973 by an actuarial equivalent factor for each year of creditable
974 service below thirty (30) years or the number of years in age that
975 the member is below age sixty-five (65), whichever is less.

976 (g) No member, except members excluded by the Age
977 Discrimination in Employment Act Amendments of 1986 (Public Law
978 99-592), under either Article 1 or Article 3 in state service
979 shall be required to retire because of age.

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

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



987 on the heirs and assigns of any retiree or beneficiary and the
988 same must agree to forever hold harmless the Public Employees'
989 Retirement System of Mississippi from any claim to the waived
990 retirement benefits.

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

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

1000 (4) The board of trustees may provide rules and
1001 regulations for the administration of waivers under this
1002 subsection.

1003 **SECTION 5.** Section 25-11-113, Mississippi Code of 1972, is
1004 amended as follows:

1005 25-11-113. (1) (a) Upon the application of a member or his
1006 employer, any active member in state service * * * who has at
1007 least four (4) years of membership service credit * * * may be
1008 retired by the board of trustees on the first of the month
1009 following the date of filing the application on a disability
1010 retirement allowance, but in no event shall the disability
1011 retirement allowance begin before termination of state service,



1012 provided that the medical board, after an evaluation of medical
1013 evidence that may or may not include an actual physical
1014 examination by the medical board, certifies that the member is
1015 mentally or physically incapacitated for the further performance
1016 of duty, that the incapacity is likely to be permanent, and that
1017 the member should be retired; however, the board of trustees may
1018 accept a disability medical determination from the Social Security
1019 Administration in lieu of a certification from the medical board.
1020 If a member who has been approved for a disability retirement
1021 allowance does not terminate state service within ninety (90) days
1022 after approval, the disability retirement and the application for
1023 disability retirement shall be void. For the purposes of
1024 disability determination, the medical board shall apply the
1025 following definition of disability: the inability to perform the
1026 usual duties of employment or the incapacity to perform such
1027 lesser duties, if any, as the employer, in its discretion, may
1028 assign without material reduction in compensation, or the
1029 incapacity to perform the duties of any employment covered by the
1030 Public Employees' Retirement System (Section 25-11-101 et seq.)
1031 that is actually offered and is within the same general
1032 territorial work area, without material reduction in compensation.
1033 The employer shall be required to furnish the job description and
1034 duties of the member. The employer shall further certify whether
1035 the employer has offered the member other duties and has complied
1036 with the applicable provisions of the Americans With Disabilities



1037 Act in affording reasonable accommodations that would allow the
1038 employee to continue employment.

1039 (b) Any member applying for a disability retirement
1040 allowance must provide sufficient objective medical evidence in
1041 support of his or her claim. All disability determinations,
1042 whether the initial examination or reexamination, shall be based
1043 on objective medical evidence. "Objective medical evidence" means
1044 reports of examinations or treatments; medical signs that are
1045 anatomical, physiological, or psychological abnormalities that are
1046 observed and documented by medical professionals; psychiatric
1047 signs that are medically demonstrable phenomena indicating
1048 specific abnormalities of behavior, affect, thought, memory,
1049 orientation, or contact with reality; or laboratory findings that
1050 are anatomical, physiological, or psychological phenomena that are
1051 shown by medically acceptable laboratory diagnostic techniques,
1052 including, but not limited to, chemical tests, electrocardiograms,
1053 electroencephalograms, X-rays, and psychological tests.

1054 Nonmedical information shall not be considered objective medical
1055 evidence.

1056 (c) Any inactive member * * * with four (4) or more
1057 years of membership service credit * * * who has withdrawn from
1058 active state service, is not eligible for a disability retirement
1059 allowance unless the disability occurs within six (6) months of
1060 the termination of active service and unless satisfactory proof is
1061 presented to the board of trustees that the disability was the



1062 direct cause of withdrawal from state service. Application for a
1063 disability retirement allowance must be filed within one (1) year
1064 of termination from active service. This period may be extended
1065 by an additional year if it can be factually demonstrated to the
1066 satisfaction of the board of trustees that throughout the initial
1067 one-year period the member was incapable of applying for benefits
1068 by reason of mental or physical impairment as certified by a
1069 medical doctor.

