

By: Representative Zuber (By Request)

To: State Affairs

HOUSE BILL NO. 1590

1 AN ACT TO BRING FORWARD SECTIONS 25-11-15, 25-11-101,
 2 25-11-103, 25-11-105, 25-11-109, 25-11-111, 25-11-112, 25-11-113,
 3 25-11-114, 25-11-115, 25-11-117, 25-11-117.1, 25-11-119,
 4 25-11-120, 25-11-121, 25-11-123, 25-11-127, 25-11-133 AND
 5 25-11-139, MISSISSIPPI CODE OF 1972, WHICH RELATE TO THE PUBLIC
 6 EMPLOYEES' RETIREMENT SYSTEM, FOR THE PURPOSE OF POSSIBLE
 7 AMENDMENT; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 25-11-15, Mississippi Code of 1972, is
 10 brought forward as follows:

11 25-11-15. (1) Board of trustees: The general
 12 administration and responsibility for the proper operation of the
 13 Public Employees' Retirement System and the federal-state
 14 agreement and for making effective the provisions of Articles 1
 15 and 3 are vested in a board of trustees.

16 (2) The board shall consist of ten (10) trustees, as
 17 follows:

18 (a) The State Treasurer;



19 (b) One (1) member who shall be appointed by the
20 Governor for a term of four (4) years, who shall be a member of
21 the system;

22 (c) Two (2) members of the system having at least ten
23 (10) years of creditable service who are state employees who are
24 not employees of the state institutions of higher learning, who
25 shall be elected by members of the system who are employees of
26 state agencies and by members of the Mississippi Highway Safety
27 Patrol Retirement System, but not by employees of the state
28 institutions of higher learning;

29 (d) Two (2) members of the system having at least ten
30 (10) years of creditable service who do not hold office in the
31 legislative or judicial departments of municipal or county
32 government, one (1) of whom shall be an employee of a
33 municipality, instrumentality or juristic entity thereof, who
34 shall be elected by members of the system who are employees of the
35 municipalities, instrumentalities or juristic entities thereof and
36 by members of the municipal systems and the firemen's and
37 policemen's disability and relief funds administered by the board
38 of trustees, and one (1) of whom shall be an employee of a county,
39 instrumentality or juristic entity thereof, who shall be elected
40 by members of the system who are employees of the counties,
41 instrumentalities or juristic entities thereof;

42 (e) One (1) member of the system having at least ten
43 (10) years of creditable service who is an employee of a state



44 institution of higher learning, who shall be elected by members of
45 the system who are employees of the state institutions of higher
46 learning as included in Section 37-101-1. Any member of the board
47 on July 1, 1984, who is an employee of an institution of higher
48 learning shall serve as the member trustee representing the
49 institutions of higher learning until the end of the term for
50 which he or she was elected;

51 (f) Two (2) retired members who are receiving a
52 retirement allowance from the system, who shall be elected by the
53 retired members or beneficiaries receiving a retirement allowance
54 from the system and by the retired members or beneficiaries of the
55 municipal systems, the firemen's and policemen's disability and
56 relief funds and the Mississippi Highway Safety Patrol Retirement
57 System administered by the board of trustees, to serve for a term
58 of six (6) years under rules and regulations adopted by the board
59 to govern that election; however, any retired member of the board
60 in office on April 19, 1993, shall serve as a retired trustee
61 until the end of the term for which he or she was elected;

62 (g) One (1) member of the system having at least ten
63 (10) years of creditable service who is an employee of any public
64 school district or junior college or community college district
65 that participates in the system, who shall be elected by the
66 members of the system who are employees of any public school
67 district or junior college or community college district; however,
68 any member of the board on June 30, 1989, who is a certified



69 classroom teacher shall serve as the member representing a
70 classroom teacher until the end of the term for which the member
71 was appointed;

72 (h) In the first election to be held for trustees one
73 (1) member shall be elected for a term of two (2) years, and one
74 (1) member for a term of four (4) years, and one (1) member for a
75 term of six (6) years. Thereafter, their successors shall be
76 elected for terms of six (6) years. All elections shall be held
77 in accordance with rules and regulations adopted by the board to
78 govern those elections and the board shall be the sole judge of
79 all questions arising incident to or connected with the elections.

