

By: Senator(s) DeLano

To: Finance

SENATE BILL NO. 2762

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 AND 25-11-117, MISSISSIPPI CODE OF  
 3 1972, TO REDUCE THE VESTING PERIOD FOR RETIREMENT BENEFITS IN THE  
 4 PUBLIC EMPLOYEES' RETIREMENT SYSTEM FROM EIGHT YEARS TO FOUR YEARS  
 5 FOR PERSONS HAVING JOINED THE SYSTEM ON OR AFTER JULY 1, 2007, BUT  
 6 HAVING AT LEAST FOUR YEARS OF SERVICE IN THE SYSTEM AS FIRST  
 7 RESPONDERS; AND FOR 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 who became a member of the  
84 system before July 1, 2007, or who became a member on or after  
85 July 1, 2007, and maintained membership as a first responder for  
86 at least four (4) years, and whose spouse and/or children are not  
87 entitled to a retirement allowance on the basis that the member  
88 has less than four (4) years of membership service credit, or who  
89 became a member of the system on or after July 1, 2007, other than  
90 one who maintained membership as a first responder for at least  
91 four (4) years, and whose spouse and/or children are not entitled  
92 to a retirement allowance on the basis that the member has less  
93 than eight (8) years of membership service credit, and/or has not  
94 been married for a minimum of one (1) year or the spouse has  
95 waived his or her entitlement to a retirement allowance under



96 Section 25-11-114, the lawful spouse of a member at the time of  
97 the death of the member shall be the beneficiary of the member  
98 unless the member has designated another beneficiary after the  
99 date of marriage in writing, and filed that writing in the office  
100 of the executive director of the board of trustees. No  
101 designation or change of beneficiary shall be made in any other  
102 manner.

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

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

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



121 permanent care of the member at the time of the latter's death,  
122 which permanent care status shall be determined by evidence  
123 satisfactory to the board. For purposes of this paragraph, a  
124 natural child of the member is a child of the member that is  
125 conceived before the death of the member.

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



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

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

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

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

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

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



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

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

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

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

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





195 employer contributions for social security and retirement, tuition  
196 reimbursement or educational funding, day care or transportation  
197 benefits.

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

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

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

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

214 (p) "Medical board" means the board of physicians or  
215 any governmental or nongovernmental disability determination  
216 service designated by the board of trustees that is qualified to  
217 make disability determinations as provided for in Section  
218 25-11-119.



219 (q) "Member" means any person included in the  
220 membership of the system as provided in Section 25-11-105. For  
221 purposes of Sections 25-11-103, 25-11-105, 25-11-109, 25-11-111,  
222 25-11-113, 25-11-114, 25-11-115 and 25-11-117, if a member of the  
223 system, other than one who maintained at least (4) years of  
224 membership as a first responder, withdrew from state service and  
225 received a refund of the amount of the accumulated contributions  
226 to the credit of the member in the annuity savings account before  
227 July 1, 2007, and the person reenters state service and becomes a  
228 member of the system again on or after July 1, 2007, and repays  
229 all or part of the amount received as a refund and interest in  
230 order to receive creditable service for service rendered before  
231 July 1, 2007, the member shall be considered to have become a  
232 member of the system on or after July 1, 2007, subject to the  
233 eight-year membership service requirement, as applicable in those  
234 sections. For purposes of Sections 25-11-103, 25-11-111,  
235 25-11-114 and 25-11-115, if a member of the system withdrew from  
236 state service and received a refund of the amount of the  
237 accumulated contributions to the credit of the member in the  
238 annuity savings account before July 1, 2011, and the person  
239 reenters state service and becomes a member of the system again on  
240 or after July 1, 2011, and repays all or part of the amount  
241 received as a refund and interest in order to receive creditable  
242 service for service rendered before July 1, 2011, the member shall



243 be considered to have become a member of the system on or after  
244 July 1, 2011.

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

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

267 (t) "Prior service" means:



268 (i) For persons who became members of the system  
269 before July 1, 2007, or who became members on or after July 1,  
270 2007, and maintained membership as first responders for at least  
271 four (4) years, service rendered before February 1, 1953, for  
272 which credit is allowable under Sections 25-11-105 and 25-11-109,  
273 and which shall allow prior service for any person who is now or  
274 becomes a member of the Public Employees' Retirement System and  
275 who does contribute to the system for a minimum period of four (4)  
276 years.

277 (ii) For persons who became members of the system  
278 on or after July 1, 2007, other than those who maintained  
279 membership as first responders for at least four (4) years,  
280 service rendered before February 1, 1953, for which credit is  
281 allowable under Sections 25-11-105 and 25-11-109, and which shall  
282 allow prior service for any person who is now or becomes a member  
283 of the Public Employees' Retirement System and who does contribute  
284 to the system for a minimum period of eight (8) years.

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

288 (v) "Retirement allowance" means an annuity for life as  
289 provided in this article, payable each year in twelve (12) equal  
290 monthly installments beginning as of the date fixed by the board.  
291 The retirement allowance shall be calculated in accordance with  
292 Section 25-11-111. However, any spouse who received a spouse



293 retirement benefit in accordance with Section 25-11-111(d) before  
294 March 31, 1971, and those benefits were terminated because of  
295 eligibility for a social security benefit, may again receive his  
296 or her spouse retirement benefit from and after making application  
297 with the board of trustees to reinstate the spouse retirement  
298 benefit.

299 (w) "Retroactive service" means service rendered after  
300 February 1, 1953, for which credit is allowable under Section  
301 25-11-105(b) and Section 25-11-105(k).

302 (x) "System" means the Public Employees' Retirement  
303 System of Mississippi established and described in Section  
304 25-11-101.

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

307 (z) "State service" means all offices and positions of  
308 trust or employment in the employ of the state, or any political  
309 subdivision or instrumentality of the state, that elect to  
310 participate as provided by Section 25-11-105(f), including the  
311 position of elected or fee officials of the counties and their  
312 deputies and employees performing public services or any  
313 department, independent agency, board or commission thereof, and  
314 also includes all offices and positions of trust or employment in  
315 the employ of joint state and federal agencies administering state  
316 and federal funds and service rendered by employees of the public  
317 schools. Effective July 1, 1973, all nonprofessional public



318 school employees, such as bus drivers, janitors, maids,  
319 maintenance workers and cafeteria employees, shall have the option  
320 to become members in accordance with Section 25-11-105(b), and  
321 shall be eligible to receive credit for services before July 1,  
322 1973, provided that the contributions and interest are paid by the  
323 employee in accordance with that section; in addition, the county  
324 or municipal separate school district may pay the employer  
325 contribution and pro rata share of interest of the retroactive  
326 service from available funds. "State service" shall not include  
327 the President of the Mississippi Lottery Corporation and personnel  
328 employed by the Mississippi Lottery Corporation. From and after  
329 July 1, 1998, retroactive service credit shall be purchased at the  
330 actuarial cost in accordance with Section 25-11-105(b).

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

334 (bb) \* \* \* "Firefighter" means any firefighter who has  
335 ten (10) or more years of service and is employed by the State of  
336 Mississippi, or any political subdivision thereof, on a full-time  
337 duty status, and any firefighter who has ten (10) or more years of  
338 service and is registered with the State of Mississippi, or a  
339 political subdivision thereof, on a volunteer firefighting status.

340 (cc) "Law enforcement officer" means any officer who  
341 has been certified by the Mississippi Board on Law Enforcement



342 Officer Standards and Training and has ten (10) or more years of  
343 service.

344 (dd) "First responder" means any firefighter or law  
345 enforcement officer as defined in paragraph (bb) or (cc) of this  
346 section.

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

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

352 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

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

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

361 (ii) From and after July 1, 2002, any individual  
362 who is employed by a governmental entity to perform professional  
363 services shall become a member of the system if the individual is  
364 paid regular periodic compensation for those services that is  
365 subject to payroll taxes, is provided all other employee benefits  
366 and meets the membership criteria established by the regulations



367 adopted by the board of trustees that apply to all other members  
368 of the system; however, any active member employed in such a  
369 position on July 1, 2002, will continue to be an active member for  
370 as long as they are employed in any such position.