1070 (d) Any member who is or becomes eligible for service
1071 retirement benefits under Section 25-11-111 while pursuing a
1072 disability retirement allowance under this section or Section
1073 25-11-114 may elect to receive a service retirement allowance
1074 pending a final determination on eligibility for a disability
1075 retirement allowance or withdrawal of the application for the
1076 disability retirement allowance. In such a case, an application
1077 for a disability retirement allowance must be on file with the
1078 system before the beginning of a service retirement allowance. If
1079 the application is approved, the option selected and beneficiary
1080 designated on the retirement application shall be used to
1081 determine the disability retirement allowance. If the application
1082 is not approved or if the application is withdrawn, the service
1083 retirement allowance shall continue to be paid in accordance with
1084 the option selected. No person may apply for a disability
1085 retirement allowance after the person begins to receive a service
1086 retirement allowance.



1087 (e) If the medical board certifies that the member is
1088 not mentally or physically incapacitated for the future
1089 performance of duty, the member may request, within sixty (60)
1090 days, a hearing before the hearing officer as provided in Section
1091 25-11-120. All hearings shall be held in accordance with rules
1092 and regulations adopted by the board to govern those hearings.
1093 The hearing may be closed upon the request of the member.

1094 (f) The medical board may request additional medical
1095 evidence and/or other physicians to conduct an evaluation of the
1096 member's condition. If the medical board requests additional
1097 medical evidence and the member refuses the request, the
1098 application shall be considered void.

1099 (2) Allowance on disability retirement.

1100 (a) Upon retirement for disability, an eligible member
1101 shall receive a retirement allowance if he has attained the age of
1102 sixty (60) years.

1103 (b) Except as provided in paragraph (c) of this
1104 subsection (2), an eligible member who is retired for disability
1105 and who has not attained sixty (60) years of age shall receive a
1106 disability benefit as computed in Section 25-11-111(d), which
1107 shall consist of:

1108 (i) A member's annuity, which shall be the
1109 actuarial equivalent of his accumulated contributions at the time
1110 of retirement; and



1111 (ii) An employer's annuity equal to the amount
1112 that would have been payable as a retirement allowance for
1113 eligible creditable service if the member had continued in service
1114 to the age of sixty (60) years, which shall apply to the allowance
1115 for disability retirement paid to retirees receiving such
1116 allowance upon and after April 12, 1977. This employer's annuity
1117 shall be computed on the basis of the average "earned
1118 compensation" as defined in Section 25-11-103.

1119 (c) For persons who become members after June 30, 1992,
1120 and for active members on June 30, 1992, who elect benefits under
1121 this paragraph (c) instead of those provided under paragraph (b)
1122 of this subsection (2), the disability allowance shall consist of
1123 two (2) parts: a temporary allowance and a deferred allowance.

1124 The temporary allowance shall equal the greater of (i) forty
1125 percent (40%) of average compensation at the time of disability,
1126 plus ten percent (10%) of average compensation for each of the
1127 first two (2) dependent children, as defined in Sections 25-11-103
1128 and 25-11-114, or (ii) the accrued benefit based on actual
1129 service. It shall be payable for a period of time based on the
1130 member's age at disability, as follows:

1131	Age at Disability	Duration
1132	60 and earlier	to age 65
1133	61	to age 66
1134	62	to age 66
1135	63	to age 67



1136 64 to age 67
1137 65 to age 68
1138 66 to age 68
1139 67 to age 69
1140 68 to age 70
1141 69 and over one year

1142 The deferred allowance shall begin when the temporary
1143 allowance ends and shall be payable for life. The deferred
1144 allowance shall equal the greater of (i) the allowance that would
1145 have been payable had the member continued in service to the
1146 termination age of the temporary allowance, but no more than forty
1147 percent (40%) of average compensation, or (ii) the accrued benefit
1148 based on actual service at the time of disability. The deferred
1149 allowance as determined at the time of disability shall be
1150 adjusted in accordance with Section 25-11-112 for the period
1151 during which the temporary annuity is payable. In no case shall a
1152 member receive less than Ten Dollars (\$10.00) per month for each
1153 year of service and proportionately for each quarter year thereof
1154 reduced for the option selected.

1155 (d) The member may elect to receive the actuarial
1156 equivalent of the disability retirement allowance in a reduced
1157 allowance payable throughout life under any of the provisions of
1158 the options provided under Section 25-11-115.

1159 (e) If a disability retiree who has not selected an
1160 option under Section 25-11-115 dies before being repaid in



1161 disability benefits the sum of his total contributions, then his
1162 named beneficiary shall receive the difference in cash, which
1163 shall apply to all deceased disability retirees from and after
1164 January 1, 1953.

