

By: Senator(s) Wiggins

To: Finance

## SENATE BILL NO. 2774

1 AN ACT TO CREATE THE "FIRST RESPONDER APPRECIATION AND  
2 RECRUITMENT ACT"; TO CREATE A NEW SECTION IN TITLE 25, CHAPTER 11,  
3 ARTICLE 3, MISSISSIPPI CODE OF 1972, TO IMPLEMENT THE "FIRST  
4 RESPONDERS RETIREMENT INCENTIVE"; TO PROVIDE, FOR THIS INCENTIVE,  
5 THAT ANY MEMBER OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM HIRED  
6 ON OR AFTER JULY 1, 2011, SHALL EARN ONE YEAR OF CREDITABLE  
7 SERVICE AT NO COST TO MEMBERS FOR EVERY FIVE YEARS SERVED AS A  
8 FIRST RESPONDER IN THE STATE OF MISSISSIPPI; TO PROVIDE THAT, IN  
9 ORDER TO USE THIS INCENTIVE, THE FIRST RESPONDER MUST NOT HAVE ANY  
10 FELONY CONVICTIONS AT THE TIME OF RETIREMENT; TO AMEND SECTIONS  
11 25-11-103, 25-11-105, 25-11-109, 25-11-111, 25-11-113, 25-11-114  
12 AND 25-11-117, MISSISSIPPI CODE OF 1972, TO REDUCE THE VESTING  
13 PERIOD FOR RETIREMENT BENEFITS IN THE PUBLIC EMPLOYEES' RETIREMENT  
14 SYSTEM FROM EIGHT YEARS TO FOUR YEARS FOR PERSONS HAVING JOINED  
15 THE SYSTEM ON OR AFTER JULY 1, 2007, BUT HAVING AT LEAST FOUR  
16 YEARS OF SERVICE IN THE SYSTEM AS FIRST RESPONDERS; AND FOR  
17 RELATED PURPOSES.

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

19 **SECTION 1.** This act shall be known and may be cited as the  
20 "First Responder Appreciation and Recruitment Act."

21 **SECTION 2.** The section implements the "First Responders  
22 Retirement Incentive." Any member hired on or after July 1, 2011,  
23 shall earn one (1) year of creditable service at no cost to  
24 members for every five (5) years served as a first responder in  
25 the State of Mississippi. In order to use this incentive, the



26 first responder must not have any felony convictions at the time  
27 of retirement.

28 **SECTION 3.** Section 25-11-103, Mississippi Code of 1972, is  
29 amended as follows:

30 25-11-103. (1) The following words and phrases as used in  
31 Articles 1 and 3, unless a different meaning is plainly required  
32 by the context, have the following meanings:

33 (a) "Accumulated contributions" means the sum of all  
34 the amounts deducted from the compensation of a member and  
35 credited to his or her individual account in the annuity savings  
36 account, together with regular interest as provided in Section  
37 25-11-123.

38 (b) "Actuarial cost" means the amount of funds  
39 presently required to provide future benefits as determined by the  
40 board based on applicable tables and formulas provided by the  
41 actuary.

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

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

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



51 (f) "Average compensation" means the average of the  
52 four (4) highest years of earned compensation reported for an  
53 employee in a fiscal or calendar year period, or combination  
54 thereof that do not overlap, or the last forty-eight (48)  
55 consecutive months of earned compensation reported for an  
56 employee. The four (4) years need not be successive or joined  
57 years of service. In computing the average compensation for  
58 retirement, disability or survivor benefits, any amount lawfully  
59 paid in a lump sum for personal leave or major medical leave shall  
60 be included in the calculation to the extent that the amount does  
61 not exceed an amount that is equal to thirty (30) days of earned  
62 compensation and to the extent that it does not cause the  
63 employee's earned compensation to exceed the maximum reportable  
64 amount specified in paragraph (k) of this subsection; however,  
65 this thirty-day limitation shall not prevent the inclusion in the  
66 calculation of leave earned under federal regulations before July  
67 1, 1976, and frozen as of that date as referred to in Section  
68 25-3-99. In computing the average compensation, no amounts shall  
69 be used that are in excess of the amount on which contributions  
70 were required and paid, and no nontaxable amounts paid by the  
71 employer for health or life insurance premiums for the employee  
72 shall be used. If any member who is or has been granted any  
73 increase in annual salary or compensation of more than eight  
74 percent (8%) retires within twenty-four (24) months from the date  
75 that the increase becomes effective, then the board shall exclude



76 that part of the increase in salary or compensation that exceeds  
77 eight percent (8%) in calculating that member's average  
78 compensation for retirement purposes. The board may enforce this  
79 provision by rule or regulation. However, increases in  
80 compensation in excess of eight percent (8%) per year granted  
81 within twenty-four (24) months of the date of retirement may be  
82 included in the calculation of average compensation if  
83 satisfactory proof is presented to the board showing that the  
84 increase in compensation was the result of an actual change in the  
85 position held or services rendered, or that the compensation  
86 increase was authorized by the State Personnel Board or was  
87 increased as a result of statutory enactment, and the employer  
88 furnishes an affidavit stating that the increase granted within  
89 the last twenty-four (24) months was not contingent on a promise  
90 or agreement of the employee to retire. Nothing in Section  
91 25-3-31 shall affect the calculation of the average compensation  
92 of any member for the purposes of this article. The average  
93 compensation of any member who retires before July 1, 1992, shall  
94 not exceed the annual salary of the Governor.

95 (g) "Beneficiary" means any person entitled to receive  
96 a retirement allowance, an annuity or other benefit as provided by  
97 Articles 1 and 3. The term "beneficiary" may also include an  
98 organization, estate, trust or entity; however, a beneficiary  
99 designated or entitled to receive monthly payments under an  
100 optional settlement based on life contingency or under a statutory



101 monthly benefit may only be a natural person. In the event of the  
102 death before retirement of any member who became a member of the  
103 system before July 1, 2007, or who became a member on or after  
104 July 1, 2007, and maintained membership as a first responder for  
105 at least four (4) years, and whose spouse and/or children are not  
106 entitled to a retirement allowance on the basis that the member  
107 has less than four (4) years of membership service credit, or who  
108 became a member of the system on or after July 1, 2007, other than  
109 one who maintained membership as a first responder for at least  
110 four (4) years, and whose spouse and/or children are not entitled  
111 to a retirement allowance on the basis that the member has less  
112 than eight (8) years of membership service credit, and/or has not  
113 been married for a minimum of one (1) year or the spouse has  
114 waived his or her entitlement to a retirement allowance under  
115 Section 25-11-114, the lawful spouse of a member at the time of  
116 the death of the member shall be the beneficiary of the member  
117 unless the member has designated another beneficiary after the  
118 date of marriage in writing, and filed that writing in the office  
119 of the executive director of the board of trustees. No  
120 designation or change of beneficiary shall be made in any other  
121 manner.

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



125           (i) "Creditable service" means "prior service,"  
126 "retroactive service" and all lawfully credited unused leave not  
127 exceeding the accrual rates and limitations provided in Section  
128 25-3-91 et seq., as of the date of withdrawal from service plus  
129 "membership service" and other service for which credit is  
130 allowable as provided in Section 25-11-109. Except to limit  
131 creditable service reported to the system for the purpose of  
132 computing an employee's retirement allowance or annuity or  
133 benefits provided in this article, nothing in this paragraph shall  
134 limit or otherwise restrict the power of the governing authority  
135 of a municipality or other political subdivision of the state to  
136 adopt such vacation and sick leave policies as it deems necessary.

137           (j) "Child" means either a natural child of the member,  
138 a child that has been made a child of the member by applicable  
139 court action before the death of the member, or a child under the  
140 permanent care of the member at the time of the latter's death,  
141 which permanent care status shall be determined by evidence  
142 satisfactory to the board. For purposes of this paragraph, a  
143 natural child of the member is a child of the member that is  
144 conceived before the death of the member.