80 (i) Any person eligible to vote for the election of a
81 member of the board of trustees and who meets the qualifications
82 for the office may seek election to the office and serve if
83 elected. For purposes of determining eligibility to seek office
84 as a member of the board of trustees, the required creditable
85 service in "the system" shall include each system administered by
86 the board of trustees in which the person is a member.

87 The members described above and serving on the board on June
88 30, 1989, shall continue to serve on the board until the
89 expiration of their terms.

90 (3) If a vacancy occurs in the office of a trustee, the
91 vacancy shall be filled for the unexpired term in the same manner
92 as the office was previously filled. However, if the unexpired
93 term is six (6) months or less, an election shall be held to fill



94 the office vacated for the next succeeding full term of office,
95 and the person so elected to fill the next full term shall be
96 appointed by the board to fill the remainder of the unexpired
97 term. Whenever any member who is elected to a position to
98 represent a class of members ceases to be a member of that class,
99 that board member is no longer eligible for membership on the
100 board. The position shall be declared vacant, and the unexpired
101 term shall be filled in the same manner as the office was
102 previously filled.

103 (4) Each trustee shall, within ten (10) days after his or
104 her appointment or election, take an oath of office as provided by
105 law and, in addition, shall take an oath that he or she will
106 diligently and honestly administer the affairs of the board, and
107 that he or she will not knowingly violate or willingly permit to
108 be violated any of the provisions of law applicable to Articles 1
109 and 3. The oath shall be signed by the member making it,
110 certified by the officer before whom it is taken, and immediately
111 filed in the office of the Secretary of State.

112 (5) Each trustee shall be entitled to one (1) vote. Six (6)
113 members shall constitute a quorum at any meeting of the board, and
114 a majority of those present shall be necessary for a decision.

115 (6) Subject to the limitations of Articles 1 and 3, the
116 board shall establish rules and regulations for the administration
117 of the system created by those articles and for the transaction of
118 its business, and to give force and effect to the provisions of



119 those articles wherever necessary to carry out the intent and
120 purposes of the Legislature. The cited articles are remedial law
121 and shall be liberally construed to accomplish their purposes.

122 (7) Notwithstanding any other law to the contrary, in the
123 event of a natural disaster or other occurrence that results in
124 the failure of the retirement system's computer system or a
125 significant disruption of the normal activities of the retirement
126 system, the executive director of the board, or his or her deputy,
127 shall be authorized to contract with another entity, governmental
128 or private, during the period of the failure or disruption, for
129 services, commodities, work space and supplies as necessary to
130 carry out the administration of all systems and programs
131 administered by the board. The board shall be authorized to pay
132 the reasonable cost of those services, commodities, work space and
133 supplies. At the meeting of the board next following the
134 execution of a contract authorized under this subsection,
135 documentation of the contract, including a description of the
136 services, commodities, work space or supplies, the price thereof
137 and the nature of the disaster or occurrence, shall be presented
138 to the board and placed on the minutes of the board. Because of
139 their emergency nature, purchases made under this subsection shall
140 not be required to comply with the provisions of Section 31-7-13
141 or any other law governing public purchases.

142 (8) The computer equipment and software owned by the Public
143 Employees' Retirement System are assets of the Trust Fund by



144 virtue of the Constitution, Section 272-A and acquisition and
145 operation thereof shall be under the jurisdiction of the Public
146 Employees' Retirement System.

147 (9) The board shall elect a chairman and shall by a majority
148 vote of all of its members appoint a secretary whose title shall
149 be executive director, who shall serve at the will and pleasure of
150 the board, who shall not be a member of the board of trustees, who
151 shall be entitled to membership in the system, and who shall act
152 as secretary of the board. The board of trustees shall employ
153 such actuarial, clerical and other employees as are required to
154 transact the business of the system, and shall fix the
155 compensation of all employees, subject to the rules and
156 regulations of the State Personnel Board.

