

By: Representative Newman

To: Appropriations

HOUSE BILL NO. 21

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

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

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

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

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

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



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

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

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

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

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



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



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

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



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

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

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

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



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

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

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



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

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

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

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

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

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



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

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

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



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

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

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

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

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

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



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

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

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



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

261 (t) "Prior service" means:

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



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

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

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

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



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

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

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

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



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

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

326 (bb) "First responder" has the meaning as defined in
327 Section 25-15-403, except for the requirement to have ten (10) or
328 more years of service.

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

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

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

336 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

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

339 (a) (i) All persons who become employees in the state
340 service after January 31, 1953, and whose wages are subject to



341 payroll taxes and are lawfully reported on IRS Form W-2, except
342 those specifically excluded, or as to whom election is provided in
343 Articles 1 and 3, shall become members of the retirement system as
344 a condition of their employment.

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

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



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

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

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



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

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

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

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

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



416 Mississippi, or any of its departments or agencies, shall not be
417 entitled to membership in this retirement system unless, before
418 February 1, 1953, any such person indicates by a notice filed with
419 the board, on a form prescribed by the board, his individual
420 election and choice to participate in this system, but no such
421 person shall receive prior service credit unless he becomes a
422 member on or before February 1, 1953.

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

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



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

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

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

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

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

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



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

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

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



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

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

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



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

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

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

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



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

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

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



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

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

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

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



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

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

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

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

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

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



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

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

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

625 **III. TERMINATION OF MEMBERSHIP**

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

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

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



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

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



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

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

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

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



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

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

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

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



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

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

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

728 (ii) For service on and after July 1, 1984, the
729 member shall receive credit for personal and major medical leave
730 beginning July 1, 1984, at the rates authorized in Sections
731 25-3-93 and 25-3-95, computed as a full-time employee.

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



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

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

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

755 When membership ceases, such prior service certificates shall
756 become void. Should the employee again become a member, he shall
757 enter the system as an employee not entitled to prior service
758 credit except as provided in Sections 25-11-105(I), 25-11-113 and
759 25-11-117.

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



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

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



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

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

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

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

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



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

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

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

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



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

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

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

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

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



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

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

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

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

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

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



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

891 Any actively contributing member participating in the School
892 Administrator Sabbatical Program established in Section 37-9-77
893 shall qualify for continued participation under this subsection
894 (9).

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

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

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

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



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

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

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

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



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

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

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



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

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

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

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



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

994 (3) Any retired member or beneficiary thereof who was
995 eligible to receive a retirement allowance before July 1, 1991,
996 and who is still receiving a retirement allowance on July 1, 1992,
997 shall receive an increase in the annual retirement allowance of
998 the retired member equal to one-eighth of one percent (1/8 of 1%)
999 of the average compensation for each year of state service in
1000 excess of twenty-five (25) years of membership service up to and
1001 including thirty (30) years. The maximum increase shall be
1002 five-eighths of one percent (5/8 of 1%). In no case shall a
1003 member who has been retired before July 1, 1987, receive less than
1004 Ten Dollars (\$10.00) per month for each year of creditable service
1005 and proportionately for each quarter year thereof. Persons
1006 retired on or after July 1, 1987, shall receive at least Ten
1007 Dollars (\$10.00) per month for each year of service and
1008 proportionately for each quarter year thereof reduced for the
1009 option selected. However, such Ten Dollars (\$10.00) minimum per
1010 month for each year of creditable service shall not apply to a



1011 retirement allowance computed under Section 25-11-114 based on a
1012 percentage of the member's average compensation.

1013 (e) Any member who became a member of the system on or after
1014 July 1, 2011, shall be entitled to an annual retirement allowance
1015 which shall consist of:

1016 (1) A member's annuity, which shall be the actuarial
1017 equivalent of the accumulated contributions of the member at the
1018 time of retirement computed according to the actuarial table in
1019 use by the system; and

1020 (2) An employer's annuity, which, together with the
1021 member's annuity provided above, shall be equal to two percent
1022 (2%) of the average compensation for each year of service up to
1023 and including thirty (30) years of creditable service, and two and
1024 one-half percent (2-1/2%) of average compensation for each year of
1025 service exceeding thirty (30) years of creditable service.