1165 (3) Reexamination of retirees retired on account of
1166 disability. Except as otherwise provided in this section, once
1167 each year during the first five (5) years following retirement of
1168 a member on a disability retirement allowance, and once in every
1169 period of three (3) years thereafter, the board of trustees may,
1170 and upon his application shall, require any disability retiree who
1171 has not yet attained the age of sixty (60) years or the
1172 termination age of the temporary allowance under subsection (2)(c)
1173 of this section to undergo a medical examination, the examination
1174 to be made at the place of residence of the retiree or other place
1175 mutually agreed upon by a physician or physicians designated by
1176 the board. The board, however, in its discretion, may authorize
1177 the medical board to establish reexamination schedules appropriate
1178 to the medical condition of individual disability retirees. If
1179 any disability retiree who has not yet attained the age of sixty
1180 (60) years or the termination age of the temporary allowance under
1181 subsection (2)(c) of this section refuses to submit to any medical
1182 examination provided in this section, his allowance may be
1183 discontinued until his withdrawal of that refusal; and if his
1184 refusal continues for one (1) year, all his rights to a disability
1185 benefit shall be revoked by the board of trustees.



1186 (4) If the medical board reports and certifies to the board
1187 of trustees, after a comparable job analysis or other similar
1188 study, that the disability retiree is engaged in, or is able to
1189 engage in, a gainful occupation paying more than the difference
1190 between his disability allowance, exclusive of cost-of-living
1191 adjustments, and the average compensation, and if the board of
1192 trustees concurs in the report, the disability benefit shall be
1193 reduced to an amount that, together with the amount earnable by
1194 him, equals the amount of his average compensation. If his
1195 earning capacity is later changed, the amount of the benefit may
1196 be further modified, provided that the revised benefit shall not
1197 exceed the amount originally granted. A retiree receiving a
1198 disability benefit who is restored to active service at a salary
1199 less than the average compensation shall not become a member of
1200 the retirement system.

1201 (5) If a disability retiree under the age of sixty (60)
1202 years or the termination age of the temporary allowance under
1203 subsection (2) (c) of this section is restored to active service at
1204 a compensation not less than his average compensation, his
1205 disability benefit shall end, he shall again become a member of
1206 the retirement system, and contributions shall be withheld and
1207 reported. Any such prior service certificate, on the basis of
1208 which his service was computed at the time of retirement, shall be
1209 restored to full force and effect. In addition, upon his later
1210 retirement he shall be credited with all creditable service as a



1211 member, but the total retirement allowance paid to the retired
1212 member in his previous retirement shall be deducted from his
1213 retirement reserve and taken into consideration in recalculating
1214 the retirement allowance under a new option selected.

1215 (6) If following reexamination in accordance with the
1216 provisions contained in this section, the medical board determines
1217 that a retiree retired on account of disability is physically and
1218 mentally able to return to the employment from which he is
1219 retired, the board of trustees, upon certification of those
1220 findings from the medical board, shall, after a reasonable period
1221 of time, terminate the disability allowance, whether or not the
1222 retiree is reemployed or seeks that reemployment. In addition, if
1223 the board of trustees determines that the retiree is no longer
1224 sustaining a loss of income as established by documented evidence
1225 of the retiree's earned income, the eligibility for a disability
1226 allowance shall terminate and the allowance terminated within a
1227 reasonable period of time. If the retirement allowance is
1228 terminated under the provisions of this section, the retiree may
1229 later qualify for a retirement allowance under Section 25-11-111
1230 based on actual years of service credit plus credit for the period
1231 during which a disability allowance was paid.

1232 (7) Any current member as of June 30, 1992, who retires on a
1233 disability retirement allowance after June 30, 1992, and who has
1234 not elected to receive benefits under subsection (2)(c) of this
1235 section, shall relinquish all rights under the Age Discrimination



1236 in Employment Act of 1967, as amended, with regard to the benefits
1237 payable under this section.

1238 **SECTION 6.** Section 25-11-114, Mississippi Code of 1972, is
1239 amended as follows:

1240 25-11-114. (1) The applicable benefits provided in
1241 subsections (2) and (3) of this section shall be paid to eligible
1242 beneficiaries of any member who * * * has completed four (4) or
1243 more years of membership service * * * and who dies before
1244 retirement and who has not filed a Pre-Retirement Optional
1245 Retirement Form as provided in Section 25-11-111.

1246 (2) (a) The surviving spouse of a member who dies before
1247 retirement shall receive a monthly benefit computed in accordance
1248 with paragraph (d) of this subsection (2) as if the member had
1249 nominated his spouse as beneficiary if:

1250 (i) The member completed the requisite minimum
1251 number of years of membership service to qualify for a retirement
1252 allowance at age sixty (60);

1253 (ii) The spouse has been married to the member for
1254 not less than one (1) year preceding the death of the member;

1255 (iii) The member has not exercised any other
1256 option.