157 (10) Each member of the board shall receive as compensation
158 for his or her services Three Hundred Dollars (\$300.00) per month.
159 All members of the board shall be reimbursed for their necessary
160 traveling expenses, which shall be paid in accordance with the
161 requirements of Section 25-3-41 or other applicable statutes with
162 respect to traveling expenses of state officials and employees on
163 official business. All members of the board shall be entitled to
164 be members of the system and shall be entitled to creditable
165 service for all time served as a member of the board, except for
166 the retired members, who shall not be entitled to be a member of
167 the system and who shall be eligible to receive the retirement
168 allowance and compensation for services from the system while



169 serving as a member of the board. Members of the board who are
170 employed in state service (as defined in Section 25-11-103) shall
171 not be required to take annual leave from their state service
172 employment while performing his or her official duties as a member
173 of the board.

174 (11) All expenses of the board incurred in the
175 administration of Articles 1 and 3 shall be paid from such funds
176 as may be appropriated by the Legislature for that purpose or from
177 administrative fees collected from political subdivisions or
178 juristic entities of the state. Each political subdivision of the
179 state and each instrumentality of the state or of a political
180 subdivision or subdivisions that submit a plan for approval by the
181 board as provided in Section 25-11-11 shall reimburse the board,
182 for coverage into the administrative expense fund, its pro rata
183 share of the total expense of administering Articles 1 and 3 as
184 provided by regulations of the board.

185 (12) The Lieutenant Governor may designate two (2) Senators
186 and the Speaker of the House of Representatives may designate two
187 (2) Representatives to attend any meeting of the Board of Trustees
188 of the Public Employees' Retirement System. The appointing
189 authorities may designate alternate members from their respective
190 houses to serve when the regular designees are unable to attend
191 the meetings of the board. The legislative designees shall have
192 no jurisdiction or vote on any matter within the jurisdiction of
193 the board. For attending meetings of the board, the legislators



194 shall receive per diem and expenses, which shall be paid from the
195 contingent expense funds of their respective houses in the same
196 amounts as provided for committee meetings when the Legislature is
197 not in session; however, no per diem and expenses for attending
198 meetings of the board will be paid while the Legislature is in
199 session. No per diem and expenses will be paid except for
200 attending meetings of the board without prior approval of the
201 proper committee in their respective houses.

202 **SECTION 2.** Section 25-11-101, Mississippi Code of 1972, is
203 brought forward as follows:

204 25-11-101. A retirement system is hereby established and
205 placed under the management of the board of trustees for the
206 purpose of providing retirement allowances and other benefits
207 under the provisions of this article for officers and employees in
208 the state service and their beneficiaries. The retirement system
209 provided by this article shall go into operation as of the first
210 day of the month following the effective date thereof, when
211 contributions by members shall begin and benefits shall become
212 payable.

213 This system shall be an agency of the State of Mississippi
214 having all the powers and privileges of a public corporation and
215 shall be known as the "Public Employees' Retirement System of
216 Mississippi." By such name all of its business shall be
217 transacted, all of its funds invested, and all of its cash and
218 securities and other property held; but in ordinary correspondence



219 the word "system" may be used instead of the full title. After
220 appropriation for administrative expenses and after payment of
221 investment management fees and costs, all funds of the system
222 shall be held in trust in the custody of the board of trustees as
223 funds of the beneficiaries of the trust. The Joint Legislative
224 Committee on Performance Evaluation and Expenditure Review is
225 hereby authorized and directed to have performed random actuarial
226 evaluations, as necessary, of the funds and expenses of the Public
227 Employees' Retirement System and to make annual reports to the
228 Legislature on the financial soundness of the system.

229 **SECTION 3.** Section 25-11-103, Mississippi Code of 1972, is
230 brought forward as follows:

231 25-11-103. (1) The following words and phrases as used in
232 Articles 1 and 3, unless a different meaning is plainly required
233 by the context, have the following meanings:

234 (a) "Accumulated contributions" means the sum of all
235 the amounts deducted from the compensation of a member and
236 credited to his or her individual account in the annuity savings
237 account, together with regular interest as provided in Section
238 25-11-123.