1026 (f) Any member who became a member of the system on or after
1027 July 1, 2011, upon withdrawal from service upon or after attaining
1028 the age of sixty (60) years who has completed at least eight (8)
1029 years of membership service, or any such member upon withdrawal
1030 from service regardless of age who has completed at least thirty
1031 (30) years of creditable service, shall be entitled to receive a
1032 retirement allowance computed in accordance with the formula set
1033 forth in subsection (e) of this section. In the case of the
1034 retirement of any member who has attained age sixty (60) but who
1035 has not completed at least thirty (30) years of creditable



1036 service, the retirement allowance shall be computed in accordance
1037 with the formula set forth in subsection (e) of this section
1038 except that the total annual retirement allowance shall be reduced
1039 by an actuarial equivalent factor for each year of creditable
1040 service below thirty (30) years or the number of years in age that
1041 the member is below age sixty-five (65), whichever is less.

1042 (g) No member, except members excluded by the Age
1043 Discrimination in Employment Act Amendments of 1986 (Public Law
1044 99-592), under either Article 1 or Article 3 in state service
1045 shall be required to retire because of age.

1046 (h) No payment on account of any benefit granted under the
1047 provisions of this section shall become effective or begin to
1048 accrue until January 1, 1953.

1049 (i) (1) A retiree or beneficiary may, on a form prescribed
1050 by and filed with the retirement system, irrevocably waive all or
1051 a portion of any benefits from the retirement system to which the
1052 retiree or beneficiary is entitled. The waiver shall be binding
1053 on the heirs and assigns of any retiree or beneficiary and the
1054 same must agree to forever hold harmless the Public Employees'
1055 Retirement System of Mississippi from any claim to the waived
1056 retirement benefits.

1057 (2) Any waiver under this subsection shall apply only
1058 to the person executing the waiver. A beneficiary shall be
1059 entitled to benefits according to the option selected by the
1060 member at the time of retirement. However, a beneficiary may, at



1061 the option of the beneficiary, execute a waiver of benefits under
1062 this subsection.

1063 (3) The retirement system shall retain in the annuity
1064 reserve account amounts that are not used to pay benefits because
1065 of a waiver executed under this subsection.

1066 (4) The board of trustees may provide rules and
1067 regulations for the administration of waivers under this
1068 subsection.

1069 **SECTION 5.** Section 25-11-113, Mississippi Code of 1972, is
1070 amended as follows:

1071 25-11-113. (1) (a) Upon the application of a member or his
1072 employer, any active member in state service who became a member
1073 of the system before July 1, 2007, or any first responder
1074 regardless of when he or she became a member of the system, and
1075 who has at least four (4) years of membership service credit, or
1076 any active member in state service who became a member of the
1077 system on or after July 1, 2007, who has at least eight (8) years
1078 of membership service credit, may be retired by the board of
1079 trustees on the first of the month following the date of filing
1080 the application on a disability retirement allowance, but in no
1081 event shall the disability retirement allowance begin before
1082 termination of state service, provided that the medical board,
1083 after an evaluation of medical evidence that may or may not
1084 include an actual physical examination by the medical board,
1085 certifies that the member is mentally or physically incapacitated



1086 for the further performance of duty, that the incapacity is likely
1087 to be permanent, and that the member should be retired; however,
1088 the board of trustees may accept a disability medical
1089 determination from the Social Security Administration in lieu of a
1090 certification from the medical board. If a member who has been
1091 approved for a disability retirement allowance does not terminate
1092 state service within ninety (90) days after approval, the
1093 disability retirement and the application for disability
1094 retirement shall be void. For the purposes of disability
1095 determination, the medical board shall apply the following
1096 definition of disability: the inability to perform the usual
1097 duties of employment or the incapacity to perform such lesser
1098 duties, if any, as the employer, in its discretion, may assign
1099 without material reduction in compensation, or the incapacity to
1100 perform the duties of any employment covered by the Public
1101 Employees' Retirement System (Section 25-11-101 et seq.) that is
1102 actually offered and is within the same general territorial work
1103 area, without material reduction in compensation. The employer
1104 shall be required to furnish the job description and duties of the
1105 member. The employer shall further certify whether the employer
1106 has offered the member other duties and has complied with the
1107 applicable provisions of the Americans With Disabilities Act in
1108 affording reasonable accommodations that would allow the employee
1109 to continue employment.