145           (k) "Earned compensation" means the full amount earned  
146 during a fiscal year by an employee not to exceed the employee  
147 compensation limit set pursuant to Section 401(a)(17) of the  
148 Internal Revenue Code for the calendar year in which the fiscal  
149 year begins and proportionately for less than one (1) year of



150 service. Except as otherwise provided in this paragraph, the  
151 value of maintenance furnished to an employee shall not be  
152 included in earned compensation. Earned compensation shall not  
153 include any amounts paid by the employer for health or life  
154 insurance premiums for an employee. Earned compensation shall be  
155 limited to the regular periodic compensation paid, exclusive of  
156 litigation fees, bond fees, performance-based incentive payments,  
157 and other similar extraordinary nonrecurring payments. In  
158 addition, any member in a covered position, as defined by Public  
159 Employees' Retirement System laws and regulations, who is also  
160 employed by another covered agency or political subdivision shall  
161 have the earnings of that additional employment reported to the  
162 Public Employees' Retirement System regardless of whether the  
163 additional employment is sufficient in itself to be a covered  
164 position. In addition, computation of earned compensation shall  
165 be governed by the following:

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

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



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

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

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

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

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

196 (viii) The value of maintenance furnished to an  
197 employee before July 1, 2013, for which the proper amount of  
198 employer and employee contributions have been paid, shall be





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

208 (ix) Except as otherwise provided in this  
209 paragraph, the value of any in-kind benefits provided by the  
210 employer shall not be included in earned compensation. As used in  
211 this subparagraph, "in-kind benefits" shall include, but not be  
212 limited to, group life insurance premiums, health or dental  
213 insurance premiums, nonpaid major medical and personal leave,  
214 employer contributions for social security and retirement, tuition  
215 reimbursement or educational funding, day care or transportation  
216 benefits.

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

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



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

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

233           (p) "Medical board" means the board of physicians or  
234 any governmental or nongovernmental disability determination  
235 service designated by the board of trustees that is qualified to  
236 make disability determinations as provided for in Section  
237 25-11-119.

238           (q) "Member" means any person included in the  
239 membership of the system as provided in Section 25-11-105. For  
240 purposes of Sections 25-11-103, 25-11-105, 25-11-109, 25-11-111,  
241 25-11-113, 25-11-114, 25-11-115 and 25-11-117, if a member of the  
242 system, other than one who maintained at least (4) years of  
243 membership as a first responder, withdrew from state service and  
244 received a refund of the amount of the accumulated contributions  
245 to the credit of the member in the annuity savings account before  
246 July 1, 2007, and the person reenters state service and becomes a  
247 member of the system again on or after July 1, 2007, and repays



248 all or part of the amount received as a refund and interest in  
249 order to receive creditable service for service rendered before  
250 July 1, 2007, the member shall be considered to have become a  
251 member of the system on or after July 1, 2007, subject to the  
252 eight-year membership service requirement, as applicable in those  
253 sections. For purposes of Sections 25-11-103, 25-11-111,  
254 25-11-114 and 25-11-115, if a member of the system withdrew from  
255 state service and received a refund of the amount of the  
256 accumulated contributions to the credit of the member in the  
257 annuity savings account before July 1, 2011, and the person  
258 reenters state service and becomes a member of the system again on  
259 or after July 1, 2011, and repays all or part of the amount  
260 received as a refund and interest in order to receive creditable  
261 service for service rendered before July 1, 2011, the member shall  
262 be considered to have become a member of the system on or after  
263 July 1, 2011.

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

267 (s) "Position" means any office or any employment in  
268 the state service, or two (2) or more of them, the duties of which  
269 call for services to be rendered by one (1) person, including  
270 positions jointly employed by federal and state agencies  
271 administering federal and state funds. The employer shall  
272 determine upon initial employment and during the course of



273 employment of an employee who does not meet the criteria for  
274 coverage in the Public Employees' Retirement System based on the  
275 position held, whether the employee is or becomes eligible for  
276 coverage in the Public Employees' Retirement System based upon any  
277 other employment in a covered agency or political subdivision. If  
278 or when the employee meets the eligibility criteria for coverage  
279 in the other position, then the employer must withhold  
280 contributions and report wages from the noncovered position in  
281 accordance with the provisions for reporting of earned  
282 compensation. Failure to deduct and report those contributions  
283 shall not relieve the employee or employer of liability thereof.  
284 The board shall adopt such rules and regulations as necessary to  
285 implement and enforce this provision.

286 (t) "Prior service" means:

287 (i) For persons who became members of the system  
288 before July 1, 2007, or who became members on or after July 1,  
289 2007, and maintained membership as first responders for at least  
290 four (4) years, service rendered before February 1, 1953, for  
291 which credit is allowable under Sections 25-11-105 and 25-11-109,  
292 and which shall allow prior service for any person who is now or  
293 becomes a member of the Public Employees' Retirement System and  
294 who does contribute to the system for a minimum period of four (4)  
295 years.

296 (ii) For persons who became members of the system  
297 on or after July 1, 2007, other than those who maintained



298 membership as first responders for at least four (4) years,  
299 service rendered before February 1, 1953, for which credit is  
300 allowable under Sections 25-11-105 and 25-11-109, and which shall  
301 allow prior service for any person who is now or becomes a member  
302 of the Public Employees' Retirement System and who does contribute  
303 to the system for a minimum period of eight (8) years.

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

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

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



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

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

326 (z) "State service" means all offices and positions of  
327 trust or employment in the employ of the state, or any political  
328 subdivision or instrumentality of the state, that elect to  
329 participate as provided by Section 25-11-105(f), including the  
330 position of elected or fee officials of the counties and their  
331 deputies and employees performing public services or any  
332 department, independent agency, board or commission thereof, and  
333 also includes all offices and positions of trust or employment in  
334 the employ of joint state and federal agencies administering state  
335 and federal funds and service rendered by employees of the public  
336 schools. Effective July 1, 1973, all nonprofessional public  
337 school employees, such as bus drivers, janitors, maids,  
338 maintenance workers and cafeteria employees, shall have the option  
339 to become members in accordance with Section 25-11-105(b), and  
340 shall be eligible to receive credit for services before July 1,  
341 1973, provided that the contributions and interest are paid by the  
342 employee in accordance with that section; in addition, the county  
343 or municipal separate school district may pay the employer  
344 contribution and pro rata share of interest of the retroactive  
345 service from available funds. "State service" shall not include



346 the President of the Mississippi Lottery Corporation and personnel  
347 employed by the Mississippi Lottery Corporation. From and after  
348 July 1, 1998, retroactive service credit shall be purchased at the  
349 actuarial cost in accordance with Section 25-11-105(b).

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

353 \* \* \* (bb) "Firefighter" means any firefighter who has  
354 ten (10) or more years of service and is employed by the State of  
355 Mississippi, or any political subdivision thereof, on a full-time  
356 duty status, and any firefighter who has ten (10) or more years of  
357 service and is registered with the State of Mississippi, or a  
358 political subdivision thereof, on a volunteer firefighting status.

359 (cc) "Law enforcement officer" means any officer who  
360 has been certified by the Mississippi Board on Law Enforcement  
361 Officer Standards and Training and has ten (10) or more years of  
362 service.

363 (dd) "First responder" means any firefighter or law  
364 enforcement officer as defined in paragraph (bb) or (cc) of this  
365 section.

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

369 **SECTION 4.** Section 25-11-105, Mississippi Code of 1972, is  
370 amended as follows:



371 25-11-105. I. **THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

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

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

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

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





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



421 July 1, 1998, upon eligibility as noted above, the member may  
422 receive credit for such retroactive service provided:

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

426 (ii) The member shall pay to the retirement system  
427 on the date he or she is eligible for that credit or at any time  
428 thereafter before the date of retirement the actuarial cost for  
429 each year of that creditable service. The provisions of this  
430 subparagraph (ii) shall be subject to the limitations of Section  
431 415 of the Internal Revenue Code and regulations promulgated under  
432 Section 415.

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

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

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



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

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

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



471 or termination by the political subdivision or instrumentality.

472 No such plan shall be approved unless:

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

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

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

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

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



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

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

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

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



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

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

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



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

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

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

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



571 system, provided that the employee agrees to the transfer of his  
572 accumulated membership contributions and provided that the other  
573 system is authorized to receive and agrees to make the transfer.

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

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

587 (k) Employees of a political subdivision or  
588 instrumentality who were employed by the political subdivision or  
589 instrumentality before an agreement between the entity and the  
590 Public Employees' Retirement System to extend the benefits of this  
591 article to its employees, and which agreement provides for the  
592 establishment of retroactive service credit, and who became  
593 members of the retirement system before July 1, 2007, or who  
594 became members on or after July 1, 2007, and maintained membership  
595 as first responders for at least four (4) years, and have remained





596 contributors to the retirement system for four (4) years, or who  
597 became members of the retirement system on or after July 1, 2007,  
598 other than those who maintained membership as first responders for  
599 at least four (4) years, and have remained contributors to the  
600 retirement system for eight (8) years, may receive credit for that  
601 retroactive service with the political subdivision or  
602 instrumentality, provided that the employee and/or employer, as  
603 provided under the terms of the modification of the joinder  
604 agreement in allowing that coverage, pay into the retirement  
605 system the employer's and employee's contributions on wages paid  
606 the member during the previous employment, together with interest  
607 or actuarial cost as determined by the board covering the period  
608 from the date the service was rendered until the payment for the  
609 credit for the service was made. Those wages shall be verified by  
610 the Social Security Administration or employer payroll records.  
611 Effective July 1, 1998, upon eligibility as noted above, a member  
612 may receive credit for that retroactive service with the political  
613 subdivision or instrumentality provided:

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

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



621 thereafter before the date of retirement the actuarial cost for  
622 each year of that creditable service. The provisions of this  
623 subparagraph (ii) shall be subject to the limitations of Section  
624 415 of the Internal Revenue Code and regulations promulgated under  
625 Section 415.