371 (b) All persons who become employees in the state  
372 service after January 31, 1953, except those specifically excluded  
373 or as to whom election is provided in Articles 1 and 3, unless  
374 they file with the board before the lapse of sixty (60) days of  
375 employment or sixty (60) days after the effective date of the  
376 cited articles, whichever is later, on a form prescribed by the  
377 board, a notice of election not to be covered by the membership of  
378 the retirement system and a duly executed waiver of all present  
379 and prospective benefits that would otherwise inure to them on  
380 account of their participation in the system, shall become members  
381 of the retirement system; however, no credit for prior service  
382 will be granted to members who became members of the system before  
383 July 1, 2007, or who became members on or after July 1, 2007, and  
384 maintained membership as first responders for at least four (4)  
385 years, until they have contributed to Article 3 of the retirement  
386 system for a minimum period of at least four (4) years, or to  
387 members who became members of the system on or after July 1, 2007,  
388 other than those who maintained membership as first responders for  
389 at least four (4) years, until they have contributed to Article 3  
390 of the retirement system for a minimum period of at least eight  
391 (8) years. Those members shall receive credit for services





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

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

407 (ii) The member shall pay to the retirement system  
408 on the date he or she is eligible for that credit or at any time  
409 thereafter before the date of retirement the actuarial cost for  
410 each year of that creditable service. The provisions of this  
411 subparagraph (ii) shall be subject to the limitations of Section  
412 415 of the Internal Revenue Code and regulations promulgated under  
413 Section 415.

414 Nothing contained in this paragraph (b) shall be construed to  
415 limit the authority of the board to allow the correction of



416 reporting errors or omissions based on the payment of the employee  
417 and employer contributions plus applicable interest.

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

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

431 (e) All persons who are employees in the state service  
432 on January 31, 1953, and who under existing laws are members of  
433 any fund operated for the retirement of employees by the State of  
434 Mississippi, or any of its departments or agencies, shall not be  
435 entitled to membership in this retirement system unless, before  
436 February 1, 1953, any such person indicates by a notice filed with  
437 the board, on a form prescribed by the board, his individual  
438 election and choice to participate in this system, but no such  
439 person shall receive prior service credit unless he becomes a  
440 member on or before February 1, 1953.



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

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

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



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

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

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

481 1. The board of trustees shall not finally  
482 refuse to approve a plan submitted under paragraph (f), and shall  
483 not terminate an approved plan without reasonable notice and  
484 opportunity for hearing to each political subdivision or  
485 instrumentality affected by the board's decision. The board's  
486 decision in any such case shall be final, conclusive and binding  
487 unless an appeal is taken by the political subdivision or  
488 instrumentality aggrieved by the decision to the Circuit Court of  
489 the First Judicial District of Hinds County, Mississippi, in



490 accordance with the provisions of law with respect to civil causes  
491 by certiorari.

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

499                   3. Every political subdivision or  
500 instrumentality required to make payments under paragraph (f)(v)2  
501 of this section is authorized, in consideration of the employees'  
502 retention in or entry upon employment after enactment of Articles  
503 1 and 3, to impose upon its employees, as to services that are  
504 covered by an approved plan, a contribution with respect to wages  
505 (as defined in Section 25-11-5) not exceeding the amount provided  
506 in Section 25-11-123(d) if those services constituted employment  
507 within the meaning of Articles 1 and 3, and to deduct the amount  
508 of the contribution from the wages as and when paid.  
509 Contributions so collected shall be paid into the contribution  
510 fund as partial discharge of the liability of the political  
511 subdivisions or instrumentalities under paragraph (f)(v)2 of this  
512 section. Failure to deduct the contribution shall not relieve the  
513 employee or employer of liability for the contribution.



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

527                   5. Each political subdivision of the state  
528 and each instrumentality of the state or a political subdivision  
529 or subdivisions that submit a plan for approval of the board, as  
530 provided in this section, shall reimburse the board for coverage  
531 into the expense account, its pro rata share of the total expense  
532 of administering Articles 1 and 3 as provided by regulations of  
533 the board.

534                   (g) The board may, in its discretion, deny the right of  
535 membership in this system to any class of employees whose  
536 compensation is only partly paid by the state or who are occupying  
537 positions on a part-time or intermittent basis. The board may, in



538 its discretion, make optional with employees in any such classes  
539 their individual entrance into this system.

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

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

555 If any member of any other actuarially funded system  
556 maintained by an agency of the state changes his employment to an  
557 agency covered by this system, the board of trustees may authorize  
558 the receipt of the transfer of the member's creditable service and  
559 of the present value of the member's employer's accumulation  
560 account and of the present value of the member's accumulated  
561 membership contributions from the other system, provided that the  
562 employee agrees to the transfer of his accumulated membership



563 contributions to this system and provided that the other system is  
564 authorized and agrees to make the transfer.

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

568 (k) Employees of a political subdivision or  
569 instrumentality who were employed by the political subdivision or  
570 instrumentality before an agreement between the entity and the  
571 Public Employees' Retirement System to extend the benefits of this  
572 article to its employees, and which agreement provides for the  
573 establishment of retroactive service credit, and who became  
574 members of the retirement system before July 1, 2007, or who  
575 became members on or after July 1, 2007, and maintained membership  
576 as first responders for at least four (4) years, and have remained  
577 contributors to the retirement system for four (4) years, or who  
578 became members of the retirement system on or after July 1, 2007,  
579 other than those who maintained membership as first responders for  
580 at least four (4) years, and have remained contributors to the  
581 retirement system for eight (8) years, may receive credit for that  
582 retroactive service with the political subdivision or  
583 instrumentality, provided that the employee and/or employer, as  
584 provided under the terms of the modification of the joinder  
585 agreement in allowing that coverage, pay into the retirement  
586 system the employer's and employee's contributions on wages paid  
587 the member during the previous employment, together with interest





588 or actuarial cost as determined by the board covering the period  
589 from the date the service was rendered until the payment for the  
590 credit for the service was made. Those wages shall be verified by  
591 the Social Security Administration or employer payroll records.  
592 Effective July 1, 1998, upon eligibility as noted above, a member  
593 may receive credit for that retroactive service with the political  
594 subdivision or instrumentality provided:

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

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

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



613 interest or the actuarial cost as provided above, the member shall  
614 receive credit for the period of creditable service for which full  
615 payment has been made to the retirement system.

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

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

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

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

633 (a) Patient or inmate help in state charitable, penal  
634 or correctional institutions;

635 (b) Students of any state educational institution  
636 employed by any agency of the state for temporary, part-time or  
637 intermittent work;



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

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

645 **III. TERMINATION OF MEMBERSHIP**

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

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

652 25-11-109. (1) Under such rules and regulations as the  
653 board of trustees shall adopt, each person who becomes a member of  
654 this retirement system, as provided in Section 25-11-105, on or  
655 before July 1, 1953, or who became a member of the system before  
656 July 1, 2007, or who became a member on or after July 1, 2007, and  
657 maintained membership as a first responder for at least four (4)  
658 years, and contributes to the system for a minimum period of four  
659 (4) years, or who became a member of the system on or after July  
660 1, 2007, other than one who maintained membership as a first  
661 responder for at least four (4) years, and contributes to the  
662 system for a minimum period of eight (8) years, shall receive



663 credit for all state service rendered before February 1, 1953. To  
664 receive that credit, the member shall file a detailed statement of  
665 all services as an employee rendered by him in the state service  
666 before February 1, 1953. For any member who joined the system  
667 after July 1, 1953, and before July 1, 2007, any creditable  
668 service for which the member is not required to make contributions  
669 shall not be credited to the member until the member has  
670 contributed to the system for a minimum period of at least four  
671 (4) years. For any member who joined the system on or after July  
672 1, 2007, other than one who maintained membership as a first  
673 responder for at least four (4) years, any creditable service for  
674 which the member is not required to make contributions shall not  
675 be credited to the member until the member has contributed to the  
676 system for a minimum period of at least eight (8) years.

677 (2) (a) (i) In the computation of creditable service for  
678 service rendered before July 1, 2017, under the provisions of this  
679 article, the total months of accumulative service during any  
680 fiscal year shall be calculated in accordance with the schedule as  
681 follows: ten (10) or more months of creditable service during any  
682 fiscal year shall constitute a year of creditable service; seven  
683 (7) months to nine (9) months inclusive, three-quarters (3/4) of a  
684 year of creditable service; four (4) months to six (6) months  
685 inclusive, one-half (1/2) year of creditable service; one (1)  
686 month to three (3) months inclusive, one-quarter (1/4) of a year  
687 of creditable service.