1257 (b) If, at the time of the member's death, there are no
1258 dependent children, and the surviving spouse, who otherwise would
1259 receive the annuity under this subsection (2), has filed with the
1260 system a signed written waiver of his or her rights to the annuity



1261 and that waiver was in effect at the time of the member's death, a
1262 lump-sum distribution of the deceased member's accumulated
1263 contributions shall be refunded in accordance with Section
1264 25-11-117.

1265 (c) The spouse annuity shall begin on the first day of
1266 the month following the date of the member's death, but in case of
1267 late filing, retroactive payments will be made for a period of not
1268 more than one (1) year.

1269 (d) The spouse of a member who is eligible to receive a
1270 monthly benefit under paragraph (a) of this subsection (2) shall
1271 receive a benefit for life equal to the higher of the following:

1272 (i) The greater of twenty percent (20%) of the
1273 deceased member's average compensation as defined in Section
1274 25-11-103 at the time of death or Fifty Dollars (\$50.00) monthly;
1275 or

1276 (ii) Benefits calculated under Option 2 of Section
1277 25-11-115. The method of calculating the retirement benefits
1278 shall be on the same basis as provided in Section 25-11-111(d) or
1279 (e), as applicable. However, if the member dies before being
1280 qualified for a full, unreduced retirement allowance, then the
1281 benefits shall be reduced by an actuarially determined percentage
1282 or factor based on the lesser of either the number of years of
1283 service credit or the number of years in age required to qualify
1284 for a full, unreduced retirement allowance in Section 25-11-111(d)
1285 or (e), as applicable.



1286 (e) The surviving spouse of a deceased member who
1287 previously received spouse retirement benefits under paragraph
1288 (d)(i) of this subsection from and after July 1, 1992, and whose
1289 benefits were terminated before July 1, 2004, because of
1290 remarriage, may again receive the retirement benefits authorized
1291 under paragraph (d)(i) of this subsection by making application
1292 with the board to reinstate those benefits. Any reinstatement of
1293 the benefits shall be prospective only and shall begin after the
1294 first of the month following the date of the application for
1295 reinstatement, but no earlier than July 1, 2004. From and after
1296 July 1, 2010, any spouse who chose Option 2 from and after July 1,
1297 1992, but before July 1, 2004, where the benefit, although payable
1298 for life, was less than the benefit available under the
1299 calculation in paragraph (d)(i) of this subsection shall have his
1300 or her benefit increased to the amount which provides the greater
1301 benefit.

1302 (3) (a) Subject to the maximum limitation provided in this
1303 paragraph, the member's dependent children each shall receive an
1304 annuity of the greater of ten percent (10%) of the member's
1305 average compensation as defined in Section 25-11-103 at the time
1306 of the death of the member or Fifty Dollars (\$50.00) monthly;
1307 however, if there are more than three (3) dependent children, each
1308 dependent child shall receive an equal share of a total annuity
1309 equal to thirty percent (30%) of the member's average
1310 compensation, provided that the total annuity shall not be less



1311 than One Hundred Fifty Dollars (\$150.00) per month for all
1312 children.

1313 (b) A child shall be considered to be a dependent child
1314 until marriage, or the attainment of age nineteen (19), whichever
1315 comes first; however, this age limitation shall be extended beyond
1316 age nineteen (19), but in no event beyond the attainment of age
1317 twenty-three (23), as long as the child is a student regularly
1318 pursuing a full-time course of resident study or training in an
1319 accredited high school, trade school, technical or vocational
1320 institute, junior or community college, college, university or
1321 comparable recognized educational institution duly licensed by a
1322 state. A student child who is receiving a retirement allowance as
1323 of June 30, 2016, whose birthday falls during the school year
1324 (September 1 through June 30) is considered not to reach age
1325 twenty-three (23) until the July 1 following the actual
1326 twenty-third birthday. A full-time course of resident study or
1327 training means a day or evening noncorrespondence course that
1328 includes school attendance at the rate of at least thirty-six (36)
1329 weeks per academic year or other applicable period with a subject
1330 load sufficient, if successfully completed, to attain the
1331 educational or training objective within the period generally
1332 accepted as minimum for completion, by a full-time day student, of
1333 the academic or training program concerned. Any child who is
1334 physically or mentally incompetent, as adjudged by either a



1335 Mississippi court of competent jurisdiction or by the board, shall
1336 receive benefits for as long as the incompetency exists.