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

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



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

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

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

652 (a) Patient or inmate help in state charitable, penal  
653 or correctional institutions;

654 (b) Students of any state educational institution  
655 employed by any agency of the state for temporary, part-time or  
656 intermittent work;

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

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

664 **III. TERMINATION OF MEMBERSHIP**

665 Membership in this system shall cease by a member withdrawing  
666 his accumulated contributions, or by a member withdrawing from  
667 active service with a retirement allowance, or by a member's  
668 death.



669           **SECTION 5.** Section 25-11-109, Mississippi Code of 1972, is  
670 amended as follows:

671           25-11-109. (1) Under such rules and regulations as the  
672 board of trustees shall adopt, each person who becomes a member of  
673 this retirement system, as provided in Section 25-11-105, on or  
674 before July 1, 1953, or who became a member of the system before  
675 July 1, 2007, or who became a member on or after July 1, 2007, and  
676 maintained membership as a first responder for at least four (4)  
677 years, and contributes to the system for a minimum period of four  
678 (4) years, or who became a member of the system on or after July  
679 1, 2007, other than one who maintained membership as a first  
680 responder for at least four (4) years, and contributes to the  
681 system for a minimum period of eight (8) years, shall receive  
682 credit for all state service rendered before February 1, 1953. To  
683 receive that credit, the member shall file a detailed statement of  
684 all services as an employee rendered by him in the state service  
685 before February 1, 1953. For any member who joined the system  
686 after July 1, 1953, and before July 1, 2007, any creditable  
687 service for which the member is not required to make contributions  
688 shall not be credited to the member until the member has  
689 contributed to the system for a minimum period of at least four  
690 (4) years. For any member who joined the system on or after July  
691 1, 2007, other than one who maintained membership as a first  
692 responder for at least four (4) years, any creditable service for  
693 which the member is not required to make contributions shall not



694 be credited to the member until the member has contributed to the  
695 system for a minimum period of at least eight (8) years.

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

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

711 (b) In no case shall credit be allowed for any period  
712 of absence without compensation except for disability while in  
713 receipt of a disability retirement allowance, nor shall less than  
714 fifteen (15) days of service in any month, or service less than  
715 the equivalent of one-half (1/2) of the normal working load for  
716 the position and less than one-half (1/2) of the normal  
717 compensation for the position in any month, constitute a month of  
718 creditable service, nor shall more than one (1) year of service be



719 creditable for all services rendered in any one (1) fiscal year;  
720 however, for a school employee, substantial completion of the  
721 legal school term when and where the service was rendered shall  
722 constitute a year of service credit. Any state or local elected  
723 official shall be deemed a full-time employee for the purpose of  
724 creditable service. However, an appointed or elected official  
725 compensated on a per diem basis only shall not be allowed  
726 creditable service for terms of office.

727 (c) In the computation of any retirement allowance or  
728 any annuity or benefits provided in this article, any fractional  
729 period of service of less than one (1) year shall be taken into  
730 account and a proportionate amount of such retirement allowance,  
731 annuity or benefit shall be granted for any such fractional period  
732 of service.

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

742 (ii) In the computation of unused leave for  
743 creditable service authorized in Section 25-11-103, the following



744 shall govern for members who retire on or after July 1, 2017:  
745 creditable service for unused leave shall be calculated in monthly  
746 increments in which one (1) month of service credit shall be  
747 awarded for each twenty-one (21) days of unused leave, except that  
748 the first fifteen (15) to fifty-seven (57) days of leave shall  
749 constitute three (3) months of service for those who became a  
750 member of the system before July 1, 2017.

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

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

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

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



769 (ii) For service on and after July 1, 1984, the  
770 member shall receive credit for personal and major medical leave  
771 beginning July 1, 1984, at the rates authorized in Sections  
772 25-3-93 and 25-3-95, computed as a full-time employee.

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

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

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





794 Any modification or correction authorized shall only apply  
795 prospectively.

796 When membership ceases, such prior service certificates shall  
797 become void. Should the employee again become a member, he shall  
798 enter the system as an employee not entitled to prior service  
799 credit except as provided in Sections 25-11-105(I), 25-11-113 and  
800 25-11-117.

801 (5) Creditable service at retirement, on which the  
802 retirement allowance of a member shall be based, shall consist of  
803 the membership service rendered by him since he last became a  
804 member, and also, if he has a prior service certificate that is in  
805 full force and effect, the amount of the service certified on his  
806 prior service certificate.

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



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

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



843 (i) The member pays the contributions he would  
844 have made to the retirement system if he had remained in  
845 membership service for the period of qualified military service  
846 based upon his salary at the time his membership service was  
847 interrupted;

848 (ii) The member returns to membership service  
849 within ninety (90) days of the end of his qualified military  
850 service; and

851 (iii) The employer at the time the member's  
852 service was interrupted and to which employment the member returns  
853 pays the contributions it would have made into the retirement  
854 system for such period based on the member's salary at the time  
855 the service was interrupted.

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

861 (c) The member shall furnish proof satisfactory to the  
862 board of trustees of certification of military service showing  
863 dates of entrance into qualified service and the date of discharge  
864 as well as proof that the member has returned to active employment  
865 within the time specified.

866 (8) Any member of the Public Employees' Retirement System  
867 who became a member of the system before July 1, 2007, or who



868 became a member on or after July 1, 2007, and maintained  
869 membership as a first responder for at least four (4) years, and  
870 who has at least four (4) years of membership service credit, or  
871 who became a member of the system on or after July 1, 2007, other  
872 than one who maintained membership as a first responder for at  
873 least four (4) years, and who has at least eight (8) years of  
874 membership service credit, shall be entitled to receive a maximum  
875 of five (5) years' creditable service for service rendered in  
876 another state as a public employee of such other state, or a  
877 political subdivision, public education system or other  
878 governmental instrumentality thereof, or service rendered as a  
879 teacher in American overseas dependent schools conducted by the  
880 Armed Forces of the United States for children of citizens of the  
881 United States residing in areas outside the continental United  
882 States, provided that:

883           (a) The member shall furnish proof satisfactory to the  
884 board of trustees of certification of such services from the  
885 state, public education system, political subdivision or  
886 retirement system of the state where the services were performed  
887 or the governing entity of the American overseas dependent school  
888 where the services were performed; and

889           (b) The member is not receiving or will not be entitled  
890 to receive from the public retirement system of the other state or  
891 from any other retirement plan, including optional retirement



892 plans, sponsored by the employer, a retirement allowance including  
893 such services; and

894 (c) The member shall pay to the retirement system on  
895 the date he or she is eligible for credit for such out-of-state  
896 service or at any time thereafter before the date of retirement  
897 the actuarial cost as determined by the actuary for each year of  
898 out-of-state creditable service. The provisions of this  
899 subsection are subject to the limitations of Section 415 of the  
900 Internal Revenue Code and regulations promulgated under that  
901 section.

902 (9) Any member of the Public Employees' Retirement System  
903 who became a member of the system before July 1, 2007, or who  
904 became a member on or after July 1, 2007, and maintained  
905 membership as a first responder for at least four (4) years, and  
906 has at least four (4) years of membership service credit, or who  
907 became a member of the system on or after July 1, 2007, other than  
908 one who maintained membership as a first responder for at least  
909 four (4) years, and has at least eight (8) years of membership  
910 service credit, and who receives, or has received, professional  
911 leave without compensation for professional purposes directly  
912 related to the employment in state service shall receive  
913 creditable service for the period of professional leave without  
914 compensation provided:



915           (a) The professional leave is performed with a public  
916 institution or public agency of this state, or another state or  
917 federal agency;

918           (b) The employer approves the professional leave  
919 showing the reason for granting the leave and makes a  
920 determination that the professional leave will benefit the  
921 employee and employer;

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

924           (d) The employee shall serve the employer on a  
925 full-time basis for a period of time equivalent to the  
926 professional leave period granted immediately following the  
927 termination of the leave period;

928           (e) The contributing member shall pay to the retirement  
929 system the actuarial cost as determined by the actuary for each  
930 year of professional leave. The provisions of this subsection are  
931 subject to the regulations of the Internal Revenue Code  
932 limitations;

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

936           Any actively contributing member participating in the School  
937 Administrator Sabbatical Program established in Section 37-9-77  
938 shall qualify for continued participation under this subsection  
939 (9).