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

692 (b) In no case shall credit be allowed for any period  
693 of absence without compensation except for disability while in  
694 receipt of a disability retirement allowance, nor shall less than  
695 fifteen (15) days of service in any month, or service less than  
696 the equivalent of one-half (1/2) of the normal working load for  
697 the position and less than one-half (1/2) of the normal  
698 compensation for the position in any month, constitute a month of  
699 creditable service, nor shall more than one (1) year of service be  
700 creditable for all services rendered in any one (1) fiscal year;  
701 however, for a school employee, substantial completion of the  
702 legal school term when and where the service was rendered shall  
703 constitute a year of service credit. Any state or local elected  
704 official shall be deemed a full-time employee for the purpose of  
705 creditable service. However, an appointed or elected official  
706 compensated on a per diem basis only shall not be allowed  
707 creditable service for terms of office.

708 (c) In the computation of any retirement allowance or  
709 any annuity or benefits provided in this article, any fractional  
710 period of service of less than one (1) year shall be taken into  
711 account and a proportionate amount of such retirement allowance,



712 annuity or benefit shall be granted for any such fractional period  
713 of service.

714 (d) (i) In the computation of unused leave for  
715 creditable service authorized in Section 25-11-103, the following  
716 shall govern for members who retire before July 1, 2017:  
717 twenty-one (21) days of unused leave shall constitute one (1)  
718 month of creditable service and in no case shall credit be allowed  
719 for any period of unused leave of less than fifteen (15) days.  
720 The number of months of unused leave shall determine the number of  
721 quarters or years of creditable service in accordance with the  
722 above schedule for membership and prior service.

723 (ii) In the computation of unused leave for  
724 creditable service authorized in Section 25-11-103, the following  
725 shall govern for members who retire on or after July 1, 2017:  
726 creditable service for unused leave shall be calculated in monthly  
727 increments in which one (1) month of service credit shall be  
728 awarded for each twenty-one (21) days of unused leave, except that  
729 the first fifteen (15) to fifty-seven (57) days of leave shall  
730 constitute three (3) months of service for those who became a  
731 member of the system before July 1, 2017.

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



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

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

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

750 (ii) For service on and after July 1, 1984, the  
751 member shall receive credit for personal and major medical leave  
752 beginning July 1, 1984, at the rates authorized in Sections  
753 25-3-93 and 25-3-95, computed as a full-time employee.

754 (iii) If a member is employed in a covered  
755 nonelected position and a covered elected position simultaneously,  
756 that member may not receive service credit for accumulated unused  
757 leave for both positions at retirement for the period during which  
758 the member was dually employed. During the period during which  
759 the member is dually employed, the member shall only receive



760 credit for leave as provided for in this paragraph for an elected  
761 official.

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

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

777 When membership ceases, such prior service certificates shall  
778 become void. Should the employee again become a member, he shall  
779 enter the system as an employee not entitled to prior service  
780 credit except as provided in Sections 25-11-105(I), 25-11-113 and  
781 25-11-117.

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





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

788 (6) Any member who served on active duty in the Armed Forces  
789 of the United States, who served in the Commissioned Corps of the  
790 United States Public Health Service before 1972 or who served in  
791 maritime service during periods of hostility in World War II,  
792 shall be entitled to creditable service at no cost for his service  
793 on active duty in the Armed Forces, in the Commissioned Corps of  
794 the United States Public Health Service before 1972 or in such  
795 maritime service, provided he entered state service after his  
796 discharge from the Armed Forces or entered state service after he  
797 completed such maritime service. The maximum period for such  
798 creditable service for all military service as defined in this  
799 subsection (6) shall not exceed four (4) years unless positive  
800 proof can be furnished by such person that he was retained in the  
801 Armed Forces during World War II or in maritime service during  
802 World War II by causes beyond his control and without opportunity  
803 of discharge. The member shall furnish proof satisfactory to the  
804 board of trustees of certification of military service or maritime  
805 service records showing dates of entrance into active duty service  
806 and the date of discharge. From and after July 1, 1993, no  
807 creditable service shall be granted for any military service or  
808 maritime service to a member who qualifies for a retirement  
809 allowance in another public retirement system administered by the



810 Board of Trustees of the Public Employees' Retirement System  
811 based, in whole or in part, on such military or maritime service.  
812 In no case shall the member receive creditable service if the  
813 member received a dishonorable discharge from the Armed Forces of  
814 the United States.

815 (7) (a) Any member of the Public Employees' Retirement  
816 System whose membership service is interrupted as a result of  
817 qualified military service within the meaning of Section 414(u) (5)  
818 of the Internal Revenue Code, and who has received the maximum  
819 service credit available under subsection (6) of this section,  
820 shall receive creditable service for the period of qualified  
821 military service that does not qualify as creditable service under  
822 subsection (6) of this section upon reentering membership service  
823 in an amount not to exceed five (5) years if:

824 (i) The member pays the contributions he would  
825 have made to the retirement system if he had remained in  
826 membership service for the period of qualified military service  
827 based upon his salary at the time his membership service was  
828 interrupted;

829 (ii) The member returns to membership service  
830 within ninety (90) days of the end of his qualified military  
831 service; and

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



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

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

842 (c) The member shall furnish proof satisfactory to the  
843 board of trustees of certification of military service showing  
844 dates of entrance into qualified service and the date of discharge  
845 as well as proof that the member has returned to active employment  
846 within the time specified.

847 (8) Any member of the Public Employees' Retirement System  
848 who became a member of the system before July 1, 2007, or who  
849 became a member on or after July 1, 2007, and maintained  
850 membership as a first responder for at least four (4) years, and  
851 who has at least four (4) years of membership service credit, or  
852 who became a member of the system on or after July 1, 2007, other  
853 than one who maintained membership as a first responder for at  
854 least four (4) years, and who has at least eight (8) years of  
855 membership service credit, shall be entitled to receive a maximum  
856 of five (5) years' creditable service for service rendered in  
857 another state as a public employee of such other state, or a  
858 political subdivision, public education system or other  
859 governmental instrumentality thereof, or service rendered as a



860 teacher in American overseas dependent schools conducted by the  
861 Armed Forces of the United States for children of citizens of the  
862 United States residing in areas outside the continental United  
863 States, provided that:

864 (a) The member shall furnish proof satisfactory to the  
865 board of trustees of certification of such services from the  
866 state, public education system, political subdivision or  
867 retirement system of the state where the services were performed  
868 or the governing entity of the American overseas dependent school  
869 where the services were performed; and

870 (b) The member is not receiving or will not be entitled  
871 to receive from the public retirement system of the other state or  
872 from any other retirement plan, including optional retirement  
873 plans, sponsored by the employer, a retirement allowance including  
874 such services; and

875 (c) The member shall pay to the retirement system on  
876 the date he or she is eligible for credit for such out-of-state  
877 service or at any time thereafter before the date of retirement  
878 the actuarial cost as determined by the actuary for each year of  
879 out-of-state creditable service. The provisions of this  
880 subsection are subject to the limitations of Section 415 of the  
881 Internal Revenue Code and regulations promulgated under that  
882 section.

883 (9) Any member of the Public Employees' Retirement System  
884 who became a member of the system before July 1, 2007, or who



885 became a member on or after July 1, 2007, and maintained  
886 membership as a first responder for at least four (4) years, and  
887 has at least four (4) years of membership service credit, or who  
888 became a member of the system on or after July 1, 2007, other than  
889 one who maintained membership as a first responder for at least  
890 four (4) years, and has at least eight (8) years of membership  
891 service credit, and who receives, or has received, professional  
892 leave without compensation for professional purposes directly  
893 related to the employment in state service shall receive  
894 creditable service for the period of professional leave without  
895 compensation provided:

896 (a) The professional leave is performed with a public  
897 institution or public agency of this state, or another state or  
898 federal agency;

899 (b) The employer approves the professional leave  
900 showing the reason for granting the leave and makes a  
901 determination that the professional leave will benefit the  
902 employee and employer;

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

905 (d) The employee shall serve the employer on a  
906 full-time basis for a period of time equivalent to the  
907 professional leave period granted immediately following the  
908 termination of the leave period;



909 (e) The contributing member shall pay to the retirement  
910 system the actuarial cost as determined by the actuary for each  
911 year of professional leave. The provisions of this subsection are  
912 subject to the regulations of the Internal Revenue Code  
913 limitations;

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

917 Any actively contributing member participating in the School  
918 Administrator Sabbatical Program established in Section 37-9-77  
919 shall qualify for continued participation under this subsection  
920 (9).