1110 (b) Any member applying for a disability retirement
1111 allowance must provide sufficient objective medical evidence in
1112 support of his or her claim. All disability determinations,
1113 whether the initial examination or reexamination, shall be based
1114 on objective medical evidence. "Objective medical evidence" means
1115 reports of examinations or treatments; medical signs that are
1116 anatomical, physiological, or psychological abnormalities that are
1117 observed and documented by medical professionals; psychiatric
1118 signs that are medically demonstrable phenomena indicating
1119 specific abnormalities of behavior, affect, thought, memory,
1120 orientation, or contact with reality; or laboratory findings that
1121 are anatomical, physiological, or psychological phenomena that are
1122 shown by medically acceptable laboratory diagnostic techniques,
1123 including, but not limited to, chemical tests, electrocardiograms,
1124 electroencephalograms, X-rays, and psychological tests.
1125 Nonmedical information shall not be considered objective medical
1126 evidence.

1127 (c) Any inactive member who became a member of the
1128 system before July 1, 2007, or any first responder regardless of
1129 when he or she became a member of the system, with four (4) or
1130 more years of membership service credit, or any inactive member
1131 who became a member of the system on or after July 1, 2007, with
1132 eight (8) or more years of membership service credit, who has
1133 withdrawn from active state service, is not eligible for a
1134 disability retirement allowance unless the disability occurs



1135 within six (6) months of the termination of active service and
1136 unless satisfactory proof is presented to the board of trustees
1137 that the disability was the direct cause of withdrawal from state
1138 service. Application for a disability retirement allowance must
1139 be filed within one (1) year of termination from active service.
1140 This period may be extended by an additional year if it can be
1141 factually demonstrated to the satisfaction of the board of
1142 trustees that throughout the initial one-year period the member
1143 was incapable of applying for benefits by reason of mental or
1144 physical impairment as certified by a medical doctor.

1145 (d) Any member who is or becomes eligible for service
1146 retirement benefits under Section 25-11-111 while pursuing a
1147 disability retirement allowance under this section or Section
1148 25-11-114 may elect to receive a service retirement allowance
1149 pending a final determination on eligibility for a disability
1150 retirement allowance or withdrawal of the application for the
1151 disability retirement allowance. In such a case, an application
1152 for a disability retirement allowance must be on file with the
1153 system before the beginning of a service retirement allowance. If
1154 the application is approved, the option selected and beneficiary
1155 designated on the retirement application shall be used to
1156 determine the disability retirement allowance. If the application
1157 is not approved or if the application is withdrawn, the service
1158 retirement allowance shall continue to be paid in accordance with
1159 the option selected. No person may apply for a disability



1160 retirement allowance after the person begins to receive a service
1161 retirement allowance.

1162 (e) If the medical board certifies that the member is
1163 not mentally or physically incapacitated for the future
1164 performance of duty, the member may request, within sixty (60)
1165 days, a hearing before the hearing officer as provided in Section
1166 25-11-120. All hearings shall be held in accordance with rules
1167 and regulations adopted by the board to govern those hearings.
1168 The hearing may be closed upon the request of the member.

1169 (f) The medical board may request additional medical
1170 evidence and/or other physicians to conduct an evaluation of the
1171 member's condition. If the medical board requests additional
1172 medical evidence and the member refuses the request, the
1173 application shall be considered void.

1174 (2) Allowance on disability retirement.

1175 (a) Upon retirement for disability, an eligible member
1176 shall receive a retirement allowance if he has attained the age of
1177 sixty (60) years.

1178 (b) Except as provided in paragraph (c) of this
1179 subsection (2), an eligible member who is retired for disability
1180 and who has not attained sixty (60) years of age shall receive a
1181 disability benefit as computed in Section 25-11-111(d), which
1182 shall consist of:



1183 (i) A member's annuity, which shall be the
1184 actuarial equivalent of his accumulated contributions at the time
1185 of retirement; and

1186 (ii) An employer's annuity equal to the amount
1187 that would have been payable as a retirement allowance for
1188 eligible creditable service if the member had continued in service
1189 to the age of sixty (60) years, which shall apply to the allowance
1190 for disability retirement paid to retirees receiving such
1191 allowance upon and after April 12, 1977. This employer's annuity
1192 shall be computed on the basis of the average "earned
1193 compensation" as defined in Section 25-11-103.