940 (10) Any member of the Public Employees' Retirement System  
941 who became a member of the system before July 1, 2007, or who  
942 became a member on or after July 1, 2007, and maintained  
943 membership as a first responder for at least four (4) years, and  
944 has at least four (4) years of credited membership service, or who  
945 became a member of the system on or after July 1, 2007, other than  
946 one who maintained membership as a first responder for at least  
947 four (4) years, and has at least eight (8) years of credited  
948 membership service, shall be entitled to receive a maximum of ten  
949 (10) years creditable service for:

950 (a) Any service rendered as an employee of any  
951 political subdivision of this state, or any instrumentality  
952 thereof, that does not participate in the Public Employees'  
953 Retirement System; or

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

958 (c) Any service rendered as an employee of any  
959 political subdivision of this state, or any instrumentality  
960 thereof, for which coverage of the employee's position was or is  
961 excluded; provided that the member pays into the retirement system  
962 the actuarial cost as determined by the actuary for each year, or  
963 portion thereof, of such service. After a member has made full  
964 payment to the retirement system for all or any part of such



965 service, the member shall receive creditable service for the  
966 period of such service for which full payment has been made to the  
967 retirement system.

968 **SECTION 6.** Section 25-11-111, Mississippi Code of 1972, is  
969 amended as follows:

970 25-11-111. (a) (1) Any member who became a member of the  
971 system before July 1, 2007, or who became a member on or after  
972 July 1, 2007, and maintained membership as a first responder for  
973 at least four (4) years, upon withdrawal from service upon or  
974 after attainment of the age of sixty (60) years who has completed  
975 at least four (4) years of membership service, or any member who  
976 became a member of the system before July 1, 2011, upon withdrawal  
977 from service regardless of age who has completed at least  
978 twenty-five (25) years of creditable service, shall be entitled to  
979 receive a retirement allowance, which shall begin on the first of  
980 the month following the date the member's application for the  
981 allowance is received by the board, but in no event before  
982 withdrawal from service.

983 (2) Any member who became a member of the system on or  
984 after July 1, 2007, other than one who maintained membership as a  
985 first responder for at least four (4) years, upon withdrawal from  
986 service upon or after attainment of the age of sixty (60) years  
987 who has completed at least eight (8) years of membership service,  
988 or any member who became a member of the system on or after July  
989 1, 2011, upon withdrawal from service regardless of age who has





990 completed at least thirty (30) years of creditable service, shall  
991 be entitled to receive a retirement allowance, which shall begin  
992 on the first of the month following the date the member's  
993 application for the allowance is received by the board, but in no  
994 event before withdrawal from service.

995 (b) (1) Any member who became a member of the system before  
996 July 1, 2007, or who became a member on or after July 1, 2007, and  
997 maintained membership as a first responder for at least four (4)  
998 years, whose withdrawal from service occurs before attaining the  
999 age of sixty (60) years who has completed four (4) or more years  
1000 of membership service and has not received a refund of his  
1001 accumulated contributions, shall be entitled to receive a  
1002 retirement allowance, beginning upon his attaining the age of  
1003 sixty (60) years, of the amount earned and accrued at the date of  
1004 withdrawal from service. The retirement allowance shall begin on  
1005 the first of the month following the date the member's application  
1006 for the allowance is received by the board, but in no event before  
1007 withdrawal from service.

1008 (2) Any member who became a member of the system on or  
1009 after July 1, 2007, other than one who maintained membership as a  
1010 first responder for at least four (4) years, whose withdrawal from  
1011 service occurs before attaining the age of sixty (60) years who  
1012 has completed eight (8) or more years of membership service and  
1013 has not received a refund of his accumulated contributions, shall  
1014 be entitled to receive a retirement allowance, beginning upon his



1015 attaining the age of sixty (60) years, of the amount earned and  
1016 accrued at the date of withdrawal from service. The retirement  
1017 allowance shall begin on the first of the month following the date  
1018 the member's application for the allowance is received by the  
1019 board, but in no event before withdrawal from service.

1020 (c) Any member in service who has qualified for retirement  
1021 benefits may select any optional method of settlement of  
1022 retirement benefits by notifying the Executive Director of the  
1023 Board of Trustees of the Public Employees' Retirement System in  
1024 writing, on a form prescribed by the board, of the option he has  
1025 selected and by naming the beneficiary of the option and  
1026 furnishing necessary proof of age. The option, once selected, may  
1027 be changed at any time before actual retirement or death, but upon  
1028 the death or retirement of the member, the optional settlement  
1029 shall be placed in effect upon proper notification to the  
1030 executive director.

1031 (d) Any member who became a member of the system before July  
1032 1, 2011, shall be entitled to an annual retirement allowance which  
1033 shall consist of:

1034 (1) A member's annuity, which shall be the actuarial  
1035 equivalent of the accumulated contributions of the member at the  
1036 time of retirement computed according to the actuarial table in  
1037 use by the system; and

1038 (2) An employer's annuity, which, together with the  
1039 member's annuity provided above, shall be equal to two percent



1040 (2%) of the average compensation for each year of service up to  
1041 and including twenty-five (25) years of creditable service, and  
1042 two and one-half percent (2-1/2%) of the average compensation for  
1043 each year of service exceeding twenty-five (25) years of  
1044 creditable service.

1045 (3) Any retired member or beneficiary thereof who was  
1046 eligible to receive a retirement allowance before July 1, 1991,  
1047 and who is still receiving a retirement allowance on July 1, 1992,  
1048 shall receive an increase in the annual retirement allowance of  
1049 the retired member equal to one-eighth of one percent (1/8 of 1%)  
1050 of the average compensation for each year of state service in  
1051 excess of twenty-five (25) years of membership service up to and  
1052 including thirty (30) years. The maximum increase shall be  
1053 five-eighths of one percent (5/8 of 1%). In no case shall a  
1054 member who has been retired before July 1, 1987, receive less than  
1055 Ten Dollars (\$10.00) per month for each year of creditable service  
1056 and proportionately for each quarter year thereof. Persons  
1057 retired on or after July 1, 1987, shall receive at least Ten  
1058 Dollars (\$10.00) per month for each year of service and  
1059 proportionately for each quarter year thereof reduced for the  
1060 option selected. However, such Ten Dollars (\$10.00) minimum per  
1061 month for each year of creditable service shall not apply to a  
1062 retirement allowance computed under Section 25-11-114 based on a  
1063 percentage of the member's average compensation.



1064 (e) Any member who became a member of the system on or after  
1065 July 1, 2011, shall be entitled to an annual retirement allowance  
1066 which shall consist of:

1067 (1) A member's annuity, which shall be the actuarial  
1068 equivalent of the accumulated contributions of the member at the  
1069 time of retirement computed according to the actuarial table in  
1070 use by the system; and

1071 (2) An employer's annuity, which, together with the  
1072 member's annuity provided above, shall be equal to two percent  
1073 (2%) of the average compensation for each year of service up to  
1074 and including thirty (30) years of creditable service, and two and  
1075 one-half percent (2-1/2%) of average compensation for each year of  
1076 service exceeding thirty (30) years of creditable service.

1077 (f) Any member who became a member of the system on or after  
1078 July 1, 2011, upon withdrawal from service upon or after attaining  
1079 the age of sixty (60) years who has completed at least eight (8)  
1080 years of membership service, or any such member upon withdrawal  
1081 from service regardless of age who has completed at least thirty  
1082 (30) years of creditable service, or any such member who  
1083 maintained membership as a first responder for at least four (4)  
1084 years, upon withdrawal from service upon or after attaining the  
1085 age of sixty (60) years who has completed at least four (4) years  
1086 of membership service, shall be entitled to receive a retirement  
1087 allowance computed in accordance with the formula set forth in  
1088 subsection (e) of this section. In the case of the retirement of



1089 any member who has attained age sixty (60) but who has not  
1090 completed at least thirty (30) years of creditable service, the  
1091 retirement allowance shall be computed in accordance with the  
1092 formula set forth in subsection (e) of this section except that  
1093 the total annual retirement allowance shall be reduced by an  
1094 actuarial equivalent factor for each year of creditable service  
1095 below thirty (30) years or the number of years in age that the  
1096 member is below age sixty-five (65), whichever is less.

1097 (g) No member, except members excluded by the Age  
1098 Discrimination in Employment Act Amendments of 1986 (Public Law  
1099 99-592), under either Article 1 or Article 3 in state service  
1100 shall be required to retire because of age.

1101 (h) No payment on account of any benefit granted under the  
1102 provisions of this section shall become effective or begin to  
1103 accrue until January 1, 1953.

1104 (i) (1) A retiree or beneficiary may, on a form prescribed  
1105 by and filed with the retirement system, irrevocably waive all or  
1106 a portion of any benefits from the retirement system to which the  
1107 retiree or beneficiary is entitled. The waiver shall be binding  
1108 on the heirs and assigns of any retiree or beneficiary and the  
1109 same must agree to forever hold harmless the Public Employees'  
1110 Retirement System of Mississippi from any claim to the waived  
1111 retirement benefits.