921 (10) Any member of the Public Employees' Retirement System  
922 who became a member of the system before July 1, 2007, or who  
923 became a member on or after July 1, 2007, and maintained  
924 membership as a first responder for at least four (4) years, and  
925 has at least four (4) years of credited membership service, or who  
926 became a member of the system on or after July 1, 2007, other than  
927 one who maintained membership as a first responder for at least  
928 four (4) years, and has at least eight (8) years of credited  
929 membership service, shall be entitled to receive a maximum of ten  
930 (10) years creditable service for:

931 (a) Any service rendered as an employee of any  
932 political subdivision of this state, or any instrumentality



933 thereof, that does not participate in the Public Employees'  
934 Retirement System; or

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

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

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

951 25-11-111. (a) (1) Any member who became a member of the  
952 system before July 1, 2007, or who became a member on or after  
953 July 1, 2007, and maintained membership as a first responder for  
954 at least four (4) years, upon withdrawal from service upon or  
955 after attainment of the age of sixty (60) years who has completed  
956 at least four (4) years of membership service, or any member who  
957 became a member of the system before July 1, 2011, upon withdrawal



958 from service regardless of age who has completed at least  
959 twenty-five (25) years of creditable service, shall be entitled to  
960 receive a retirement allowance, which shall begin on the first of  
961 the month following the date the member's application for the  
962 allowance is received by the board, but in no event before  
963 withdrawal from service.

964 (2) Any member who became a member of the system on or  
965 after July 1, 2007, other than one who maintained membership as a  
966 first responder for at least four (4) years, upon withdrawal from  
967 service upon or after attainment of the age of sixty (60) years  
968 who has completed at least eight (8) years of membership service,  
969 or any member who became a member of the system on or after July  
970 1, 2011, upon withdrawal from service regardless of age who has  
971 completed at least thirty (30) years of creditable service, shall  
972 be entitled to receive a retirement allowance, which shall begin  
973 on the first of the month following the date the member's  
974 application for the allowance is received by the board, but in no  
975 event before withdrawal from service.

976 (b) (1) Any member who became a member of the system before  
977 July 1, 2007, or who became a member on or after July 1, 2007, and  
978 maintained membership as a first responder for at least four (4)  
979 years, whose withdrawal from service occurs before attaining the  
980 age of sixty (60) years who has completed four (4) or more years  
981 of membership service and has not received a refund of his  
982 accumulated contributions, shall be entitled to receive a





983 retirement allowance, beginning upon his attaining the age of  
984 sixty (60) years, of the amount earned and accrued at the date of  
985 withdrawal from service. The retirement allowance shall begin on  
986 the first of the month following the date the member's application  
987 for the allowance is received by the board, but in no event before  
988 withdrawal from service.

989 (2) Any member who became a member of the system on or  
990 after July 1, 2007, other than one who maintained membership as a  
991 first responder for at least four (4) years, whose withdrawal from  
992 service occurs before attaining the age of sixty (60) years who  
993 has completed eight (8) or more years of membership service and  
994 has not received a refund of his accumulated contributions, shall  
995 be entitled to receive a retirement allowance, beginning upon his  
996 attaining the age of sixty (60) years, of the amount earned and  
997 accrued at the date of withdrawal from service. The retirement  
998 allowance shall begin on the first of the month following the date  
999 the member's application for the allowance is received by the  
1000 board, but in no event before withdrawal from service.

1001 (c) Any member in service who has qualified for retirement  
1002 benefits may select any optional method of settlement of  
1003 retirement benefits by notifying the Executive Director of the  
1004 Board of Trustees of the Public Employees' Retirement System in  
1005 writing, on a form prescribed by the board, of the option he has  
1006 selected and by naming the beneficiary of the option and  
1007 furnishing necessary proof of age. The option, once selected, may



1008 be changed at any time before actual retirement or death, but upon  
1009 the death or retirement of the member, the optional settlement  
1010 shall be placed in effect upon proper notification to the  
1011 executive director.

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

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

1019 (2) An employer's annuity, which, together with the  
1020 member's annuity provided above, shall be equal to two percent  
1021 (2%) of the average compensation for each year of service up to  
1022 and including twenty-five (25) years of creditable service, and  
1023 two and one-half percent (2-1/2%) of the average compensation for  
1024 each year of service exceeding twenty-five (25) years of  
1025 creditable service.

1026 (3) Any retired member or beneficiary thereof who was  
1027 eligible to receive a retirement allowance before July 1, 1991,  
1028 and who is still receiving a retirement allowance on July 1, 1992,  
1029 shall receive an increase in the annual retirement allowance of  
1030 the retired member equal to one-eighth of one percent (1/8 of 1%)  
1031 of the average compensation for each year of state service in  
1032 excess of twenty-five (25) years of membership service up to and



1033 including thirty (30) years. The maximum increase shall be  
1034 five-eighths of one percent (5/8 of 1%). In no case shall a  
1035 member who has been retired before July 1, 1987, receive less than  
1036 Ten Dollars (\$10.00) per month for each year of creditable service  
1037 and proportionately for each quarter year thereof. Persons  
1038 retired on or after July 1, 1987, shall receive at least Ten  
1039 Dollars (\$10.00) per month for each year of service and  
1040 proportionately for each quarter year thereof reduced for the  
1041 option selected. However, such Ten Dollars (\$10.00) minimum per  
1042 month for each year of creditable service shall not apply to a  
1043 retirement allowance computed under Section 25-11-114 based on a  
1044 percentage of the member's average compensation.

1045 (e) Any member who became a member of the system on or after  
1046 July 1, 2011, shall be entitled to an annual retirement allowance  
1047 which shall consist of:

1048 (1) A member's annuity, which shall be the actuarial  
1049 equivalent of the accumulated contributions of the member at the  
1050 time of retirement computed according to the actuarial table in  
1051 use by the system; and

1052 (2) An employer's annuity, which, together with the  
1053 member's annuity provided above, shall be equal to two percent  
1054 (2%) of the average compensation for each year of service up to  
1055 and including thirty (30) years of creditable service, and two and  
1056 one-half percent (2-1/2%) of average compensation for each year of  
1057 service exceeding thirty (30) years of creditable service.



1058 (f) Any member who became a member of the system on or after  
1059 July 1, 2011, upon withdrawal from service upon or after attaining  
1060 the age of sixty (60) years who has completed at least eight (8)  
1061 years of membership service, or any such member upon withdrawal  
1062 from service regardless of age who has completed at least thirty  
1063 (30) years of creditable service, or any such member who  
1064 maintained membership as a first responder for at least four (4)  
1065 years, upon withdrawal from service upon or after attaining the  
1066 age of sixty (60) years who has completed at least four (4) years  
1067 of membership service, shall be entitled to receive a retirement  
1068 allowance computed in accordance with the formula set forth in  
1069 subsection (e) of this section. In the case of the retirement of  
1070 any member who has attained age sixty (60) but who has not  
1071 completed at least thirty (30) years of creditable service, the  
1072 retirement allowance shall be computed in accordance with the  
1073 formula set forth in subsection (e) of this section except that  
1074 the total annual retirement allowance shall be reduced by an  
1075 actuarial equivalent factor for each year of creditable service  
1076 below thirty (30) years or the number of years in age that the  
1077 member is below age sixty-five (65), whichever is less.

1078 (g) No member, except members excluded by the Age  
1079 Discrimination in Employment Act Amendments of 1986 (Public Law  
1080 99-592), under either Article 1 or Article 3 in state service  
1081 shall be required to retire because of age.



1082 (h) No payment on account of any benefit granted under the  
1083 provisions of this section shall become effective or begin to  
1084 accrue until January 1, 1953.

1085 (i) (1) A retiree or beneficiary may, on a form prescribed  
1086 by and filed with the retirement system, irrevocably waive all or  
1087 a portion of any benefits from the retirement system to which the  
1088 retiree or beneficiary is entitled. The waiver shall be binding  
1089 on the heirs and assigns of any retiree or beneficiary and the  
1090 same must agree to forever hold harmless the Public Employees'  
1091 Retirement System of Mississippi from any claim to the waived  
1092 retirement benefits.

1093 (2) Any waiver under this subsection shall apply only  
1094 to the person executing the waiver. A beneficiary shall be  
1095 entitled to benefits according to the option selected by the  
1096 member at the time of retirement. However, a beneficiary may, at  
1097 the option of the beneficiary, execute a waiver of benefits under  
1098 this subsection.

1099 (3) The retirement system shall retain in the annuity  
1100 reserve account amounts that are not used to pay benefits because  
1101 of a waiver executed under this subsection.