1337 (c) If there are more than three (3) dependent
1338 children, upon a child's ceasing to be a dependent child, his
1339 annuity shall terminate and there shall be a redetermination of
1340 the amounts payable to any remaining dependent children.

1341 (d) Annuities payable under this subsection (3) shall
1342 begin the first day of the month following the date of the
1343 member's death or in case of late filing, retroactive payments
1344 will be made for a period of not more than one (1) year. Those
1345 benefits may be paid to a surviving parent or the lawful custodian
1346 of a dependent child for the use and benefit of the child without
1347 the necessity of appointment as guardian.

1348 (4) (a) Death benefits in the line of duty. Regardless of
1349 the number of years of the member's creditable service, the spouse
1350 and/or the dependent children of an active member who is killed or
1351 dies as a direct result of a physical injury sustained from an
1352 accident or a traumatic event caused by external violence or
1353 physical force occurring in the line of performance of duty shall
1354 qualify, on approval of the board, for a retirement allowance on
1355 the first of the month following the date of death, but in the
1356 case of late filing, retroactive payments will be made for a
1357 period of not more than one (1) year. The spouse shall receive a
1358 retirement allowance for life equal to one-half (1/2) of the
1359 average compensation as defined in Section 25-11-103. In addition



1360 to the retirement allowance for the spouse, or if there is no
1361 surviving spouse, the member's dependent child shall receive a
1362 retirement allowance in the amount of one-fourth (1/4) of the
1363 member's average compensation as defined in Section 25-11-103;
1364 however, if there are two (2) or more dependent children, each
1365 dependent child shall receive an equal share of a total annuity
1366 equal to one-half (1/2) of the member's average compensation. If
1367 there are more than two (2) dependent children, upon a child's
1368 ceasing to be a dependent child, his annuity shall terminate and
1369 there shall be a redetermination of the amounts payable to any
1370 remaining dependent children. Those benefits shall cease to be
1371 paid for the support and maintenance of each child upon the child
1372 attaining the age of nineteen (19) years; however, the spouse
1373 shall continue to be eligible for the aforesaid retirement
1374 allowance. Those benefits may be paid to a surviving parent or
1375 lawful custodian of the children for the use and benefit of the
1376 children without the necessity of appointment as guardian. Any
1377 spouse who received spouse retirement benefits under this
1378 paragraph (a) from and after April 4, 1984, and whose benefits
1379 were terminated before July 1, 2004, because of remarriage, may
1380 again receive the retirement benefits authorized under this
1381 paragraph (a) by making application with the board to reinstate
1382 those benefits. Any reinstatement of the benefits shall be
1383 prospective only and shall begin after the first of the month



1384 following the date of the application for reinstatement, but not
1385 earlier than July 1, 2004.

1386 (b) A child shall be considered to be a dependent child
1387 until marriage, or the attainment of age nineteen (19), whichever
1388 comes first; however, this age limitation shall be extended beyond
1389 age nineteen (19), but in no event beyond the attainment of age
1390 twenty-three (23), as long as the child is a student regularly
1391 pursuing a full-time course of resident study or training in an
1392 accredited high school, trade school, technical or vocational
1393 institute, junior or community college, college, university or
1394 comparable recognized educational institution duly licensed by a
1395 state. A student child who is receiving a retirement allowance as
1396 of June 30, 2016, whose birthday falls during the school year
1397 (September 1 through June 30) is considered not to reach age
1398 twenty-three (23) until the July 1 following the actual
1399 twenty-third birthday. A full-time course of resident study or
1400 training means a day or evening noncorrespondence course that
1401 includes school attendance at the rate of at least thirty-six (36)
1402 weeks per academic year or other applicable period with a subject
1403 load sufficient, if successfully completed, to attain the
1404 educational or training objective within the period generally
1405 accepted as minimum for completion, by a full-time day student, of
1406 the academic or training program concerned. Any child who is
1407 physically or mentally incompetent, as adjudged by either a



1408 Mississippi court of competent jurisdiction or by the board, shall
1409 receive benefits for as long as the incompetency exists.

1410 (5) If all the annuities provided for in this section
1411 payable on account of the death of a member terminate before there
1412 has been paid an aggregate amount equal to the member's
1413 accumulated contributions standing to the member's credit in the
1414 annuity savings account at the time of the member's death, the
1415 difference between the accumulated contributions and the aggregate
1416 amount of annuity payments shall be paid to the person that the
1417 member has nominated by written designation duly executed and
1418 filed with the board. If there is no designated beneficiary
1419 surviving at termination of benefits, the difference shall be
1420 payable under Section 25-11-117.1(1).