1112 (2) Any waiver under this subsection shall apply only  
1113 to the person executing the waiver. A beneficiary shall be



1114 entitled to benefits according to the option selected by the  
1115 member at the time of retirement. However, a beneficiary may, at  
1116 the option of the beneficiary, execute a waiver of benefits under  
1117 this subsection.

1118 (3) The retirement system shall retain in the annuity  
1119 reserve account amounts that are not used to pay benefits because  
1120 of a waiver executed under this subsection.

1121 (4) The board of trustees may provide rules and  
1122 regulations for the administration of waivers under this  
1123 subsection.

1124 **SECTION 7.** Section 25-11-113, Mississippi Code of 1972, is  
1125 amended as follows:

1126 25-11-113. (1) (a) Upon the application of a member or his  
1127 employer, any active member in state service who became a member  
1128 of the system before July 1, 2007, or who became a member on or  
1129 after July 1, 2007, and maintained membership as a first responder  
1130 for at least four (4) years, and who has at least four (4) years  
1131 of membership service credit, or any active member in state  
1132 service who became a member of the system on or after July 1,  
1133 2007, other than one who maintained membership as a first  
1134 responder for at least four (4) years, who has at least eight (8)  
1135 years of membership service credit, may be retired by the board of  
1136 trustees on the first of the month following the date of filing  
1137 the application on a disability retirement allowance, but in no  
1138 event shall the disability retirement allowance begin before



1139 termination of state service, provided that the medical board,  
1140 after an evaluation of medical evidence that may or may not  
1141 include an actual physical examination by the medical board,  
1142 certifies that the member is mentally or physically incapacitated  
1143 for the further performance of duty, that the incapacity is likely  
1144 to be permanent, and that the member should be retired; however,  
1145 the board of trustees may accept a disability medical  
1146 determination from the Social Security Administration in lieu of a  
1147 certification from the medical board. If a member who has been  
1148 approved for a disability retirement allowance does not terminate  
1149 state service within ninety (90) days after approval, the  
1150 disability retirement and the application for disability  
1151 retirement shall be void. For the purposes of disability  
1152 determination, the medical board shall apply the following  
1153 definition of disability: the inability to perform the usual  
1154 duties of employment or the incapacity to perform such lesser  
1155 duties, if any, as the employer, in its discretion, may assign  
1156 without material reduction in compensation, or the incapacity to  
1157 perform the duties of any employment covered by the Public  
1158 Employees' Retirement System (Section 25-11-101 et seq.) that is  
1159 actually offered and is within the same general territorial work  
1160 area, without material reduction in compensation. The employer  
1161 shall be required to furnish the job description and duties of the  
1162 member. The employer shall further certify whether the employer  
1163 has offered the member other duties and has complied with the



1164 applicable provisions of the Americans With Disabilities Act in  
1165 affording reasonable accommodations that would allow the employee  
1166 to continue employment.

1167 (b) Any member applying for a disability retirement  
1168 allowance must provide sufficient objective medical evidence in  
1169 support of his or her claim. All disability determinations,  
1170 whether the initial examination or reexamination, shall be based  
1171 on objective medical evidence. "Objective medical evidence" means  
1172 reports of examinations or treatments; medical signs that are  
1173 anatomical, physiological, or psychological abnormalities that are  
1174 observed and documented by medical professionals; psychiatric  
1175 signs that are medically demonstrable phenomena indicating  
1176 specific abnormalities of behavior, affect, thought, memory,  
1177 orientation, or contact with reality; or laboratory findings that  
1178 are anatomical, physiological, or psychological phenomena that are  
1179 shown by medically acceptable laboratory diagnostic techniques,  
1180 including, but not limited to, chemical tests, electrocardiograms,  
1181 electroencephalograms, X-rays, and psychological tests.  
1182 Nonmedical information shall not be considered objective medical  
1183 evidence.

1184 (c) Any inactive member who became a member of the  
1185 system before July 1, 2007, or who became a member on or after  
1186 July 1, 2007, and maintained membership as a first responder for  
1187 at least four (4) years, with four (4) or more years of membership  
1188 service credit, or any inactive member who became a member of the





1189 system on or after July 1, 2007, other than one who maintained  
1190 membership as a first responder for at least four (4) years, with  
1191 eight (8) or more years of membership service credit, who has  
1192 withdrawn from active state service, is not eligible for a  
1193 disability retirement allowance unless the disability occurs  
1194 within six (6) months of the termination of active service and  
1195 unless satisfactory proof is presented to the board of trustees  
1196 that the disability was the direct cause of withdrawal from state  
1197 service. Application for a disability retirement allowance must  
1198 be filed within one (1) year of termination from active service.  
1199 This period may be extended by an additional year if it can be  
1200 factually demonstrated to the satisfaction of the board of  
1201 trustees that throughout the initial one-year period the member  
1202 was incapable of applying for benefits by reason of mental or  
1203 physical impairment as certified by a medical doctor.

1204 (d) Any member who is or becomes eligible for service  
1205 retirement benefits under Section 25-11-111 while pursuing a  
1206 disability retirement allowance under this section or Section  
1207 25-11-114 may elect to receive a service retirement allowance  
1208 pending a final determination on eligibility for a disability  
1209 retirement allowance or withdrawal of the application for the  
1210 disability retirement allowance. In such a case, an application  
1211 for a disability retirement allowance must be on file with the  
1212 system before the beginning of a service retirement allowance. If  
1213 the application is approved, the option selected and beneficiary



1214 designated on the retirement application shall be used to  
1215 determine the disability retirement allowance. If the application  
1216 is not approved or if the application is withdrawn, the service  
1217 retirement allowance shall continue to be paid in accordance with  
1218 the option selected. No person may apply for a disability  
1219 retirement allowance after the person begins to receive a service  
1220 retirement allowance.

1221 (e) If the medical board certifies that the member is  
1222 not mentally or physically incapacitated for the future  
1223 performance of duty, the member may request, within sixty (60)  
1224 days, a hearing before the hearing officer as provided in Section  
1225 25-11-120. All hearings shall be held in accordance with rules  
1226 and regulations adopted by the board to govern those hearings.  
1227 The hearing may be closed upon the request of the member.

1228 (f) The medical board may request additional medical  
1229 evidence and/or other physicians to conduct an evaluation of the  
1230 member's condition. If the medical board requests additional  
1231 medical evidence and the member refuses the request, the  
1232 application shall be considered void.

1233 (2) Allowance on disability retirement.

1234 (a) Upon retirement for disability, an eligible member  
1235 shall receive a retirement allowance if he has attained the age of  
1236 sixty (60) years.

1237 (b) Except as provided in paragraph (c) of this  
1238 subsection (2), an eligible member who is retired for disability



1239 and who has not attained sixty (60) years of age shall receive a  
1240 disability benefit as computed in Section 25-11-111(d), which  
1241 shall consist of:

1242 (i) A member's annuity, which shall be the  
1243 actuarial equivalent of his accumulated contributions at the time  
1244 of retirement; and

1245 (ii) An employer's annuity equal to the amount  
1246 that would have been payable as a retirement allowance for  
1247 eligible creditable service if the member had continued in service  
1248 to the age of sixty (60) years, which shall apply to the allowance  
1249 for disability retirement paid to retirees receiving such  
1250 allowance upon and after April 12, 1977. This employer's annuity  
1251 shall be computed on the basis of the average "earned  
1252 compensation" as defined in Section 25-11-103.

1253 (c) For persons who become members after June 30, 1992,  
1254 and for active members on June 30, 1992, who elect benefits under  
1255 this paragraph (c) instead of those provided under paragraph (b)  
1256 of this subsection (2), the disability allowance shall consist of  
1257 two (2) parts: a temporary allowance and a deferred allowance.

1258 The temporary allowance shall equal the greater of (i) forty  
1259 percent (40%) of average compensation at the time of disability,  
1260 plus ten percent (10%) of average compensation for each of the  
1261 first two (2) dependent children, as defined in Sections 25-11-103  
1262 and 25-11-114, or (ii) the accrued benefit based on actual



1263 service. It shall be payable for a period of time based on the  
1264 member's age at disability, as follows:

1265	Age at Disability	Duration
1266	60 and earlier	to age 65
1267	61	to age 66
1268	62	to age 66
1269	63	to age 67
1270	64	to age 67
1271	65	to age 68
1272	66	to age 68
1273	67	to age 69
1274	68	to age 70
1275	69 and over	one year

1276 The deferred allowance shall begin when the temporary  
1277 allowance ends and shall be payable for life. The deferred  
1278 allowance shall equal the greater of (i) the allowance that would  
1279 have been payable had the member continued in service to the  
1280 termination age of the temporary allowance, but no more than forty  
1281 percent (40%) of average compensation, or (ii) the accrued benefit  
1282 based on actual service at the time of disability. The deferred  
1283 allowance as determined at the time of disability shall be  
1284 adjusted in accordance with Section 25-11-112 for the period  
1285 during which the temporary annuity is payable. In no case shall a  
1286 member receive less than Ten Dollars (\$10.00) per month for each



1287 year of service and proportionately for each quarter year thereof  
1288 reduced for the option selected.