1102 (4) The board of trustees may provide rules and  
1103 regulations for the administration of waivers under this  
1104 subsection.

1105 **SECTION 5.** Section 25-11-113, Mississippi Code of 1972, is  
1106 amended as follows:



1107           25-11-113. (1) (a) Upon the application of a member or his  
1108 employer, any active member in state service who became a member  
1109 of the system before July 1, 2007, or who became a member on or  
1110 after July 1, 2007, and maintained membership as a first responder  
1111 for at least four (4) years, and who has at least four (4) years  
1112 of membership service credit, or any active member in state  
1113 service who became a member of the system on or after July 1,  
1114 2007, other than one who maintained membership as a first  
1115 responder for at least four (4) years, who has at least eight (8)  
1116 years of membership service credit, may be retired by the board of  
1117 trustees on the first of the month following the date of filing  
1118 the application on a disability retirement allowance, but in no  
1119 event shall the disability retirement allowance begin before  
1120 termination of state service, provided that the medical board,  
1121 after an evaluation of medical evidence that may or may not  
1122 include an actual physical examination by the medical board,  
1123 certifies that the member is mentally or physically incapacitated  
1124 for the further performance of duty, that the incapacity is likely  
1125 to be permanent, and that the member should be retired; however,  
1126 the board of trustees may accept a disability medical  
1127 determination from the Social Security Administration in lieu of a  
1128 certification from the medical board. If a member who has been  
1129 approved for a disability retirement allowance does not terminate  
1130 state service within ninety (90) days after approval, the  
1131 disability retirement and the application for disability



1132 retirement shall be void. For the purposes of disability  
1133 determination, the medical board shall apply the following  
1134 definition of disability: the inability to perform the usual  
1135 duties of employment or the incapacity to perform such lesser  
1136 duties, if any, as the employer, in its discretion, may assign  
1137 without material reduction in compensation, or the incapacity to  
1138 perform the duties of any employment covered by the Public  
1139 Employees' Retirement System (Section 25-11-101 et seq.) that is  
1140 actually offered and is within the same general territorial work  
1141 area, without material reduction in compensation. The employer  
1142 shall be required to furnish the job description and duties of the  
1143 member. The employer shall further certify whether the employer  
1144 has offered the member other duties and has complied with the  
1145 applicable provisions of the Americans With Disabilities Act in  
1146 affording reasonable accommodations that would allow the employee  
1147 to continue employment.

1148 (b) Any member applying for a disability retirement  
1149 allowance must provide sufficient objective medical evidence in  
1150 support of his or her claim. All disability determinations,  
1151 whether the initial examination or reexamination, shall be based  
1152 on objective medical evidence. "Objective medical evidence" means  
1153 reports of examinations or treatments; medical signs that are  
1154 anatomical, physiological, or psychological abnormalities that are  
1155 observed and documented by medical professionals; psychiatric  
1156 signs that are medically demonstrable phenomena indicating



1157 specific abnormalities of behavior, affect, thought, memory,  
1158 orientation, or contact with reality; or laboratory findings that  
1159 are anatomical, physiological, or psychological phenomena that are  
1160 shown by medically acceptable laboratory diagnostic techniques,  
1161 including, but not limited to, chemical tests, electrocardiograms,  
1162 electroencephalograms, X-rays, and psychological tests.  
1163 Nonmedical information shall not be considered objective medical  
1164 evidence.

1165 (c) Any inactive member who became a member of the  
1166 system before July 1, 2007, or who became a member on or after  
1167 July 1, 2007, and maintained membership as a first responder for  
1168 at least four (4) years, with four (4) or more years of membership  
1169 service credit, or any inactive member who became a member of the  
1170 system on or after July 1, 2007, other than one who maintained  
1171 membership as a first responder for at least four (4) years, with  
1172 eight (8) or more years of membership service credit, who has  
1173 withdrawn from active state service, is not eligible for a  
1174 disability retirement allowance unless the disability occurs  
1175 within six (6) months of the termination of active service and  
1176 unless satisfactory proof is presented to the board of trustees  
1177 that the disability was the direct cause of withdrawal from state  
1178 service. Application for a disability retirement allowance must  
1179 be filed within one (1) year of termination from active service.  
1180 This period may be extended by an additional year if it can be  
1181 factually demonstrated to the satisfaction of the board of





1182 trustees that throughout the initial one-year period the member  
1183 was incapable of applying for benefits by reason of mental or  
1184 physical impairment as certified by a medical doctor.

1185 (d) Any member who is or becomes eligible for service  
1186 retirement benefits under Section 25-11-111 while pursuing a  
1187 disability retirement allowance under this section or Section  
1188 25-11-114 may elect to receive a service retirement allowance  
1189 pending a final determination on eligibility for a disability  
1190 retirement allowance or withdrawal of the application for the  
1191 disability retirement allowance. In such a case, an application  
1192 for a disability retirement allowance must be on file with the  
1193 system before the beginning of a service retirement allowance. If  
1194 the application is approved, the option selected and beneficiary  
1195 designated on the retirement application shall be used to  
1196 determine the disability retirement allowance. If the application  
1197 is not approved or if the application is withdrawn, the service  
1198 retirement allowance shall continue to be paid in accordance with  
1199 the option selected. No person may apply for a disability  
1200 retirement allowance after the person begins to receive a service  
1201 retirement allowance.

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



1207 and regulations adopted by the board to govern those hearings.

1208 The hearing may be closed upon the request of the member.

1209 (f) The medical board may request additional medical  
1210 evidence and/or other physicians to conduct an evaluation of the  
1211 member's condition. If the medical board requests additional  
1212 medical evidence and the member refuses the request, the  
1213 application shall be considered void.

1214 (2) Allowance on disability retirement.

1215 (a) Upon retirement for disability, an eligible member  
1216 shall receive a retirement allowance if he has attained the age of  
1217 sixty (60) years.

1218 (b) Except as provided in paragraph (c) of this  
1219 subsection (2), an eligible member who is retired for disability  
1220 and who has not attained sixty (60) years of age shall receive a  
1221 disability benefit as computed in Section 25-11-111(d), which  
1222 shall consist of:

1223 (i) A member's annuity, which shall be the  
1224 actuarial equivalent of his accumulated contributions at the time  
1225 of retirement; and

1226 (ii) An employer's annuity equal to the amount  
1227 that would have been payable as a retirement allowance for  
1228 eligible creditable service if the member had continued in service  
1229 to the age of sixty (60) years, which shall apply to the allowance  
1230 for disability retirement paid to retirees receiving such  
1231 allowance upon and after April 12, 1977. This employer's annuity



1232 shall be computed on the basis of the average "earned  
1233 compensation" as defined in Section 25-11-103.

1234 (c) For persons who become members after June 30, 1992,  
1235 and for active members on June 30, 1992, who elect benefits under  
1236 this paragraph (c) instead of those provided under paragraph (b)  
1237 of this subsection (2), the disability allowance shall consist of  
1238 two (2) parts: a temporary allowance and a deferred allowance.

1239 The temporary allowance shall equal the greater of (i) forty  
1240 percent (40%) of average compensation at the time of disability,  
1241 plus ten percent (10%) of average compensation for each of the  
1242 first two (2) dependent children, as defined in Sections 25-11-103  
1243 and 25-11-114, or (ii) the accrued benefit based on actual  
1244 service. It shall be payable for a period of time based on the  
1245 member's age at disability, as follows:

1246	Age at Disability	Duration
1247	60 and earlier	to age 65
1248	61	to age 66
1249	62	to age 66
1250	63	to age 67
1251	64	to age 67
1252	65	to age 68
1253	66	to age 68
1254	67	to age 69
1255	68	to age 70
1256	69 and over	one year



1257           The deferred allowance shall begin when the temporary  
1258 allowance ends and shall be payable for life. The deferred  
1259 allowance shall equal the greater of (i) the allowance that would  
1260 have been payable had the member continued in service to the  
1261 termination age of the temporary allowance, but no more than forty  
1262 percent (40%) of average compensation, or (ii) the accrued benefit  
1263 based on actual service at the time of disability. The deferred  
1264 allowance as determined at the time of disability shall be  
1265 adjusted in accordance with Section 25-11-112 for the period  
1266 during which the temporary annuity is payable. In no case shall a  
1267 member receive less than Ten Dollars (\$10.00) per month for each  
1268 year of service and proportionately for each quarter year thereof  
1269 reduced for the option selected.