1421 (6) Regardless of the number of years of creditable service,
1422 upon the application of a member or employer, any active member
1423 who becomes disabled as a direct result of a physical injury
1424 sustained from an accident or traumatic event caused by external
1425 violence or physical force occurring in the line of performance of
1426 duty, provided that the medical board or other designated
1427 governmental agency after a medical examination certifies that the
1428 member is mentally or physically incapacitated for the further
1429 performance of duty and the incapacity is likely to be permanent,
1430 may be retired by the board of trustees on the first of the month
1431 following the date of filing the application but in no event shall
1432 the retirement allowance begin before the termination of state



1433 service. If a member who has been approved for a retirement
1434 allowance under this subsection does not terminate state service
1435 within ninety (90) days after the approval, the retirement
1436 allowance and the application for the allowance shall be void.
1437 The retirement allowance shall equal the allowance on disability
1438 retirement as provided in Section 25-11-113 but shall not be less
1439 than fifty percent (50%) of average compensation. Line of duty
1440 disability benefits under this section shall be administered in
1441 accordance with the provisions of Section 25-11-113(1)(b), (c),
1442 (d), (e) and (f), (3), (4), (5) and (6).

1443 (7) For purposes of determining death or disability benefits
1444 under this section, the following shall apply:

1445 (a) Death or permanent and total disability resulting
1446 from a cardiovascular, pulmonary or musculoskeletal condition that
1447 was not a direct result of a physical injury sustained from an
1448 accident or a traumatic event caused by external violence or
1449 physical force occurring in the performance of duty shall be
1450 deemed a natural death or an ordinary disability.

1451 (b) A mental disability based exclusively on employment
1452 duties occurring on an ongoing basis shall be deemed an ordinary
1453 disability.

1454 (8) If the deceased or disabled member has less than four
1455 (4) years of membership service, the average compensation as
1456 defined in Section 25-11-103 shall be the average of all annual



1457 earned compensation in state service for the purposes of benefits
1458 provided in this section.

1459 (9) In case of death or total and permanent disability under
1460 subsection (4) or subsection (6) of this section and before the
1461 board shall consider any application for a retirement allowance,
1462 the employer must certify to the board that the member's death or
1463 disability was a direct result of an accident or a traumatic event
1464 occurring during and as a result of the performance of the regular
1465 and assigned duties of the employee and that the death or
1466 disability was not the result of the willful negligence of the
1467 employee.

1468 (10) The application for the retirement allowance must be
1469 filed within one (1) year after death of an active member who is
1470 killed in the line of performance of duty or dies as a direct
1471 result of an accident occurring in the line of performance of duty
1472 or traumatic event; but the board of trustees may consider an
1473 application for disability filed after the one-year period if it
1474 can be factually demonstrated to the satisfaction of the board of
1475 trustees that the disability is due to the accident and that the
1476 filing was not accomplished within the one-year period due to a
1477 delayed manifestation of the disability or to circumstances beyond
1478 the control of the member. However, in case of late filing,
1479 retroactive payments will be made for a period of not more than
1480 one (1) year only.



1481 (11) (a) Notwithstanding any other section of this article
1482 and in lieu of any payments to a designated beneficiary for a
1483 refund of contributions under Section 25-11-117, the spouse and/or
1484 children shall be eligible for the benefits payable under this
1485 section, and the spouse may elect, for both the spouse and/or
1486 children, to receive benefits in accordance with either
1487 subsections (2) and (3) or subsection (4) of this section;
1488 otherwise, the contributions to the credit of the deceased member
1489 shall be refunded in accordance with Section 25-11-117.

1490 (b) Notwithstanding any other section of this article,
1491 a spouse who is entitled to receive a monthly benefit under either
1492 subsection (2) or (4) of this section and who is also the named
1493 beneficiary for a refund of accumulated contributions in the
1494 member's annuity savings account, may, after the death of the
1495 member, elect to receive a refund of accumulated contributions in
1496 lieu of a monthly allowance, provided that there are no dependent
1497 children entitled to benefits under subsection (3) of this
1498 section.

1499 (12) If the member has previously received benefits from the
1500 system to which he was not entitled and has not repaid in full all
1501 amounts payable by him to the system, the annuity amounts
1502 otherwise provided by this section shall be withheld and used to
1503 effect repayment until the total of the withholdings repays in
1504 full all amounts payable by him to the system.