1194 (c) For persons who become members after June 30, 1992,
1195 and for active members on June 30, 1992, who elect benefits under
1196 this paragraph (c) instead of those provided under paragraph (b)
1197 of this subsection (2), the disability allowance shall consist of
1198 two (2) parts: a temporary allowance and a deferred allowance.

1199 The temporary allowance shall equal the greater of (i) forty
1200 percent (40%) of average compensation at the time of disability,
1201 plus ten percent (10%) of average compensation for each of the
1202 first two (2) dependent children, as defined in Sections 25-11-103
1203 and 25-11-114, or (ii) the accrued benefit based on actual
1204 service. It shall be payable for a period of time based on the
1205 member's age at disability, as follows:

1206	Age at Disability	Duration
1207	60 and earlier	to age 65



1208	61	to age 66
1209	62	to age 66
1210	63	to age 67
1211	64	to age 67
1212	65	to age 68
1213	66	to age 68
1214	67	to age 69
1215	68	to age 70
1216	69 and over	one year

1217 The deferred allowance shall begin when the temporary
1218 allowance ends and shall be payable for life. The deferred
1219 allowance shall equal the greater of (i) the allowance that would
1220 have been payable had the member continued in service to the
1221 termination age of the temporary allowance, but no more than forty
1222 percent (40%) of average compensation, or (ii) the accrued benefit
1223 based on actual service at the time of disability. The deferred
1224 allowance as determined at the time of disability shall be
1225 adjusted in accordance with Section 25-11-112 for the period
1226 during which the temporary annuity is payable. In no case shall a
1227 member receive less than Ten Dollars (\$10.00) per month for each
1228 year of service and proportionately for each quarter year thereof
1229 reduced for the option selected.

1230 (d) The member may elect to receive the actuarial
1231 equivalent of the disability retirement allowance in a reduced



1232 allowance payable throughout life under any of the provisions of
1233 the options provided under Section 25-11-115.

1234 (e) If a disability retiree who has not selected an
1235 option under Section 25-11-115 dies before being repaid in
1236 disability benefits the sum of his total contributions, then his
1237 named beneficiary shall receive the difference in cash, which
1238 shall apply to all deceased disability retirees from and after
1239 January 1, 1953.

1240 (3) Reexamination of retirees retired on account of
1241 disability. Except as otherwise provided in this section, once
1242 each year during the first five (5) years following retirement of
1243 a member on a disability retirement allowance, and once in every
1244 period of three (3) years thereafter, the board of trustees may,
1245 and upon his application shall, require any disability retiree who
1246 has not yet attained the age of sixty (60) years or the
1247 termination age of the temporary allowance under subsection (2)(c)
1248 of this section to undergo a medical examination, the examination
1249 to be made at the place of residence of the retiree or other place
1250 mutually agreed upon by a physician or physicians designated by
1251 the board. The board, however, in its discretion, may authorize
1252 the medical board to establish reexamination schedules appropriate
1253 to the medical condition of individual disability retirees. If
1254 any disability retiree who has not yet attained the age of sixty
1255 (60) years or the termination age of the temporary allowance under
1256 subsection (2)(c) of this section refuses to submit to any medical



1257 examination provided in this section, his allowance may be
1258 discontinued until his withdrawal of that refusal; and if his
1259 refusal continues for one (1) year, all his rights to a disability
1260 benefit shall be revoked by the board of trustees.

1261 (4) If the medical board reports and certifies to the board
1262 of trustees, after a comparable job analysis or other similar
1263 study, that the disability retiree is engaged in, or is able to
1264 engage in, a gainful occupation paying more than the difference
1265 between his disability allowance, exclusive of cost-of-living
1266 adjustments, and the average compensation, and if the board of
1267 trustees concurs in the report, the disability benefit shall be
1268 reduced to an amount that, together with the amount earnable by
1269 him, equals the amount of his average compensation. If his
1270 earning capacity is later changed, the amount of the benefit may
1271 be further modified, provided that the revised benefit shall not
1272 exceed the amount originally granted. A retiree receiving a
1273 disability benefit who is restored to active service at a salary
1274 less than the average compensation shall not become a member of
1275 the retirement system.