1289 (d) The member may elect to receive the actuarial  
1290 equivalent of the disability retirement allowance in a reduced  
1291 allowance payable throughout life under any of the provisions of  
1292 the options provided under Section 25-11-115.

1293 (e) If a disability retiree who has not selected an  
1294 option under Section 25-11-115 dies before being repaid in  
1295 disability benefits the sum of his total contributions, then his  
1296 named beneficiary shall receive the difference in cash, which  
1297 shall apply to all deceased disability retirees from and after  
1298 January 1, 1953.

1299 (3) Reexamination of retirees retired on account of  
1300 disability. Except as otherwise provided in this section, once  
1301 each year during the first five (5) years following retirement of  
1302 a member on a disability retirement allowance, and once in every  
1303 period of three (3) years thereafter, the board of trustees may,  
1304 and upon his application shall, require any disability retiree who  
1305 has not yet attained the age of sixty (60) years or the  
1306 termination age of the temporary allowance under subsection (2)(c)  
1307 of this section to undergo a medical examination, the examination  
1308 to be made at the place of residence of the retiree or other place  
1309 mutually agreed upon by a physician or physicians designated by  
1310 the board. The board, however, in its discretion, may authorize  
1311 the medical board to establish reexamination schedules appropriate



1312 to the medical condition of individual disability retirees. If  
1313 any disability retiree who has not yet attained the age of sixty  
1314 (60) years or the termination age of the temporary allowance under  
1315 subsection (2) (c) of this section refuses to submit to any medical  
1316 examination provided in this section, his allowance may be  
1317 discontinued until his withdrawal of that refusal; and if his  
1318 refusal continues for one (1) year, all his rights to a disability  
1319 benefit shall be revoked by the board of trustees.

1320 (4) If the medical board reports and certifies to the board  
1321 of trustees, after a comparable job analysis or other similar  
1322 study, that the disability retiree is engaged in, or is able to  
1323 engage in, a gainful occupation paying more than the difference  
1324 between his disability allowance, exclusive of cost-of-living  
1325 adjustments, and the average compensation, and if the board of  
1326 trustees concurs in the report, the disability benefit shall be  
1327 reduced to an amount that, together with the amount earnable by  
1328 him, equals the amount of his average compensation. If his  
1329 earning capacity is later changed, the amount of the benefit may  
1330 be further modified, provided that the revised benefit shall not  
1331 exceed the amount originally granted. A retiree receiving a  
1332 disability benefit who is restored to active service at a salary  
1333 less than the average compensation shall not become a member of  
1334 the retirement system.

1335 (5) If a disability retiree under the age of sixty (60)  
1336 years or the termination age of the temporary allowance under



1337 subsection (2) (c) of this section is restored to active service at  
1338 a compensation not less than his average compensation, his  
1339 disability benefit shall end, he shall again become a member of  
1340 the retirement system, and contributions shall be withheld and  
1341 reported. Any such prior service certificate, on the basis of  
1342 which his service was computed at the time of retirement, shall be  
1343 restored to full force and effect. In addition, upon his later  
1344 retirement he shall be credited with all creditable service as a  
1345 member, but the total retirement allowance paid to the retired  
1346 member in his previous retirement shall be deducted from his  
1347 retirement reserve and taken into consideration in recalculating  
1348 the retirement allowance under a new option selected.

1349 (6) If following reexamination in accordance with the  
1350 provisions contained in this section, the medical board determines  
1351 that a retiree retired on account of disability is physically and  
1352 mentally able to return to the employment from which he is  
1353 retired, the board of trustees, upon certification of those  
1354 findings from the medical board, shall, after a reasonable period  
1355 of time, terminate the disability allowance, whether or not the  
1356 retiree is reemployed or seeks that reemployment. In addition, if  
1357 the board of trustees determines that the retiree is no longer  
1358 sustaining a loss of income as established by documented evidence  
1359 of the retiree's earned income, the eligibility for a disability  
1360 allowance shall terminate and the allowance terminated within a  
1361 reasonable period of time. If the retirement allowance is



1362 terminated under the provisions of this section, the retiree may  
1363 later qualify for a retirement allowance under Section 25-11-111  
1364 based on actual years of service credit plus credit for the period  
1365 during which a disability allowance was paid.

1366 (7) Any current member as of June 30, 1992, who retires on a  
1367 disability retirement allowance after June 30, 1992, and who has  
1368 not elected to receive benefits under subsection (2)(c) of this  
1369 section, shall relinquish all rights under the Age Discrimination  
1370 in Employment Act of 1967, as amended, with regard to the benefits  
1371 payable under this section.

1372 **SECTION 8.** Section 25-11-114, Mississippi Code of 1972, is  
1373 amended as follows:

1374 25-11-114. (1) The applicable benefits provided in  
1375 subsections (2) and (3) of this section shall be paid to eligible  
1376 beneficiaries of any member who became a member of the system  
1377 before July 1, 2007, or who became a member on or after July 1,  
1378 2007, and maintained membership as a first responder for at least  
1379 four (4) years, and has completed four (4) or more years of  
1380 membership service, or who became a member of the system on or  
1381 after July 1, 2007, other than one who maintained membership as a  
1382 first responder for at least four (4) years, and has completed  
1383 eight (8) or more years of membership service, and who dies before  
1384 retirement and who has not filed a Pre-Retirement Optional  
1385 Retirement Form as provided in Section 25-11-111.





1386           (2)   (a)   The surviving spouse of a member who dies before  
1387 retirement shall receive a monthly benefit computed in accordance  
1388 with paragraph (d) of this subsection (2) as if the member had  
1389 nominated his spouse as beneficiary if:

1390                   (i)   The member completed the requisite minimum  
1391 number of years of membership service to qualify for a retirement  
1392 allowance at age sixty (60);

1393                   (ii)   The spouse has been married to the member for  
1394 not less than one (1) year preceding the death of the member;

1395                   (iii)   The member has not exercised any other  
1396 option.

1397           (b)   If, at the time of the member's death, there are no  
1398 dependent children, and the surviving spouse, who otherwise would  
1399 receive the annuity under this subsection (2), has filed with the  
1400 system a signed written waiver of his or her rights to the annuity  
1401 and that waiver was in effect at the time of the member's death, a  
1402 lump-sum distribution of the deceased member's accumulated  
1403 contributions shall be refunded in accordance with Section  
1404 25-11-117.

1405           (c)   The spouse annuity shall begin on the first day of  
1406 the month following the date of the member's death, but in case of  
1407 late filing, retroactive payments will be made for a period of not  
1408 more than one (1) year.



1409 (d) The spouse of a member who is eligible to receive a  
1410 monthly benefit under paragraph (a) of this subsection (2) shall  
1411 receive a benefit for life equal to the higher of the following:

1412 (i) The greater of twenty percent (20%) of the  
1413 deceased member's average compensation as defined in Section  
1414 25-11-103 at the time of death or Fifty Dollars (\$50.00) monthly;  
1415 or

1416 (ii) Benefits calculated under Option 2 of Section  
1417 25-11-115. The method of calculating the retirement benefits  
1418 shall be on the same basis as provided in Section 25-11-111(d) or  
1419 (e), as applicable. However, if the member dies before being  
1420 qualified for a full, unreduced retirement allowance, then the  
1421 benefits shall be reduced by an actuarially determined percentage  
1422 or factor based on the lesser of either the number of years of  
1423 service credit or the number of years in age required to qualify  
1424 for a full, unreduced retirement allowance in Section 25-11-111(d)  
1425 or (e), as applicable.

1426 (e) The surviving spouse of a deceased member who  
1427 previously received spouse retirement benefits under paragraph  
1428 (d)(i) of this subsection from and after July 1, 1992, and whose  
1429 benefits were terminated before July 1, 2004, because of  
1430 remarriage, may again receive the retirement benefits authorized  
1431 under paragraph (d)(i) of this subsection by making application  
1432 with the board to reinstate those benefits. Any reinstatement of  
1433 the benefits shall be prospective only and shall begin after the



1434 first of the month following the date of the application for  
1435 reinstatement, but no earlier than July 1, 2004. From and after  
1436 July 1, 2010, any spouse who chose Option 2 from and after July 1,  
1437 1992, but before July 1, 2004, where the benefit, although payable  
1438 for life, was less than the benefit available under the  
1439 calculation in paragraph (d)(i) of this subsection shall have his  
1440 or her benefit increased to the amount which provides the greater  
1441 benefit.