239 (b) "Actuarial cost" means the amount of funds
240 presently required to provide future benefits as determined by the
241 board based on applicable tables and formulas provided by the
242 actuary.



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

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

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

252 (f) "Average compensation" means the average of the
253 four (4) highest years of earned compensation reported for an
254 employee in a fiscal or calendar year period, or combination
255 thereof that do not overlap, or the last forty-eight (48)
256 consecutive months of earned compensation reported for an
257 employee. The four (4) years need not be successive or joined
258 years of service. In computing the average compensation for
259 retirement, disability or survivor benefits, any amount lawfully
260 paid in a lump sum for personal leave or major medical leave shall
261 be included in the calculation to the extent that the amount does
262 not exceed an amount that is equal to thirty (30) days of earned
263 compensation and to the extent that it does not cause the
264 employee's earned compensation to exceed the maximum reportable
265 amount specified in paragraph (k) of this section; however, this
266 thirty-day limitation shall not prevent the inclusion in the
267 calculation of leave earned under federal regulations before July



268 1, 1976, and frozen as of that date as referred to in Section
269 25-3-99. In computing the average compensation, no amounts shall
270 be used that are in excess of the amount on which contributions
271 were required and paid, and no nontaxable amounts paid by the
272 employer for health or life insurance premiums for the employee
273 shall be used. If any member who is or has been granted any
274 increase in annual salary or compensation of more than eight
275 percent (8%) retires within twenty-four (24) months from the date
276 that the increase becomes effective, then the board shall exclude
277 that part of the increase in salary or compensation that exceeds
278 eight percent (8%) in calculating that member's average
279 compensation for retirement purposes. The board may enforce this
280 provision by rule or regulation. However, increases in
281 compensation in excess of eight percent (8%) per year granted
282 within twenty-four (24) months of the date of retirement may be
283 included in the calculation of average compensation if
284 satisfactory proof is presented to the board showing that the
285 increase in compensation was the result of an actual change in the
286 position held or services rendered, or that the compensation
287 increase was authorized by the State Personnel Board or was
288 increased as a result of statutory enactment, and the employer
289 furnishes an affidavit stating that the increase granted within
290 the last twenty-four (24) months was not contingent on a promise
291 or agreement of the employee to retire. Nothing in Section
292 25-3-31 shall affect the calculation of the average compensation



293 of any member for the purposes of this article. The average
294 compensation of any member who retires before July 1, 1992, shall
295 not exceed the annual salary of the Governor.

296 (g) "Beneficiary" means any person entitled to receive
297 a retirement allowance, an annuity or other benefit as provided by
298 Articles 1 and 3. The term "beneficiary" may also include an
299 organization, estate, trust or entity; however, a beneficiary
300 designated or entitled to receive monthly payments under an
301 optional settlement based on life contingency or under a statutory
302 monthly benefit may only be a natural person. In the event of the
303 death before retirement of any member who became a member of the
304 system before July 1, 2007, and whose spouse and/or children are
305 not entitled to a retirement allowance on the basis that the
306 member has less than four (4) years of membership service credit,
307 or who became a member of the system on or after July 1, 2007, and
308 whose spouse and/or children are not entitled to a retirement
309 allowance on the basis that the member has less than eight (8)
310 years of membership service credit, and/or has not been married
311 for a minimum of one (1) year or the spouse has waived his or her
312 entitlement to a retirement allowance under Section 25-11-114, the
313 lawful spouse of a member at the time of the death of the member
314 shall be the beneficiary of the member unless the member has
315 designated another beneficiary after the date of marriage in
316 writing, and filed that writing in the office of the executive



317 director of the board of trustees. No designation or change of
318 beneficiary shall be made in any other manner.

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

322 (i) "Creditable service" means "prior service,"
323 "retroactive service" and all lawfully credited unused leave not
324 exceeding the accrual rates and limitations provided in Section
325 25-3-91 et seq., as of the date of withdrawal from service plus
326 "membership service" and other service for which credit is
327 allowable as provided in Section 25-11-109. Except to limit
328 creditable service reported to the system for the purpose of
329 computing an employee's retirement allowance or annuity or
330 benefits provided in this article, nothing in this paragraph shall
331 limit or otherwise restrict the power of the governing authority
332 of a municipality or other political subdivision of the state to
333 adopt such vacation and sick leave policies as it deems necessary.