1276 (5) If a disability retiree under the age of sixty (60)
1277 years or the termination age of the temporary allowance under
1278 subsection (2) (c) of this section is restored to active service at
1279 a compensation not less than his average compensation, his
1280 disability benefit shall end, he shall again become a member of
1281 the retirement system, and contributions shall be withheld and



1282 reported. Any such prior service certificate, on the basis of
1283 which his service was computed at the time of retirement, shall be
1284 restored to full force and effect. In addition, upon his later
1285 retirement he shall be credited with all creditable service as a
1286 member, but the total retirement allowance paid to the retired
1287 member in his previous retirement shall be deducted from his
1288 retirement reserve and taken into consideration in recalculating
1289 the retirement allowance under a new option selected.

1290 (6) If following reexamination in accordance with the
1291 provisions contained in this section, the medical board determines
1292 that a retiree retired on account of disability is physically and
1293 mentally able to return to the employment from which he is
1294 retired, the board of trustees, upon certification of those
1295 findings from the medical board, shall, after a reasonable period
1296 of time, terminate the disability allowance, whether or not the
1297 retiree is reemployed or seeks that reemployment. In addition, if
1298 the board of trustees determines that the retiree is no longer
1299 sustaining a loss of income as established by documented evidence
1300 of the retiree's earned income, the eligibility for a disability
1301 allowance shall terminate and the allowance terminated within a
1302 reasonable period of time. If the retirement allowance is
1303 terminated under the provisions of this section, the retiree may
1304 later qualify for a retirement allowance under Section 25-11-111
1305 based on actual years of service credit plus credit for the period
1306 during which a disability allowance was paid.



1307 (7) Any current member as of June 30, 1992, who retires on a
1308 disability retirement allowance after June 30, 1992, and who has
1309 not elected to receive benefits under subsection (2)(c) of this
1310 section, shall relinquish all rights under the Age Discrimination
1311 in Employment Act of 1967, as amended, with regard to the benefits
1312 payable under this section.

1313 **SECTION 6.** Section 25-11-114, Mississippi Code of 1972, is
1314 amended as follows:

1315 25-11-114. (1) The applicable benefits provided in
1316 subsections (2) and (3) of this section shall be paid to eligible
1317 beneficiaries of any member who became a member of the system
1318 before July 1, 2007, or any first responder regardless of when he
1319 or she became a member of the system, and has completed four (4)
1320 or more years of membership service, or who became a member of the
1321 system on or after July 1, 2007, and has completed eight (8) or
1322 more years of membership service, and who dies before retirement
1323 and who has not filed a Pre-Retirement Optional Retirement Form as
1324 provided in Section 25-11-111.

1325 (2) (a) The surviving spouse of a member who dies before
1326 retirement shall receive a monthly benefit computed in accordance
1327 with paragraph (d) of this subsection (2) as if the member had
1328 nominated his spouse as beneficiary if:

1329 (i) The member completed the requisite minimum
1330 number of years of membership service to qualify for a retirement
1331 allowance at age sixty (60);



1332 (ii) The spouse has been married to the member for
1333 not less than one (1) year preceding the death of the member;

1334 (iii) The member has not exercised any other
1335 option.

1336 (b) If, at the time of the member's death, there are no
1337 dependent children, and the surviving spouse, who otherwise would
1338 receive the annuity under this subsection (2), has filed with the
1339 system a signed written waiver of his or her rights to the annuity
1340 and that waiver was in effect at the time of the member's death, a
1341 lump-sum distribution of the deceased member's accumulated
1342 contributions shall be refunded in accordance with Section
1343 25-11-117.

1344 (c) The spouse annuity shall begin on the first day of
1345 the month following the date of the member's death, but in case of
1346 late filing, retroactive payments will be made for a period of not
1347 more than one (1) year.