1270           (d) The member may elect to receive the actuarial  
1271 equivalent of the disability retirement allowance in a reduced  
1272 allowance payable throughout life under any of the provisions of  
1273 the options provided under Section 25-11-115.

1274           (e) If a disability retiree who has not selected an  
1275 option under Section 25-11-115 dies before being repaid in  
1276 disability benefits the sum of his total contributions, then his  
1277 named beneficiary shall receive the difference in cash, which  
1278 shall apply to all deceased disability retirees from and after  
1279 January 1, 1953.

1280           (3) Reexamination of retirees retired on account of  
1281 disability. Except as otherwise provided in this section, once



1282 each year during the first five (5) years following retirement of  
1283 a member on a disability retirement allowance, and once in every  
1284 period of three (3) years thereafter, the board of trustees may,  
1285 and upon his application shall, require any disability retiree who  
1286 has not yet attained the age of sixty (60) years or the  
1287 termination age of the temporary allowance under subsection (2)(c)  
1288 of this section to undergo a medical examination, the examination  
1289 to be made at the place of residence of the retiree or other place  
1290 mutually agreed upon by a physician or physicians designated by  
1291 the board. The board, however, in its discretion, may authorize  
1292 the medical board to establish reexamination schedules appropriate  
1293 to the medical condition of individual disability retirees. If  
1294 any disability retiree who has not yet attained the age of sixty  
1295 (60) years or the termination age of the temporary allowance under  
1296 subsection (2)(c) of this section refuses to submit to any medical  
1297 examination provided in this section, his allowance may be  
1298 discontinued until his withdrawal of that refusal; and if his  
1299 refusal continues for one (1) year, all his rights to a disability  
1300 benefit shall be revoked by the board of trustees.

1301 (4) If the medical board reports and certifies to the board  
1302 of trustees, after a comparable job analysis or other similar  
1303 study, that the disability retiree is engaged in, or is able to  
1304 engage in, a gainful occupation paying more than the difference  
1305 between his disability allowance, exclusive of cost-of-living  
1306 adjustments, and the average compensation, and if the board of



1307 trustees concurs in the report, the disability benefit shall be  
1308 reduced to an amount that, together with the amount earnable by  
1309 him, equals the amount of his average compensation. If his  
1310 earning capacity is later changed, the amount of the benefit may  
1311 be further modified, provided that the revised benefit shall not  
1312 exceed the amount originally granted. A retiree receiving a  
1313 disability benefit who is restored to active service at a salary  
1314 less than the average compensation shall not become a member of  
1315 the retirement system.

1316 (5) If a disability retiree under the age of sixty (60)  
1317 years or the termination age of the temporary allowance under  
1318 subsection (2) (c) of this section is restored to active service at  
1319 a compensation not less than his average compensation, his  
1320 disability benefit shall end, he shall again become a member of  
1321 the retirement system, and contributions shall be withheld and  
1322 reported. Any such prior service certificate, on the basis of  
1323 which his service was computed at the time of retirement, shall be  
1324 restored to full force and effect. In addition, upon his later  
1325 retirement he shall be credited with all creditable service as a  
1326 member, but the total retirement allowance paid to the retired  
1327 member in his previous retirement shall be deducted from his  
1328 retirement reserve and taken into consideration in recalculating  
1329 the retirement allowance under a new option selected.

1330 (6) If following reexamination in accordance with the  
1331 provisions contained in this section, the medical board determines



1332 that a retiree retired on account of disability is physically and  
1333 mentally able to return to the employment from which he is  
1334 retired, the board of trustees, upon certification of those  
1335 findings from the medical board, shall, after a reasonable period  
1336 of time, terminate the disability allowance, whether or not the  
1337 retiree is reemployed or seeks that reemployment. In addition, if  
1338 the board of trustees determines that the retiree is no longer  
1339 sustaining a loss of income as established by documented evidence  
1340 of the retiree's earned income, the eligibility for a disability  
1341 allowance shall terminate and the allowance terminated within a  
1342 reasonable period of time. If the retirement allowance is  
1343 terminated under the provisions of this section, the retiree may  
1344 later qualify for a retirement allowance under Section 25-11-111  
1345 based on actual years of service credit plus credit for the period  
1346 during which a disability allowance was paid.

1347 (7) Any current member as of June 30, 1992, who retires on a  
1348 disability retirement allowance after June 30, 1992, and who has  
1349 not elected to receive benefits under subsection (2)(c) of this  
1350 section, shall relinquish all rights under the Age Discrimination  
1351 in Employment Act of 1967, as amended, with regard to the benefits  
1352 payable under this section.

1353 **SECTION 6.** Section 25-11-114, Mississippi Code of 1972, is  
1354 amended as follows:

1355 25-11-114. (1) The applicable benefits provided in  
1356 subsections (2) and (3) of this section shall be paid to eligible



1357 beneficiaries of any member who became a member of the system  
1358 before July 1, 2007, or who became a member on or after July 1,  
1359 2007, and maintained membership as a first responder for at least  
1360 four (4) years, and has completed four (4) or more years of  
1361 membership service, or who became a member of the system on or  
1362 after July 1, 2007, other than one who maintained membership as a  
1363 first responder for at least four (4) years, and has completed  
1364 eight (8) or more years of membership service, and who dies before  
1365 retirement and who has not filed a Pre-Retirement Optional  
1366 Retirement Form as provided in Section 25-11-111.

1367 (2) (a) The surviving spouse of a member who dies before  
1368 retirement shall receive a monthly benefit computed in accordance  
1369 with paragraph (d) of this subsection (2) as if the member had  
1370 nominated his spouse as beneficiary if:

1371 (i) The member completed the requisite minimum  
1372 number of years of membership service to qualify for a retirement  
1373 allowance at age sixty (60);

1374 (ii) The spouse has been married to the member for  
1375 not less than one (1) year preceding the death of the member;

1376 (iii) The member has not exercised any other  
1377 option.

1378 (b) If, at the time of the member's death, there are no  
1379 dependent children, and the surviving spouse, who otherwise would  
1380 receive the annuity under this subsection (2), has filed with the  
1381 system a signed written waiver of his or her rights to the annuity





1382 and that waiver was in effect at the time of the member's death, a  
1383 lump-sum distribution of the deceased member's accumulated  
1384 contributions shall be refunded in accordance with Section  
1385 25-11-117.

1386 (c) The spouse annuity shall begin on the first day of  
1387 the month following the date of the member's death, but in case of  
1388 late filing, retroactive payments will be made for a period of not  
1389 more than one (1) year.

1390 (d) The spouse of a member who is eligible to receive a  
1391 monthly benefit under paragraph (a) of this subsection (2) shall  
1392 receive a benefit for life equal to the higher of the following:

1393 (i) The greater of twenty percent (20%) of the  
1394 deceased member's average compensation as defined in Section  
1395 25-11-103 at the time of death or Fifty Dollars (\$50.00) monthly;  
1396 or

1397 (ii) Benefits calculated under Option 2 of Section  
1398 25-11-115. The method of calculating the retirement benefits  
1399 shall be on the same basis as provided in Section 25-11-111(d) or  
1400 (e), as applicable. However, if the member dies before being  
1401 qualified for a full, unreduced retirement allowance, then the  
1402 benefits shall be reduced by an actuarially determined percentage  
1403 or factor based on the lesser of either the number of years of  
1404 service credit or the number of years in age required to qualify  
1405 for a full, unreduced retirement allowance in Section 25-11-111(d)  
1406 or (e), as applicable.



1407 (e) The surviving spouse of a deceased member who  
1408 previously received spouse retirement benefits under paragraph  
1409 (d)(i) of this subsection from and after July 1, 1992, and whose  
1410 benefits were terminated before July 1, 2004, because of  
1411 remarriage, may again receive the retirement benefits authorized  
1412 under paragraph (d)(i) of this subsection by making application  
1413 with the board to reinstate those benefits. Any reinstatement of  
1414 the benefits shall be prospective only and shall begin after the  
1415 first of the month following the date of the application for  
1416 reinstatement, but no earlier than July 1, 2004. From and after  
1417 July 1, 2010, any spouse who chose Option 2 from and after July 1,  
1418 1992, but before July 1, 2004, where the benefit, although payable  
1419 for life, was less than the benefit available under the  
1420 calculation in paragraph (d)(i) of this subsection shall have his  
1421 or her benefit increased to the amount which provides the greater  
1422 benefit.