334 (j) "Child" means either a natural child of the member,
335 a child that has been made a child of the member by applicable
336 court action before the death of the member, or a child under the
337 permanent care of the member at the time of the latter's death,
338 which permanent care status shall be determined by evidence
339 satisfactory to the board. For purposes of this paragraph, a
340 natural child of the member is a child of the member that is
341 conceived before the death of the member.



342 (k) "Earned compensation" means the full amount earned
343 during a fiscal year by an employee not to exceed the employee
344 compensation limit set pursuant to Section 401(a)(17) of the
345 Internal Revenue Code for the calendar year in which the fiscal
346 year begins and proportionately for less than one (1) year of
347 service. Except as otherwise provided in this paragraph, the
348 value of maintenance furnished to an employee shall not be
349 included in earned compensation. Earned compensation shall not
350 include any amounts paid by the employer for health or life
351 insurance premiums for an employee. Earned compensation shall be
352 limited to the regular periodic compensation paid, exclusive of
353 litigation fees, bond fees, performance-based incentive payments,
354 and other similar extraordinary nonrecurring payments. In
355 addition, any member in a covered position, as defined by Public
356 Employees' Retirement System laws and regulations, who is also
357 employed by another covered agency or political subdivision shall
358 have the earnings of that additional employment reported to the
359 Public Employees' Retirement System regardless of whether the
360 additional employment is sufficient in itself to be a covered
361 position. In addition, computation of earned compensation shall
362 be governed by the following:

363 (i) In the case of constables, the net earnings
364 from their office after deduction of expenses shall apply, except
365 that in no case shall earned compensation be less than the total



366 direct payments made by the state or governmental subdivisions to
367 the official.

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

371 (iii) In the case of members of the State
372 Legislature, all remuneration or amounts paid, except mileage
373 allowance, shall apply.

374 (iv) The amount by which an eligible employee's
375 salary is reduced under a salary reduction agreement authorized
376 under Section 25-17-5 shall be included as earned compensation
377 under this paragraph, provided this inclusion does not conflict
378 with federal law, including federal regulations and federal
379 administrative interpretations under the federal law, pertaining
380 to the Federal Insurance Contributions Act or to Internal Revenue
381 Code Section 125 cafeteria plans.

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

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



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

393 (viii) The value of maintenance furnished to an
394 employee before July 1, 2013, for which the proper amount of
395 employer and employee contributions have been paid, shall be
396 included in earned compensation. From and after July 1, 2013, the
397 value of maintenance furnished to an employee shall be reported as
398 earned compensation only if the proper amount of employer and
399 employee contributions have been paid on the maintenance and the
400 employee was receiving maintenance and having maintenance reported
401 to the system as of June 30, 2013. The value of maintenance when
402 not paid in money shall be fixed by the employing state agency,
403 and, in case of doubt, by the board of trustees as defined in
404 Section 25-11-15.

405 (ix) Except as otherwise provided in this
406 paragraph, the value of any in-kind benefits provided by the
407 employer shall not be included in earned compensation. As used in
408 this subparagraph, "in-kind benefits" shall include, but not be
409 limited to, group life insurance premiums, health or dental
410 insurance premiums, nonpaid major medical and personal leave,
411 employer contributions for social security and retirement, tuition
412 reimbursement or educational funding, day care or transportation
413 benefits.



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

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

420 (n) "Executive director" means the secretary to the
421 board of trustees, as provided in Section 25-11-15(9), and the
422 administrator of the Public Employees' Retirement System and all
423 systems under the management of the board of trustees. Wherever
424 the term "Executive Secretary of the Public Employees' Retirement
425 System" or "executive secretary" appears in this article or in any
426 other provision of law, it shall be construed to mean the
427 Executive Director of the Public Employees' Retirement System.

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

430 (p) "Medical board" means the board of physicians or
431 any governmental or nongovernmental disability determination
432 service designated by the board of trustees that is qualified to
433 make disability determinations as provided for in Section
434 25-11-119.