1348 (d) The spouse of a member who is eligible to receive a
1349 monthly benefit under paragraph (a) of this subsection (2) shall
1350 receive a benefit for life equal to the higher of the following:

1351 (i) The greater of twenty percent (20%) of the
1352 deceased member's average compensation as defined in Section
1353 25-11-103 at the time of death or Fifty Dollars (\$50.00) monthly;
1354 or

1355 (ii) Benefits calculated under Option 2 of Section
1356 25-11-115. The method of calculating the retirement benefits



1357 shall be on the same basis as provided in Section 25-11-111(d) or
1358 (e), as applicable. However, if the member dies before being
1359 qualified for a full, unreduced retirement allowance, then the
1360 benefits shall be reduced by an actuarially determined percentage
1361 or factor based on the lesser of either the number of years of
1362 service credit or the number of years in age required to qualify
1363 for a full, unreduced retirement allowance in Section 25-11-111(d)
1364 or (e), as applicable.

1365 (e) The surviving spouse of a deceased member who
1366 previously received spouse retirement benefits under paragraph
1367 (d)(i) of this subsection from and after July 1, 1992, and whose
1368 benefits were terminated before July 1, 2004, because of
1369 remarriage, may again receive the retirement benefits authorized
1370 under paragraph (d)(i) of this subsection by making application
1371 with the board to reinstate those benefits. Any reinstatement of
1372 the benefits shall be prospective only and shall begin after the
1373 first of the month following the date of the application for
1374 reinstatement, but no earlier than July 1, 2004. From and after
1375 July 1, 2010, any spouse who chose Option 2 from and after July 1,
1376 1992, but before July 1, 2004, where the benefit, although payable
1377 for life, was less than the benefit available under the
1378 calculation in paragraph (d)(i) of this subsection shall have his
1379 or her benefit increased to the amount which provides the greater
1380 benefit.



1381 (3) (a) Subject to the maximum limitation provided in this
1382 paragraph, the member's dependent children each shall receive an
1383 annuity of the greater of ten percent (10%) of the member's
1384 average compensation as defined in Section 25-11-103 at the time
1385 of the death of the member or Fifty Dollars (\$50.00) monthly;
1386 however, if there are more than three (3) dependent children, each
1387 dependent child shall receive an equal share of a total annuity
1388 equal to thirty percent (30%) of the member's average
1389 compensation, provided that the total annuity shall not be less
1390 than One Hundred Fifty Dollars (\$150.00) per month for all
1391 children.

1392 (b) A child shall be considered to be a dependent child
1393 until marriage, or the attainment of age nineteen (19), whichever
1394 comes first; however, this age limitation shall be extended beyond
1395 age nineteen (19), but in no event beyond the attainment of age
1396 twenty-three (23), as long as the child is a student regularly
1397 pursuing a full-time course of resident study or training in an
1398 accredited high school, trade school, technical or vocational
1399 institute, junior or community college, college, university or
1400 comparable recognized educational institution duly licensed by a
1401 state. A student child who is receiving a retirement allowance as
1402 of June 30, 2016, whose birthday falls during the school year
1403 (September 1 through June 30) is considered not to reach age
1404 twenty-three (23) until the July 1 following the actual
1405 twenty-third birthday. A full-time course of resident study or



1406 training means a day or evening noncorrespondence course that
1407 includes school attendance at the rate of at least thirty-six (36)
1408 weeks per academic year or other applicable period with a subject
1409 load sufficient, if successfully completed, to attain the
1410 educational or training objective within the period generally
1411 accepted as minimum for completion, by a full-time day student, of
1412 the academic or training program concerned. Any child who is
1413 physically or mentally incompetent, as adjudged by either a
1414 Mississippi court of competent jurisdiction or by the board, shall
1415 receive benefits for as long as the incompetency exists.

1416 (c) If there are more than three (3) dependent
1417 children, upon a child's ceasing to be a dependent child, his
1418 annuity shall terminate and there shall be a redetermination of
1419 the amounts payable to any remaining dependent children.

1420 (d) Annuities payable under this subsection (3) shall
1421 begin the first day of the month following the date of the
1422 member's death or in case of late filing, retroactive payments
1423 will be made for a period of not more than one (1) year. Those
1424 benefits may be paid to a surviving parent or the lawful custodian
1425 of a dependent child for the use and benefit of the child without
1426 the necessity of appointment as guardian.