1505 **SECTION 7.** Section 25-11-117, Mississippi Code of 1972, is
1506 amended as follows:

1507 25-11-117. (1) A member may be paid a refund of the amount
1508 of accumulated contributions to the credit of the member in the
1509 annuity savings account, provided that the member has withdrawn
1510 from state service and has not returned to state service on the
1511 date the refund of the accumulated contributions would be paid.
1512 That refund of the contributions to the credit of the member in
1513 the annuity savings account shall be paid within ninety (90) days
1514 from receipt in the office of the retirement system of the
1515 properly completed form requesting the payment. In the event of
1516 death before retirement of any member whose spouse and/or children
1517 are not entitled to a retirement allowance, the accumulated
1518 contributions to the credit of the deceased member in the annuity
1519 savings account shall be paid to the designated beneficiary on
1520 file in writing in the office of the executive director of the
1521 board of trustees within ninety (90) days from receipt of a
1522 properly completed form requesting the payment. If there is no
1523 such designated beneficiary on file for the deceased member in the
1524 office of the system, upon the filing of a proper request with the
1525 board, the contributions to the credit of the deceased member in
1526 the annuity savings account shall be refunded under Section
1527 25-11-117.1(1). The payment of the refund shall discharge all
1528 obligations of the retirement system to the member on account of
1529 any creditable service rendered by the member before the receipt



1530 of the refund. By the acceptance of the refund, the member shall
1531 waive and relinquish all accrued rights in the system.

1532 (2) Under the Unemployment Compensation Amendments of 1992
1533 (Public Law 102-318 (UCA)), a member or the spouse of a member who
1534 is an eligible beneficiary entitled to a refund under this section
1535 may elect, on a form prescribed by the board under rules and
1536 regulations established by the board, to have an eligible rollover
1537 distribution of accumulated contributions payable under this
1538 section paid directly to an eligible retirement plan, as defined
1539 under applicable federal law, or an individual retirement account.
1540 If the member or the spouse of a member who is an eligible
1541 beneficiary makes that election and specifies the eligible
1542 retirement plan or individual retirement account to which the
1543 distribution is to be paid, the distribution will be made in the
1544 form of a direct trustee-to-trustee transfer to the specified
1545 eligible retirement plan. A nonspouse beneficiary may elect to
1546 have an eligible rollover distribution paid in the form of a
1547 direct trustee-to-trustee transfer to an individual retirement
1548 account established to receive the distribution on behalf of the
1549 nonspouse beneficiary. Flexible rollovers under this subsection
1550 shall not be considered assignments under Section 25-11-129.

1551 (3) * * * If any person who has received a refund, reenters
1552 the state service and again becomes a member of the system * * *,
1553 the member may repay all or part of the amounts previously
1554 received as a refund, together with regular interest covering the



1555 period from the date of refund to the date of repayment; however,
1556 the amounts that are repaid by the member and the creditable
1557 service related thereto shall not be used in any benefit
1558 calculation or determination until the member has remained a
1559 contributor to the system for a period of at least four (4) years
1560 after the member's reentry into state service. Repayment for that
1561 time shall be made beginning with the most recent service for
1562 which refund has been made. Upon the repayment of all or part of
1563 that refund and interest, the member shall again receive credit
1564 for the period of creditable service for which full repayment has
1565 been made to the system.

1566 * * *

1567 (4) (a) In order to provide a source of income to members
1568 who have applied for disability benefits under Section 25-11-113
1569 or 25-11-114, the board may provide, at the employee's election, a
1570 temporary benefit to be paid from the member's accumulated
1571 contributions, if any, without forfeiting the right to pursue
1572 disability benefits, provided that the member has exhausted all
1573 personal and medical leave and has terminated his or her
1574 employment. The board may prescribe rules and regulations for
1575 carrying out the provisions of this subsection (4).

1576 (b) If a member who has elected to receive temporary
1577 benefits under this subsection later applies for a refund of his
1578 or her accumulated contributions, all amounts paid under this
1579 subsection shall be deducted from the accumulated contributions



1580 and the balance will be paid to the member. If a member who has
1581 elected to receive temporary benefits under this subsection is
1582 later approved for a disability retirement allowance, and a
1583 service retirement allowance or survivor benefits are paid on the
1584 account, the board shall adjust the benefits in such a manner that
1585 no more than the actuarial equivalent of the benefits to which the
1586 member or beneficiary was or is entitled shall be paid.

1587 (c) The board may study, develop and propose a
1588 disability benefit structure, including short- and long-term
1589 disability benefits, provided that it is the actuarial equivalent
1590 of the benefits currently provided in Section 25-11-113 or
1591 25-11-114.