435 (q) "Member" means any person included in the
436 membership of the system as provided in Section 25-11-105. For
437 purposes of Sections 25-11-103, 25-11-105, 25-11-109, 25-11-111,
438 25-11-113, 25-11-114, 25-11-115 and 25-11-117, if a member of the



439 system withdrew from state service and received a refund of the
440 amount of the accumulated contributions to the credit of the
441 member in the annuity savings account before July 1, 2007, and the
442 person reenters state service and becomes a member of the system
443 again on or after July 1, 2007, and repays all or part of the
444 amount received as a refund and interest in order to receive
445 creditable service for service rendered before July 1, 2007, the
446 member shall be considered to have become a member of the system
447 on or after July 1, 2007, subject to the eight-year membership
448 service requirement, as applicable in those sections. For
449 purposes of Sections 25-11-103, 25-11-111, 25-11-114 and
450 25-11-115, if a member of the system withdrew from state service
451 and received a refund of the amount of the accumulated
452 contributions to the credit of the member in the annuity savings
453 account before July 1, 2011, and the person reenters state service
454 and becomes a member of the system again on or after July 1, 2011,
455 and repays all or part of the amount received as a refund and
456 interest in order to receive creditable service for service
457 rendered before July 1, 2011, the member shall be considered to
458 have become a member of the system on or after July 1, 2011.

459 (r) "Membership service" means service as an employee
460 in a covered position rendered while a contributing member of the
461 retirement system.

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



464 call for services to be rendered by one (1) person, including
465 positions jointly employed by federal and state agencies
466 administering federal and state funds. The employer shall
467 determine upon initial employment and during the course of
468 employment of an employee who does not meet the criteria for
469 coverage in the Public Employees' Retirement System based on the
470 position held, whether the employee is or becomes eligible for
471 coverage in the Public Employees' Retirement System based upon any
472 other employment in a covered agency or political subdivision. If
473 or when the employee meets the eligibility criteria for coverage
474 in the other position, then the employer must withhold
475 contributions and report wages from the noncovered position in
476 accordance with the provisions for reporting of earned
477 compensation. Failure to deduct and report those contributions
478 shall not relieve the employee or employer of liability thereof.
479 The board shall adopt such rules and regulations as necessary to
480 implement and enforce this provision.

481 (t) "Prior service" means:

482 (i) For persons who became members of the system
483 before July 1, 2007, service rendered before February 1, 1953, for
484 which credit is allowable under Sections 25-11-105 and 25-11-109,
485 and which shall allow prior service for any person who is now or
486 becomes a member of the Public Employees' Retirement System and
487 who does contribute to the system for a minimum period of four (4)
488 years.



489 (ii) For persons who became members of the system
490 on or after July 1, 2007, service rendered before February 1,
491 1953, for which credit is allowable under Sections 25-11-105 and
492 25-11-109, and which shall allow prior service for any person who
493 is now or becomes a member of the Public Employees' Retirement
494 System and who does contribute to the system for a minimum period
495 of eight (8) years.

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

499 (v) "Retirement allowance" means an annuity for life as
500 provided in this article, payable each year in twelve (12) equal
501 monthly installments beginning as of the date fixed by the board.
502 The retirement allowance shall be calculated in accordance with
503 Section 25-11-111. However, any spouse who received a spouse
504 retirement benefit in accordance with Section 25-11-111(d) before
505 March 31, 1971, and those benefits were terminated because of
506 eligibility for a social security benefit, may again receive his
507 or her spouse retirement benefit from and after making application
508 with the board of trustees to reinstate the spouse retirement
509 benefit.

510 (w) "Retroactive service" means service rendered after
511 February 1, 1953, for which credit is allowable under Section
512 25-11-105(b) and Section 25-11-105(k).



513 (x) "System" means the Public Employees' Retirement
514 System of Mississippi established and described in Section
515 25-11-101.