1442 (3) (a) Subject to the maximum limitation provided in this  
1443 paragraph, the member's dependent children each shall receive an  
1444 annuity of the greater of ten percent (10%) of the member's  
1445 average compensation as defined in Section 25-11-103 at the time  
1446 of the death of the member or Fifty Dollars (\$50.00) monthly;  
1447 however, if there are more than three (3) dependent children, each  
1448 dependent child shall receive an equal share of a total annuity  
1449 equal to thirty percent (30%) of the member's average  
1450 compensation, provided that the total annuity shall not be less  
1451 than One Hundred Fifty Dollars (\$150.00) per month for all  
1452 children.

1453 (b) A child shall be considered to be a dependent child  
1454 until marriage, or the attainment of age nineteen (19), whichever  
1455 comes first; however, this age limitation shall be extended beyond  
1456 age nineteen (19), but in no event beyond the attainment of age  
1457 twenty-three (23), as long as the child is a student regularly  
1458 pursuing a full-time course of resident study or training in an



1459 accredited high school, trade school, technical or vocational  
1460 institute, junior or community college, college, university or  
1461 comparable recognized educational institution duly licensed by a  
1462 state. A student child who is receiving a retirement allowance as  
1463 of June 30, 2016, whose birthday falls during the school year  
1464 (September 1 through June 30) is considered not to reach age  
1465 twenty-three (23) until the July 1 following the actual  
1466 twenty-third birthday. A full-time course of resident study or  
1467 training means a day or evening noncorrespondence course that  
1468 includes school attendance at the rate of at least thirty-six (36)  
1469 weeks per academic year or other applicable period with a subject  
1470 load sufficient, if successfully completed, to attain the  
1471 educational or training objective within the period generally  
1472 accepted as minimum for completion, by a full-time day student, of  
1473 the academic or training program concerned. Any child who is  
1474 physically or mentally incompetent, as adjudged by either a  
1475 Mississippi court of competent jurisdiction or by the board, shall  
1476 receive benefits for as long as the incompetency exists.

1477 (c) If there are more than three (3) dependent  
1478 children, upon a child's ceasing to be a dependent child, his  
1479 annuity shall terminate and there shall be a redetermination of  
1480 the amounts payable to any remaining dependent children.

1481 (d) Annuities payable under this subsection (3) shall  
1482 begin the first day of the month following the date of the  
1483 member's death or in case of late filing, retroactive payments



1484 will be made for a period of not more than one (1) year. Those  
1485 benefits may be paid to a surviving parent or the lawful custodian  
1486 of a dependent child for the use and benefit of the child without  
1487 the necessity of appointment as guardian.

1488 (4) (a) Death benefits in the line of duty. Regardless of  
1489 the number of years of the member's creditable service, the spouse  
1490 and/or the dependent children of an active member who is killed or  
1491 dies as a direct result of a physical injury sustained from an  
1492 accident or a traumatic event caused by external violence or  
1493 physical force occurring in the line of performance of duty shall  
1494 qualify, on approval of the board, for a retirement allowance on  
1495 the first of the month following the date of death, but in the  
1496 case of late filing, retroactive payments will be made for a  
1497 period of not more than one (1) year. The spouse shall receive a  
1498 retirement allowance for life equal to one-half (1/2) of the  
1499 average compensation as defined in Section 25-11-103. In addition  
1500 to the retirement allowance for the spouse, or if there is no  
1501 surviving spouse, the member's dependent child shall receive a  
1502 retirement allowance in the amount of one-fourth (1/4) of the  
1503 member's average compensation as defined in Section 25-11-103;  
1504 however, if there are two (2) or more dependent children, each  
1505 dependent child shall receive an equal share of a total annuity  
1506 equal to one-half (1/2) of the member's average compensation. If  
1507 there are more than two (2) dependent children, upon a child's  
1508 ceasing to be a dependent child, his annuity shall terminate and



1509 there shall be a redetermination of the amounts payable to any  
1510 remaining dependent children. Those benefits shall cease to be  
1511 paid for the support and maintenance of each child upon the child  
1512 attaining the age of nineteen (19) years; however, the spouse  
1513 shall continue to be eligible for the aforesaid retirement  
1514 allowance. Those benefits may be paid to a surviving parent or  
1515 lawful custodian of the children for the use and benefit of the  
1516 children without the necessity of appointment as guardian. Any  
1517 spouse who received spouse retirement benefits under this  
1518 paragraph (a) from and after April 4, 1984, and whose benefits  
1519 were terminated before July 1, 2004, because of remarriage, may  
1520 again receive the retirement benefits authorized under this  
1521 paragraph (a) by making application with the board to reinstate  
1522 those benefits. Any reinstatement of the benefits shall be  
1523 prospective only and shall begin after the first of the month  
1524 following the date of the application for reinstatement, but not  
1525 earlier than July 1, 2004.

1526 (b) A child shall be considered to be a dependent child  
1527 until marriage, or the attainment of age nineteen (19), whichever  
1528 comes first; however, this age limitation shall be extended beyond  
1529 age nineteen (19), but in no event beyond the attainment of age  
1530 twenty-three (23), as long as the child is a student regularly  
1531 pursuing a full-time course of resident study or training in an  
1532 accredited high school, trade school, technical or vocational  
1533 institute, junior or community college, college, university or



1534 comparable recognized educational institution duly licensed by a  
1535 state. A student child who is receiving a retirement allowance as  
1536 of June 30, 2016, whose birthday falls during the school year  
1537 (September 1 through June 30) is considered not to reach age  
1538 twenty-three (23) until the July 1 following the actual  
1539 twenty-third birthday. A full-time course of resident study or  
1540 training means a day or evening noncorrespondence course that  
1541 includes school attendance at the rate of at least thirty-six (36)  
1542 weeks per academic year or other applicable period with a subject  
1543 load sufficient, if successfully completed, to attain the  
1544 educational or training objective within the period generally  
1545 accepted as minimum for completion, by a full-time day student, of  
1546 the academic or training program concerned. Any child who is  
1547 physically or mentally incompetent, as adjudged by either a  
1548 Mississippi court of competent jurisdiction or by the board, shall  
1549 receive benefits for as long as the incompetency exists.

1550 (5) If all the annuities provided for in this section  
1551 payable on account of the death of a member terminate before there  
1552 has been paid an aggregate amount equal to the member's  
1553 accumulated contributions standing to the member's credit in the  
1554 annuity savings account at the time of the member's death, the  
1555 difference between the accumulated contributions and the aggregate  
1556 amount of annuity payments shall be paid to the person that the  
1557 member has nominated by written designation duly executed and  
1558 filed with the board. If there is no designated beneficiary



1559 surviving at termination of benefits, the difference shall be  
1560 payable under Section 25-11-117.1(1).

1561 (6) Regardless of the number of years of creditable service,  
1562 upon the application of a member or employer, any active member  
1563 who becomes disabled as a direct result of a physical injury  
1564 sustained from an accident or traumatic event caused by external  
1565 violence or physical force occurring in the line of performance of  
1566 duty, provided that the medical board or other designated  
1567 governmental agency after a medical examination certifies that the  
1568 member is mentally or physically incapacitated for the further  
1569 performance of duty and the incapacity is likely to be permanent,  
1570 may be retired by the board of trustees on the first of the month  
1571 following the date of filing the application but in no event shall  
1572 the retirement allowance begin before the termination of state  
1573 service. If a member who has been approved for a retirement  
1574 allowance under this subsection does not terminate state service  
1575 within ninety (90) days after the approval, the retirement  
1576 allowance and the application for the allowance shall be void.  
1577 The retirement allowance shall equal the allowance on disability  
1578 retirement as provided in Section 25-11-113 but shall not be less  
1579 than fifty percent (50%) of average compensation. Line of duty  
1580 disability benefits under this section shall be administered in  
1581 accordance with the provisions of Section 25-11-113(1)(b), (c),  
1582 (d), (e) and (f), (3), (4), (5) and (6).





1583           (7) For purposes of determining death or disability benefits  
1584 under this section, the following shall apply:

1585           (a) Death or permanent and total disability resulting  
1586 from a cardiovascular, pulmonary or musculoskeletal condition that  
1587 was not a direct result of a physical injury sustained from an  
1588 accident or a traumatic event caused by external violence or  
1589 physical force occurring in the performance of duty shall be  
1590 deemed a natural death or an ordinary disability.

1591           (b) A mental disability based exclusively on employment  
1592 duties occurring on an ongoing basis shall be deemed an ordinary  
1593 disability.