1427 (4) (a) Death benefits in the line of duty. Regardless of
1428 the number of years of the member's creditable service, the spouse
1429 and/or the dependent children of an active member who is killed or
1430 dies as a direct result of a physical injury sustained from an



1431 accident or a traumatic event caused by external violence or
1432 physical force occurring in the line of performance of duty shall
1433 qualify, on approval of the board, for a retirement allowance on
1434 the first of the month following the date of death, but in the
1435 case of late filing, retroactive payments will be made for a
1436 period of not more than one (1) year. The spouse shall receive a
1437 retirement allowance for life equal to one-half (1/2) of the
1438 average compensation as defined in Section 25-11-103. In addition
1439 to the retirement allowance for the spouse, or if there is no
1440 surviving spouse, the member's dependent child shall receive a
1441 retirement allowance in the amount of one-fourth (1/4) of the
1442 member's average compensation as defined in Section 25-11-103;
1443 however, if there are two (2) or more dependent children, each
1444 dependent child shall receive an equal share of a total annuity
1445 equal to one-half (1/2) of the member's average compensation. If
1446 there are more than two (2) dependent children, upon a child's
1447 ceasing to be a dependent child, his annuity shall terminate and
1448 there shall be a redetermination of the amounts payable to any
1449 remaining dependent children. Those benefits shall cease to be
1450 paid for the support and maintenance of each child upon the child
1451 attaining the age of nineteen (19) years; however, the spouse
1452 shall continue to be eligible for the aforesaid retirement
1453 allowance. Those benefits may be paid to a surviving parent or
1454 lawful custodian of the children for the use and benefit of the
1455 children without the necessity of appointment as guardian. Any



1456 spouse who received spouse retirement benefits under this
1457 paragraph (a) from and after April 4, 1984, and whose benefits
1458 were terminated before July 1, 2004, because of remarriage, may
1459 again receive the retirement benefits authorized under this
1460 paragraph (a) by making application with the board to reinstate
1461 those benefits. Any reinstatement of the benefits shall be
1462 prospective only and shall begin after the first of the month
1463 following the date of the application for reinstatement, but not
1464 earlier than July 1, 2004.

1465 (b) A child shall be considered to be a dependent child
1466 until marriage, or the attainment of age nineteen (19), whichever
1467 comes first; however, this age limitation shall be extended beyond
1468 age nineteen (19), but in no event beyond the attainment of age
1469 twenty-three (23), as long as the child is a student regularly
1470 pursuing a full-time course of resident study or training in an
1471 accredited high school, trade school, technical or vocational
1472 institute, junior or community college, college, university or
1473 comparable recognized educational institution duly licensed by a
1474 state. A student child who is receiving a retirement allowance as
1475 of June 30, 2016, whose birthday falls during the school year
1476 (September 1 through June 30) is considered not to reach age
1477 twenty-three (23) until the July 1 following the actual
1478 twenty-third birthday. A full-time course of resident study or
1479 training means a day or evening noncorrespondence course that
1480 includes school attendance at the rate of at least thirty-six (36)



1481 weeks per academic year or other applicable period with a subject
1482 load sufficient, if successfully completed, to attain the
1483 educational or training objective within the period generally
1484 accepted as minimum for completion, by a full-time day student, of
1485 the academic or training program concerned. Any child who is
1486 physically or mentally incompetent, as adjudged by either a
1487 Mississippi court of competent jurisdiction or by the board, shall
1488 receive benefits for as long as the incompetency exists.

1489 (5) If all the annuities provided for in this section
1490 payable on account of the death of a member terminate before there
1491 has been paid an aggregate amount equal to the member's
1492 accumulated contributions standing to the member's credit in the
1493 annuity savings account at the time of the member's death, the
1494 difference between the accumulated contributions and the aggregate
1495 amount of annuity payments shall be paid to the person that the
1496 member has nominated by written designation duly executed and
1497 filed with the board. If there is no designated beneficiary
1498 surviving at termination of benefits, the difference shall be
1499 payable under Section 25-11-117.1(1).