1592 **SECTION 8.** Section 25-11-311, Mississippi Code of 1972, is
1593 amended as follows:

1594 25-11-311. (1) A member may be paid a refund of the amount
1595 of accumulated contributions to the credit of the member in the
1596 annuity savings account, provided the member has withdrawn from
1597 state service and further provided the member has not returned to
1598 state service on the date the refund of the accumulated
1599 contributions would be paid. The refund of the contributions to
1600 the credit of the member in the annuity savings account shall be
1601 paid within ninety (90) days from receipt in the office of the
1602 retirement system of the properly completed form requesting that
1603 payment. In the event of death before retirement of any member
1604 whose spouse and/or children are not entitled to a retirement



1605 allowance, the accumulated contributions to the credit of the
1606 deceased member in the annuity savings account shall be paid to
1607 the designated beneficiary on file in writing in the office of the
1608 executive director of the board of trustees within ninety (90)
1609 days from receipt of a properly completed form requesting that
1610 payment. If there is no such designated beneficiary on file for
1611 the deceased member in the office of the system, upon the filing
1612 of a proper request with the board, the contributions to the
1613 credit of the deceased member in the annuity savings account shall
1614 be refunded under Section 25-11-311.1(1). The payment of the
1615 refund shall discharge all obligations of the retirement system to
1616 the member on account of any creditable service rendered by the
1617 member before the receipt of the refund. By the acceptance of the
1618 refund, the member shall waive and relinquish all accrued rights
1619 in the plan.

1620 (2) Pursuant to the Unemployment Compensation Amendments of
1621 1992 (Public Law 102-318 (USCS)), a member or the spouse of a
1622 member who is an eligible beneficiary making application for a
1623 refund under this section may elect, on a form prescribed by the
1624 board under rules and regulations established by the board, to
1625 have an eligible rollover distribution of accumulated
1626 contributions payable under this section paid directly to an
1627 eligible retirement plan, as defined under applicable federal law,
1628 or an individual retirement account. If the member or the spouse
1629 of a member who is an eligible beneficiary makes that election and



1630 specifies the eligible retirement plan or individual retirement
1631 account to which the distribution is to be paid, the distribution
1632 will be made in the form of a direct trustee-to-trustee transfer
1633 to the specified eligible retirement plan. A nonspouse
1634 beneficiary may elect to have an eligible rollover distribution of
1635 accumulated contributions paid in the form of a direct
1636 trustee-to-trustee transfer to an individual retirement account
1637 established to receive the distribution on behalf of the nonspouse
1638 beneficiary. Flexible rollovers under this subsection shall not
1639 be considered assignments under Section 25-11-129.

1640 (3) * * * If any person who has received a refund, is
1641 reelected to the Legislature or as President of the Senate and
1642 again becomes a member of the plan * * *, or otherwise reenters
1643 the state service and again becomes a member of the system, the
1644 member may repay all or part of the amounts previously received as
1645 a refund, together with regular interest covering the period from
1646 the date of refund to the date of repayment; however, the amounts
1647 that are repaid by the member and the creditable service related
1648 thereto shall not be used in any benefit calculation or
1649 determination until the member has remained a contributor to the
1650 system for a period of at least four (4) years after the member's
1651 reentry into state service. Repayment for that time shall be made
1652 beginning with the most recent service for which refund has been
1653 made. Upon the repayment of all or part of that refund and
1654 interest, the member shall again receive credit for the period of



1655 creditable service for which full repayment has been made to the
1656 system.

1657 * * *

1658 **SECTION 9.** Section 25-11-315, Mississippi Code of 1972, is
1659 amended as follows:

1660 25-11-315. (1) Any member of the State Legislature or the
1661 President of the Senate who becomes a member of the plan on July
1662 1, 1989, shall be eligible for prior service as a member of the
1663 State Legislature or as President of the Senate. Each member
1664 shall submit to the board a verification of prior service as a
1665 member of the State Legislature or as President of the Senate.
1666 Upon receipt of that prior service statement, the board shall
1667 issue a prior service certificate certifying to each member the
1668 length of prior service for which credit has been allowed on the
1669 basis of the statement of service. Additional prior service
1670 regulations in force shall be those found in Section 25-11-101 et
1671 seq.

1672 (2) * * * Any member of the State Legislature or the
1673 President of the Senate who becomes a member of this plan after
1674 July 1, 1989, * * * shall not be allowed prior service unless the
1675 member serves as a member of the State Legislature or as President
1676 of the Senate for a minimum of four (4) years and contributes to
1677 the plan for a minimum period of four (4) years.

1678 * * *



1679 **SECTION 10.** This act shall take effect and be in force from
1680 and after July 1, 2022.