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

518 (z) "State service" means all offices and positions of
519 trust or employment in the employ of the state, or any political
520 subdivision or instrumentality of the state, that elect to
521 participate as provided by Section 25-11-105(f), including the
522 position of elected or fee officials of the counties and their
523 deputies and employees performing public services or any
524 department, independent agency, board or commission thereof, and
525 also includes all offices and positions of trust or employment in
526 the employ of joint state and federal agencies administering state
527 and federal funds and service rendered by employees of the public
528 schools. Effective July 1, 1973, all nonprofessional public
529 school employees, such as bus drivers, janitors, maids,
530 maintenance workers and cafeteria employees, shall have the option
531 to become members in accordance with Section 25-11-105(b), and
532 shall be eligible to receive credit for services before July 1,
533 1973, provided that the contributions and interest are paid by the
534 employee in accordance with that section; in addition, the county
535 or municipal separate school district may pay the employer
536 contribution and pro rata share of interest of the retroactive
537 service from available funds. "State service" shall not include



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

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

545 (bb) The masculine pronoun, wherever used, includes the
546 feminine pronoun.

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

550 **SECTION 4.** Section 25-11-105, Mississippi Code of 1972, is
551 brought forward as follows:

552 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

553 The membership of this retirement system shall be composed as
554 follows:

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

561 (ii) From and after July 1, 2002, any individual
562 who is employed by a governmental entity to perform professional



563 services shall become a member of the system if the individual is
564 paid regular periodic compensation for those services that is
565 subject to payroll taxes, is provided all other employee benefits
566 and meets the membership criteria established by the regulations
567 adopted by the board of trustees that apply to all other members
568 of the system; however, any active member employed in such a
569 position on July 1, 2002, will continue to be an active member for
570 as long as they are employed in any such position.

571 (b) All persons who become employees in the state
572 service after January 31, 1953, except those specifically excluded
573 or as to whom election is provided in Articles 1 and 3, unless
574 they file with the board before the lapse of sixty (60) days of
575 employment or sixty (60) days after the effective date of the
576 cited articles, whichever is later, on a form prescribed by the
577 board, a notice of election not to be covered by the membership of
578 the retirement system and a duly executed waiver of all present
579 and prospective benefits that would otherwise inure to them on
580 account of their participation in the system, shall become members
581 of the retirement system; however, no credit for prior service
582 will be granted to members who became members of the system before
583 July 1, 2007, until they have contributed to Article 3 of the
584 retirement system for a minimum period of at least four (4) years,
585 or to members who became members of the system on or after July 1,
586 2007, until they have contributed to Article 3 of the retirement
587 system for a minimum period of at least eight (8) years. Those



588 members shall receive credit for services performed before January
589 1, 1953, in employment now covered by Article 3, but no credit
590 shall be granted for retroactive services between January 1, 1953,
591 and the date of their entry into the retirement system, unless the
592 employee pays into the retirement system both the employer's and
593 the employee's contributions on wages paid him during the period
594 from January 31, 1953, to the date of his becoming a contributing
595 member, together with interest at the rate determined by the board
596 of trustees. Members reentering after withdrawal from service
597 shall qualify for prior service under the provisions of Section
598 25-11-117. From and after July 1, 1998, upon eligibility as noted
599 above, the member may receive credit for such retroactive service
600 provided:

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

604 (ii) The member shall pay to the retirement system
605 on the date he or she is eligible for that credit or at any time
606 thereafter before the date of retirement the actuarial cost for
607 each year of that creditable service. The provisions of this
608 subparagraph (ii) shall be subject to the limitations of Section
609 415 of the Internal Revenue Code and regulations promulgated under
610 Section 415.

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



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

615 (c) All persons who become employees in the state
616 service after January 31, 1953, and who are eligible for
617 membership in any other retirement system shall become members of
618 this retirement system as a condition of their employment, unless
619 they elect at the time of their employment to become a member of
620 that other system.

621 (d) All persons who are employees in the state service
622 on January 31, 1953, and who are members of any nonfunded
623 retirement system operated by the State of Mississippi, or any of
624 its departments or agencies, shall become members of this system
625 with prior service credit unless, before February 1, 1953, they
626 file a written notice with the board of trustees that they do not
627 elect to become members.