1423 (3) (a) Subject to the maximum limitation provided in this  
1424 paragraph, the member's dependent children each shall receive an  
1425 annuity of the greater of ten percent (10%) of the member's  
1426 average compensation as defined in Section 25-11-103 at the time  
1427 of the death of the member or Fifty Dollars (\$50.00) monthly;  
1428 however, if there are more than three (3) dependent children, each  
1429 dependent child shall receive an equal share of a total annuity  
1430 equal to thirty percent (30%) of the member's average  
1431 compensation, provided that the total annuity shall not be less



1432 than One Hundred Fifty Dollars (\$150.00) per month for all  
1433 children.

1434           (b) A child shall be considered to be a dependent child  
1435 until marriage, or the attainment of age nineteen (19), whichever  
1436 comes first; however, this age limitation shall be extended beyond  
1437 age nineteen (19), but in no event beyond the attainment of age  
1438 twenty-three (23), as long as the child is a student regularly  
1439 pursuing a full-time course of resident study or training in an  
1440 accredited high school, trade school, technical or vocational  
1441 institute, junior or community college, college, university or  
1442 comparable recognized educational institution duly licensed by a  
1443 state. A student child who is receiving a retirement allowance as  
1444 of June 30, 2016, whose birthday falls during the school year  
1445 (September 1 through June 30) is considered not to reach age  
1446 twenty-three (23) until the July 1 following the actual  
1447 twenty-third birthday. A full-time course of resident study or  
1448 training means a day or evening noncorrespondence course that  
1449 includes school attendance at the rate of at least thirty-six (36)  
1450 weeks per academic year or other applicable period with a subject  
1451 load sufficient, if successfully completed, to attain the  
1452 educational or training objective within the period generally  
1453 accepted as minimum for completion, by a full-time day student, of  
1454 the academic or training program concerned. Any child who is  
1455 physically or mentally incompetent, as adjudged by either a



1456 Mississippi court of competent jurisdiction or by the board, shall  
1457 receive benefits for as long as the incompetency exists.

1458 (c) If there are more than three (3) dependent  
1459 children, upon a child's ceasing to be a dependent child, his  
1460 annuity shall terminate and there shall be a redetermination of  
1461 the amounts payable to any remaining dependent children.

1462 (d) Annuities payable under this subsection (3) shall  
1463 begin the first day of the month following the date of the  
1464 member's death or in case of late filing, retroactive payments  
1465 will be made for a period of not more than one (1) year. Those  
1466 benefits may be paid to a surviving parent or the lawful custodian  
1467 of a dependent child for the use and benefit of the child without  
1468 the necessity of appointment as guardian.

1469 (4) (a) Death benefits in the line of duty. Regardless of  
1470 the number of years of the member's creditable service, the spouse  
1471 and/or the dependent children of an active member who is killed or  
1472 dies as a direct result of a physical injury sustained from an  
1473 accident or a traumatic event caused by external violence or  
1474 physical force occurring in the line of performance of duty shall  
1475 qualify, on approval of the board, for a retirement allowance on  
1476 the first of the month following the date of death, but in the  
1477 case of late filing, retroactive payments will be made for a  
1478 period of not more than one (1) year. The spouse shall receive a  
1479 retirement allowance for life equal to one-half (1/2) of the  
1480 average compensation as defined in Section 25-11-103. In addition



1481 to the retirement allowance for the spouse, or if there is no  
1482 surviving spouse, the member's dependent child shall receive a  
1483 retirement allowance in the amount of one-fourth (1/4) of the  
1484 member's average compensation as defined in Section 25-11-103;  
1485 however, if there are two (2) or more dependent children, each  
1486 dependent child shall receive an equal share of a total annuity  
1487 equal to one-half (1/2) of the member's average compensation. If  
1488 there are more than two (2) dependent children, upon a child's  
1489 ceasing to be a dependent child, his annuity shall terminate and  
1490 there shall be a redetermination of the amounts payable to any  
1491 remaining dependent children. Those benefits shall cease to be  
1492 paid for the support and maintenance of each child upon the child  
1493 attaining the age of nineteen (19) years; however, the spouse  
1494 shall continue to be eligible for the aforesaid retirement  
1495 allowance. Those benefits may be paid to a surviving parent or  
1496 lawful custodian of the children for the use and benefit of the  
1497 children without the necessity of appointment as guardian. Any  
1498 spouse who received spouse retirement benefits under this  
1499 paragraph (a) from and after April 4, 1984, and whose benefits  
1500 were terminated before July 1, 2004, because of remarriage, may  
1501 again receive the retirement benefits authorized under this  
1502 paragraph (a) by making application with the board to reinstate  
1503 those benefits. Any reinstatement of the benefits shall be  
1504 prospective only and shall begin after the first of the month



1505 following the date of the application for reinstatement, but not  
1506 earlier than July 1, 2004.

1507 (b) A child shall be considered to be a dependent child  
1508 until marriage, or the attainment of age nineteen (19), whichever  
1509 comes first; however, this age limitation shall be extended beyond  
1510 age nineteen (19), but in no event beyond the attainment of age  
1511 twenty-three (23), as long as the child is a student regularly  
1512 pursuing a full-time course of resident study or training in an  
1513 accredited high school, trade school, technical or vocational  
1514 institute, junior or community college, college, university or  
1515 comparable recognized educational institution duly licensed by a  
1516 state. A student child who is receiving a retirement allowance as  
1517 of June 30, 2016, whose birthday falls during the school year  
1518 (September 1 through June 30) is considered not to reach age  
1519 twenty-three (23) until the July 1 following the actual  
1520 twenty-third birthday. A full-time course of resident study or  
1521 training means a day or evening noncorrespondence course that  
1522 includes school attendance at the rate of at least thirty-six (36)  
1523 weeks per academic year or other applicable period with a subject  
1524 load sufficient, if successfully completed, to attain the  
1525 educational or training objective within the period generally  
1526 accepted as minimum for completion, by a full-time day student, of  
1527 the academic or training program concerned. Any child who is  
1528 physically or mentally incompetent, as adjudged by either a



1529 Mississippi court of competent jurisdiction or by the board, shall  
1530 receive benefits for as long as the incompetency exists.

1531 (5) If all the annuities provided for in this section  
1532 payable on account of the death of a member terminate before there  
1533 has been paid an aggregate amount equal to the member's  
1534 accumulated contributions standing to the member's credit in the  
1535 annuity savings account at the time of the member's death, the  
1536 difference between the accumulated contributions and the aggregate  
1537 amount of annuity payments shall be paid to the person that the  
1538 member has nominated by written designation duly executed and  
1539 filed with the board. If there is no designated beneficiary  
1540 surviving at termination of benefits, the difference shall be  
1541 payable under Section 25-11-117.1(1).

1542 (6) Regardless of the number of years of creditable service,  
1543 upon the application of a member or employer, any active member  
1544 who becomes disabled as a direct result of a physical injury  
1545 sustained from an accident or traumatic event caused by external  
1546 violence or physical force occurring in the line of performance of  
1547 duty, provided that the medical board or other designated  
1548 governmental agency after a medical examination certifies that the  
1549 member is mentally or physically incapacitated for the further  
1550 performance of duty and the incapacity is likely to be permanent,  
1551 may be retired by the board of trustees on the first of the month  
1552 following the date of filing the application but in no event shall  
1553 the retirement allowance begin before the termination of state



1554 service. If a member who has been approved for a retirement  
1555 allowance under this subsection does not terminate state service  
1556 within ninety (90) days after the approval, the retirement  
1557 allowance and the application for the allowance shall be void.  
1558 The retirement allowance shall equal the allowance on disability  
1559 retirement as provided in Section 25-11-113 but shall not be less  
1560 than fifty percent (50%) of average compensation. Line of duty  
1561 disability benefits under this section shall be administered in  
1562 accordance with the provisions of Section 25-11-113(1)(b), (c),  
1563 (d), (e) and (f), (3), (4), (5) and (6).

1564 (7) For purposes of determining death or disability benefits  
1565 under this section, the following shall apply:

1566 (a) Death or permanent and total disability resulting  
1567 from a cardiovascular, pulmonary or musculoskeletal condition that  
1568 was not a direct result of a physical injury sustained from an  
1569 accident or a traumatic event caused by external violence or  
1570 physical force occurring in the performance of duty shall be  
1571 deemed a natural death or an ordinary disability.

1572 (b) A mental disability based exclusively on employment  
1573 duties occurring on an ongoing basis shall be deemed an ordinary  
1574 disability.