1500 (6) Regardless of the number of years of creditable service,
1501 upon the application of a member or employer, any active member
1502 who becomes disabled as a direct result of a physical injury
1503 sustained from an accident or traumatic event caused by external
1504 violence or physical force occurring in the line of performance of
1505 duty, provided that the medical board or other designated



1506 governmental agency after a medical examination certifies that the
1507 member is mentally or physically incapacitated for the further
1508 performance of duty and the incapacity is likely to be permanent,
1509 may be retired by the board of trustees on the first of the month
1510 following the date of filing the application but in no event shall
1511 the retirement allowance begin before the termination of state
1512 service. If a member who has been approved for a retirement
1513 allowance under this subsection does not terminate state service
1514 within ninety (90) days after the approval, the retirement
1515 allowance and the application for the allowance shall be void.
1516 The retirement allowance shall equal the allowance on disability
1517 retirement as provided in Section 25-11-113 but shall not be less
1518 than fifty percent (50%) of average compensation. Line of duty
1519 disability benefits under this section shall be administered in
1520 accordance with the provisions of Section 25-11-113(1)(b), (c),
1521 (d), (e) and (f), (3), (4), (5) and (6).

1522 (7) For purposes of determining death or disability benefits
1523 under this section, the following shall apply:

1524 (a) Death or permanent and total disability resulting
1525 from a cardiovascular, pulmonary or musculoskeletal condition that
1526 was not a direct result of a physical injury sustained from an
1527 accident or a traumatic event caused by external violence or
1528 physical force occurring in the performance of duty shall be
1529 deemed a natural death or an ordinary disability.



1530 (b) A mental disability based exclusively on employment
1531 duties occurring on an ongoing basis shall be deemed an ordinary
1532 disability.

1533 (8) If the deceased or disabled member has less than four
1534 (4) years of membership service, the average compensation as
1535 defined in Section 25-11-103 shall be the average of all annual
1536 earned compensation in state service for the purposes of benefits
1537 provided in this section.

1538 (9) In case of death or total and permanent disability under
1539 subsection (4) or subsection (6) of this section and before the
1540 board shall consider any application for a retirement allowance,
1541 the employer must certify to the board that the member's death or
1542 disability was a direct result of an accident or a traumatic event
1543 occurring during and as a result of the performance of the regular
1544 and assigned duties of the employee and that the death or
1545 disability was not the result of the willful negligence of the
1546 employee.

1547 (10) The application for the retirement allowance must be
1548 filed within one (1) year after death of an active member who is
1549 killed in the line of performance of duty or dies as a direct
1550 result of an accident occurring in the line of performance of duty
1551 or traumatic event; but the board of trustees may consider an
1552 application for disability filed after the one-year period if it
1553 can be factually demonstrated to the satisfaction of the board of
1554 trustees that the disability is due to the accident and that the



1555 filing was not accomplished within the one-year period due to a
1556 delayed manifestation of the disability or to circumstances beyond
1557 the control of the member. However, in case of late filing,
1558 retroactive payments will be made for a period of not more than
1559 one (1) year only.

1560 (11) (a) Notwithstanding any other section of this article
1561 and in lieu of any payments to a designated beneficiary for a
1562 refund of contributions under Section 25-11-117, the spouse and/or
1563 children shall be eligible for the benefits payable under this
1564 section, and the spouse may elect, for both the spouse and/or
1565 children, to receive benefits in accordance with either
1566 subsections (2) and (3) or subsection (4) of this section;
1567 otherwise, the contributions to the credit of the deceased member
1568 shall be refunded in accordance with Section 25-11-117.

1569 (b) Notwithstanding any other section of this article,
1570 a spouse who is entitled to receive a monthly benefit under either
1571 subsection (2) or (4) of this section and who is also the named
1572 beneficiary for a refund of accumulated contributions in the
1573 member's annuity savings account, may, after the death of the
1574 member, elect to receive a refund of accumulated contributions in
1575 lieu of a monthly allowance, provided that there are no dependent
1576 children entitled to benefits under subsection (3) of this
1577 section.

1578 (12) If the member has previously received benefits from the
1579 system to which he was not entitled and has not repaid in full all



1580 amounts payable by him to the system, the annuity amounts
1581 otherwise provided by this section shall be withheld and used to
1582 effect repayment until the total of the withholdings repays in
1583 full all amounts payable by him to the system.

1584 **SECTION 7.** This act shall take effect and be in force from
1585 and after July 1, 2023.

