

By: Representatives Shanks, Newman

To: Appropriations

HOUSE BILL NO. 587

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

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

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

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

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

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



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

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

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

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

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



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



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

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



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

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

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

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



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

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



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

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

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

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

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

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



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

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

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





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

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

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

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

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



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

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

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



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

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

261 \* \* \*

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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



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

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

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

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

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





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

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

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



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

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

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

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

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

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



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

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

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



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

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

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



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

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

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

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



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

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

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



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

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

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

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



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

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

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

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

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

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

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





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

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

599 **III. TERMINATION OF MEMBERSHIP**

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

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

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



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

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

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

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



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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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

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



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

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



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

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

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

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

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

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





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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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



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

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

902 \* \* \*

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



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

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

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

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

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



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

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

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

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

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



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

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

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

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





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

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

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

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

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

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



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



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

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

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

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



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

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



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

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

1099           (2) Allowance on disability retirement.

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

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

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



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

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

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

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



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

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

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

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



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

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





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

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



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

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

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



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

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

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

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

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

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

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

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



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

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

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

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

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



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

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



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

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



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

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

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

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



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





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

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



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

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

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



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

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

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

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

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



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

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

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



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

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

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



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

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



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

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

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



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

1566 \* \* \*

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

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





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

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

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

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



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

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



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

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



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

1657 \* \* \*

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

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

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

1678 \* \* \*



1679           **SECTION 10.** This act shall take effect and be in force from  
1680 and after July 1, 2023.