1575 (8) If the deceased or disabled member has less than four  
1576 (4) years of membership service, the average compensation as  
1577 defined in Section 25-11-103 shall be the average of all annual





1578 earned compensation in state service for the purposes of benefits  
1579 provided in this section.

1580 (9) In case of death or total and permanent disability under  
1581 subsection (4) or subsection (6) of this section and before the  
1582 board shall consider any application for a retirement allowance,  
1583 the employer must certify to the board that the member's death or  
1584 disability was a direct result of an accident or a traumatic event  
1585 occurring during and as a result of the performance of the regular  
1586 and assigned duties of the employee and that the death or  
1587 disability was not the result of the willful negligence of the  
1588 employee.

1589 (10) The application for the retirement allowance must be  
1590 filed within one (1) year after death of an active member who is  
1591 killed in the line of performance of duty or dies as a direct  
1592 result of an accident occurring in the line of performance of duty  
1593 or traumatic event; but the board of trustees may consider an  
1594 application for disability filed after the one-year period if it  
1595 can be factually demonstrated to the satisfaction of the board of  
1596 trustees that the disability is due to the accident and that the  
1597 filing was not accomplished within the one-year period due to a  
1598 delayed manifestation of the disability or to circumstances beyond  
1599 the control of the member. However, in case of late filing,  
1600 retroactive payments will be made for a period of not more than  
1601 one (1) year only.



1602           (11) (a) Notwithstanding any other section of this article  
1603 and in lieu of any payments to a designated beneficiary for a  
1604 refund of contributions under Section 25-11-117, the spouse and/or  
1605 children shall be eligible for the benefits payable under this  
1606 section, and the spouse may elect, for both the spouse and/or  
1607 children, to receive benefits in accordance with either  
1608 subsections (2) and (3) or subsection (4) of this section;  
1609 otherwise, the contributions to the credit of the deceased member  
1610 shall be refunded in accordance with Section 25-11-117.

1611           (b) Notwithstanding any other section of this article,  
1612 a spouse who is entitled to receive a monthly benefit under either  
1613 subsection (2) or (4) of this section and who is also the named  
1614 beneficiary for a refund of accumulated contributions in the  
1615 member's annuity savings account, may, after the death of the  
1616 member, elect to receive a refund of accumulated contributions in  
1617 lieu of a monthly allowance, provided that there are no dependent  
1618 children entitled to benefits under subsection (3) of this  
1619 section.

1620           (12) If the member has previously received benefits from the  
1621 system to which he was not entitled and has not repaid in full all  
1622 amounts payable by him to the system, the annuity amounts  
1623 otherwise provided by this section shall be withheld and used to  
1624 effect repayment until the total of the withholdings repays in  
1625 full all amounts payable by him to the system.



1626           **SECTION 7.** Section 25-11-117, Mississippi Code of 1972, is  
1627 amended as follows:

1628           25-11-117. (1) A member may be paid a refund of the amount  
1629 of accumulated contributions to the credit of the member in the  
1630 annuity savings account, provided that the member has withdrawn  
1631 from state service and has not returned to state service on the  
1632 date the refund of the accumulated contributions would be paid.  
1633 That refund of the contributions to the credit of the member in  
1634 the annuity savings account shall be paid within ninety (90) days  
1635 from receipt in the office of the retirement system of the  
1636 properly completed form requesting the payment. In the event of  
1637 death before retirement of any member whose spouse and/or children  
1638 are not entitled to a retirement allowance, the accumulated  
1639 contributions to the credit of the deceased member in the annuity  
1640 savings account shall be paid to the designated beneficiary on  
1641 file in writing in the office of the executive director of the  
1642 board of trustees within ninety (90) days from receipt of a  
1643 properly completed form requesting the payment. If there is no  
1644 such designated beneficiary on file for the deceased member in the  
1645 office of the system, upon the filing of a proper request with the  
1646 board, the contributions to the credit of the deceased member in  
1647 the annuity savings account shall be refunded under Section  
1648 25-11-117.1(1). The payment of the refund shall discharge all  
1649 obligations of the retirement system to the member on account of  
1650 any creditable service rendered by the member before the receipt



1651 of the refund. By the acceptance of the refund, the member shall  
1652 waive and relinquish all accrued rights in the system.

1653 (2) Under the Unemployment Compensation Amendments of 1992  
1654 (Public Law 102-318 (UCA)), a member or the spouse of a member who  
1655 is an eligible beneficiary entitled to a refund under this section  
1656 may elect, on a form prescribed by the board under rules and  
1657 regulations established by the board, to have an eligible rollover  
1658 distribution of accumulated contributions payable under this  
1659 section paid directly to an eligible retirement plan, as defined  
1660 under applicable federal law, or an individual retirement account.  
1661 If the member or the spouse of a member who is an eligible  
1662 beneficiary makes that election and specifies the eligible  
1663 retirement plan or individual retirement account to which the  
1664 distribution is to be paid, the distribution will be made in the  
1665 form of a direct trustee-to-trustee transfer to the specified  
1666 eligible retirement plan. A nonspouse beneficiary may elect to  
1667 have an eligible rollover distribution paid in the form of a  
1668 direct trustee-to-trustee transfer to an individual retirement  
1669 account established to receive the distribution on behalf of the  
1670 nonspouse beneficiary. Flexible rollovers under this subsection  
1671 shall not be considered assignments under Section 25-11-129.

1672 (3) (a) If any person who has received a refund \* \* \*  
1673 reenters the state service and again becomes a member of the  
1674 system before July 1, 2007, or if any person who has received a  
1675 refund after at least (4) years of membership as a first responder



1676 reenters the state service and again becomes a member of the  
1677 system on or after July 1, 2007, the member may repay all or part  
1678 of the amounts previously received as a refund, together with  
1679 regular interest covering the period from the date of refund to  
1680 the date of repayment; however, the amounts that are repaid by the  
1681 member and the creditable service related thereto shall not be  
1682 used in any benefit calculation or determination until the member  
1683 has remained a contributor to the system for a period of at least  
1684 four (4) years after the member's reentry into state service.  
1685 Repayment for that time shall be made beginning with the most  
1686 recent service for which refund has been made. Upon the repayment  
1687 of all or part of that refund and interest, the member shall again  
1688 receive credit for the period of creditable service for which full  
1689 repayment has been made to the system.

1690 (b) If any person who has received a refund, other than  
1691 one who maintained at least (4) years of membership as a first  
1692 responder, reenters the state service and again becomes a member  
1693 of the system on or after July 1, 2007, the member may repay all  
1694 or part of the amounts previously received as a refund, together  
1695 with regular interest covering the period from the date of refund  
1696 to the date of repayment; however, the amounts that are repaid by  
1697 the member and the creditable service related thereto shall not be  
1698 used in any benefit calculation or determination until the member  
1699 has remained a contributor to the system for a period of at least  
1700 eight (8) years after the member's reentry into state service.



1701 Repayment for that time shall be made beginning with the most  
1702 recent service for which refund has been made. Upon the repayment  
1703 of all or part of that refund and interest, the member shall again  
1704 receive credit for the period of creditable service for which full  
1705 repayment has been made to the system.

1706 (4) (a) In order to provide a source of income to members  
1707 who have applied for disability benefits under Section 25-11-113  
1708 or 25-11-114, the board may provide, at the employee's election, a  
1709 temporary benefit to be paid from the member's accumulated  
1710 contributions, if any, without forfeiting the right to pursue  
1711 disability benefits, provided that the member has exhausted all  
1712 personal and medical leave and has terminated his or her  
1713 employment. The board may prescribe rules and regulations for  
1714 carrying out the provisions of this subsection (4).

1715 (b) If a member who has elected to receive temporary  
1716 benefits under this subsection later applies for a refund of his  
1717 or her accumulated contributions, all amounts paid under this  
1718 subsection shall be deducted from the accumulated contributions  
1719 and the balance will be paid to the member. If a member who has  
1720 elected to receive temporary benefits under this subsection is  
1721 later approved for a disability retirement allowance, and a  
1722 service retirement allowance or survivor benefits are paid on the  
1723 account, the board shall adjust the benefits in such a manner that  
1724 no more than the actuarial equivalent of the benefits to which the  
1725 member or beneficiary was or is entitled shall be paid.



1726 (c) The board may study, develop and propose a  
1727 disability benefit structure, including short- and long-term  
1728 disability benefits, provided that it is the actuarial equivalent  
1729 of the benefits currently provided in Section 25-11-113 or  
1730 25-11-114.

1731 **SECTION 8.** This act shall take effect and be in force from  
1732 and after July 1, 2022.