1594           (8) If the deceased or disabled member has less than four  
1595 (4) years of membership service, the average compensation as  
1596 defined in Section 25-11-103 shall be the average of all annual  
1597 earned compensation in state service for the purposes of benefits  
1598 provided in this section.

1599           (9) In case of death or total and permanent disability under  
1600 subsection (4) or subsection (6) of this section and before the  
1601 board shall consider any application for a retirement allowance,  
1602 the employer must certify to the board that the member's death or  
1603 disability was a direct result of an accident or a traumatic event  
1604 occurring during and as a result of the performance of the regular  
1605 and assigned duties of the employee and that the death or  
1606 disability was not the result of the willful negligence of the  
1607 employee.



1608           (10) The application for the retirement allowance must be  
1609 filed within one (1) year after death of an active member who is  
1610 killed in the line of performance of duty or dies as a direct  
1611 result of an accident occurring in the line of performance of duty  
1612 or traumatic event; but the board of trustees may consider an  
1613 application for disability filed after the one-year period if it  
1614 can be factually demonstrated to the satisfaction of the board of  
1615 trustees that the disability is due to the accident and that the  
1616 filing was not accomplished within the one-year period due to a  
1617 delayed manifestation of the disability or to circumstances beyond  
1618 the control of the member. However, in case of late filing,  
1619 retroactive payments will be made for a period of not more than  
1620 one (1) year only.

1621           (11) (a) Notwithstanding any other section of this article  
1622 and in lieu of any payments to a designated beneficiary for a  
1623 refund of contributions under Section 25-11-117, the spouse and/or  
1624 children shall be eligible for the benefits payable under this  
1625 section, and the spouse may elect, for both the spouse and/or  
1626 children, to receive benefits in accordance with either  
1627 subsections (2) and (3) or subsection (4) of this section;  
1628 otherwise, the contributions to the credit of the deceased member  
1629 shall be refunded in accordance with Section 25-11-117.

1630           (b) Notwithstanding any other section of this article,  
1631 a spouse who is entitled to receive a monthly benefit under either  
1632 subsection (2) or (4) of this section and who is also the named



1633 beneficiary for a refund of accumulated contributions in the  
1634 member's annuity savings account, may, after the death of the  
1635 member, elect to receive a refund of accumulated contributions in  
1636 lieu of a monthly allowance, provided that there are no dependent  
1637 children entitled to benefits under subsection (3) of this  
1638 section.

1639 (12) If the member has previously received benefits from the  
1640 system to which he was not entitled and has not repaid in full all  
1641 amounts payable by him to the system, the annuity amounts  
1642 otherwise provided by this section shall be withheld and used to  
1643 effect repayment until the total of the withholdings repays in  
1644 full all amounts payable by him to the system.

1645 **SECTION 9.** Section 25-11-117, Mississippi Code of 1972, is  
1646 amended as follows:

1647 25-11-117. (1) A member may be paid a refund of the amount  
1648 of accumulated contributions to the credit of the member in the  
1649 annuity savings account, provided that the member has withdrawn  
1650 from state service and has not returned to state service on the  
1651 date the refund of the accumulated contributions would be paid.  
1652 That refund of the contributions to the credit of the member in  
1653 the annuity savings account shall be paid within ninety (90) days  
1654 from receipt in the office of the retirement system of the  
1655 properly completed form requesting the payment. In the event of  
1656 death before retirement of any member whose spouse and/or children  
1657 are not entitled to a retirement allowance, the accumulated



1658 contributions to the credit of the deceased member in the annuity  
1659 savings account shall be paid to the designated beneficiary on  
1660 file in writing in the office of the executive director of the  
1661 board of trustees within ninety (90) days from receipt of a  
1662 properly completed form requesting the payment. If there is no  
1663 such designated beneficiary on file for the deceased member in the  
1664 office of the system, upon the filing of a proper request with the  
1665 board, the contributions to the credit of the deceased member in  
1666 the annuity savings account shall be refunded under Section  
1667 25-11-117.1(1). The payment of the refund shall discharge all  
1668 obligations of the retirement system to the member on account of  
1669 any creditable service rendered by the member before the receipt  
1670 of the refund. By the acceptance of the refund, the member shall  
1671 waive and relinquish all accrued rights in the system.

1672 (2) Under the Unemployment Compensation Amendments of 1992  
1673 (Public Law 102-318 (UCA)), a member or the spouse of a member who  
1674 is an eligible beneficiary entitled to a refund under this section  
1675 may elect, on a form prescribed by the board under rules and  
1676 regulations established by the board, to have an eligible rollover  
1677 distribution of accumulated contributions payable under this  
1678 section paid directly to an eligible retirement plan, as defined  
1679 under applicable federal law, or an individual retirement account.  
1680 If the member or the spouse of a member who is an eligible  
1681 beneficiary makes that election and specifies the eligible  
1682 retirement plan or individual retirement account to which the



1683 distribution is to be paid, the distribution will be made in the  
1684 form of a direct trustee-to-trustee transfer to the specified  
1685 eligible retirement plan. A nonspouse beneficiary may elect to  
1686 have an eligible rollover distribution paid in the form of a  
1687 direct trustee-to-trustee transfer to an individual retirement  
1688 account established to receive the distribution on behalf of the  
1689 nonspouse beneficiary. Flexible rollovers under this subsection  
1690 shall not be considered assignments under Section 25-11-129.

1691 (3) (a) If any person who has received a refund \* \* \*  
1692 reenters the state service and again becomes a member of the  
1693 system before July 1, 2007, or if any person who has received a  
1694 refund after at least (4) years of membership as a first responder  
1695 reenters the state service and again becomes a member of the  
1696 system on or after July 1, 2007, the member may repay all or part  
1697 of the amounts previously received as a refund, together with  
1698 regular interest covering the period from the date of refund to  
1699 the date of repayment; however, the amounts that are repaid by the  
1700 member and the creditable service related thereto shall not be  
1701 used in any benefit calculation or determination until the member  
1702 has remained a contributor to the system for a period of at least  
1703 four (4) years after the member's reentry into state service.  
1704 Repayment for that time shall be made beginning with the most  
1705 recent service for which refund has been made. Upon the repayment  
1706 of all or part of that refund and interest, the member shall again



1707 receive credit for the period of creditable service for which full  
1708 repayment has been made to the system.

1709 (b) If any person who has received a refund, other than  
1710 one who maintained at least (4) years of membership as a first  
1711 responder, reenters the state service and again becomes a member  
1712 of the system on or after July 1, 2007, the member may repay all  
1713 or part of the amounts previously received as a refund, together  
1714 with regular interest covering the period from the date of refund  
1715 to the date of repayment; however, the amounts that are repaid by  
1716 the member and the creditable service related thereto shall not be  
1717 used in any benefit calculation or determination until the member  
1718 has remained a contributor to the system for a period of at least  
1719 eight (8) years after the member's reentry into state service.  
1720 Repayment for that time shall be made beginning with the most  
1721 recent service for which refund has been made. Upon the repayment  
1722 of all or part of that refund and interest, the member shall again  
1723 receive credit for the period of creditable service for which full  
1724 repayment has been made to the system.

1725 (4) (a) In order to provide a source of income to members  
1726 who have applied for disability benefits under Section 25-11-113  
1727 or 25-11-114, the board may provide, at the employee's election, a  
1728 temporary benefit to be paid from the member's accumulated  
1729 contributions, if any, without forfeiting the right to pursue  
1730 disability benefits, provided that the member has exhausted all  
1731 personal and medical leave and has terminated his or her



1732 employment. The board may prescribe rules and regulations for  
1733 carrying out the provisions of this subsection (4).

1734 (b) If a member who has elected to receive temporary  
1735 benefits under this subsection later applies for a refund of his  
1736 or her accumulated contributions, all amounts paid under this  
1737 subsection shall be deducted from the accumulated contributions  
1738 and the balance will be paid to the member. If a member who has  
1739 elected to receive temporary benefits under this subsection is  
1740 later approved for a disability retirement allowance, and a  
1741 service retirement allowance or survivor benefits are paid on the  
1742 account, the board shall adjust the benefits in such a manner that  
1743 no more than the actuarial equivalent of the benefits to which the  
1744 member or beneficiary was or is entitled shall be paid.

1745 (c) The board may study, develop and propose a  
1746 disability benefit structure, including short- and long-term  
1747 disability benefits, provided that it is the actuarial equivalent  
1748 of the benefits currently provided in Section 25-11-113 or  
1749 25-11-114.

1750 **SECTION 10.** Section 2 of this act shall be codified in Title  
1751 25, Chapter 11, Article 3, Mississippi Code of 1972.

1752 **SECTION 11.** This act shall take effect and be in force from  
1753 and after July 1, 2022.