628 (e) All persons who are employees in the state service
629 on January 31, 1953, and who under existing laws are members of
630 any fund operated for the retirement of employees by the State of
631 Mississippi, or any of its departments or agencies, shall not be
632 entitled to membership in this retirement system unless, before
633 February 1, 1953, any such person indicates by a notice filed with
634 the board, on a form prescribed by the board, his individual
635 election and choice to participate in this system, but no such
636 person shall receive prior service credit unless he becomes a
637 member on or before February 1, 1953.



638 (f) Each political subdivision of the state and each
639 instrumentality of the state or a political subdivision, or both,
640 is authorized to submit, for approval by the board of trustees, a
641 plan for extending the benefits of this article to employees of
642 any such political subdivision or instrumentality. Each such plan
643 or any amendment to the plan for extending benefits thereof shall
644 be approved by the board of trustees if it finds that the plan, or
645 the plan as amended, is in conformity with such requirements as
646 are provided in Articles 1 and 3; however, upon approval of the
647 plan or any such plan previously approved by the board of
648 trustees, the approved plan shall not be subject to cancellation
649 or termination by the political subdivision or instrumentality.
650 No such plan shall be approved unless:

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

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



663 (iii) It provides for such methods of
664 administration of the plan by the political subdivision or
665 instrumentality as are found by the board of trustees to be
666 necessary for the proper and efficient administration thereof;

667 (iv) It provides that the political subdivision or
668 instrumentality will make such reports, in such form and
669 containing such information, as the board of trustees may from
670 time to time require;

671 (v) It authorizes the board of trustees to
672 terminate the plan in its entirety in the discretion of the board
673 if it finds that there has been a failure to comply substantially
674 with any provision contained in the plan, the termination to take
675 effect at the expiration of such notice and on such conditions as
676 may be provided by regulations of the board and as may be
677 consistent with applicable federal law.

678 1. The board of trustees shall not finally
679 refuse to approve a plan submitted under paragraph (f), and shall
680 not terminate an approved plan without reasonable notice and
681 opportunity for hearing to each political subdivision or
682 instrumentality affected by the board's decision. The board's
683 decision in any such case shall be final, conclusive and binding
684 unless an appeal is taken by the political subdivision or
685 instrumentality aggrieved by the decision to the Circuit Court of
686 the First Judicial District of Hinds County, Mississippi, in



687 accordance with the provisions of law with respect to civil causes
688 by certiorari.

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

696 3. Every political subdivision or
697 instrumentality required to make payments under paragraph (f)(v)2
698 of this section is authorized, in consideration of the employees'
699 retention in or entry upon employment after enactment of Articles
700 1 and 3, to impose upon its employees, as to services that are
701 covered by an approved plan, a contribution with respect to wages
702 (as defined in Section 25-11-5) not exceeding the amount provided
703 in Section 25-11-123(d) if those services constituted employment
704 within the meaning of Articles 1 and 3, and to deduct the amount
705 of the contribution from the wages as and when paid.
706 Contributions so collected shall be paid into the contribution
707 fund as partial discharge of the liability of the political
708 subdivisions or instrumentalities under paragraph (f)(v)2 of this
709 section. Failure to deduct the contribution shall not relieve the
710 employee or employer of liability for the contribution.



711 4. Any state agency, school, political
712 subdivision, instrumentality or any employer that is required to
713 submit contribution payments or wage reports under any section of
714 this chapter shall be assessed interest on delinquent payments or
715 wage reports as determined by the board of trustees in accordance
716 with rules and regulations adopted by the board and delinquent
717 payments, assessed interest and any other amount certified by the
718 board as owed by an employer, may be recovered by action in a
719 court of competent jurisdiction against the reporting agency
720 liable therefor or may, upon due certification of delinquency and
721 at the request of the board of trustees, be deducted from any
722 other monies payable to the reporting agency by any department or
723 agency of the state.

724 5. Each political subdivision of the state
725 and each instrumentality of the state or a political subdivision
726 or subdivisions that submit a plan for approval of the board, as
727 provided in this section, shall reimburse the board for coverage
728 into the expense account, its pro rata share of the total expense
729 of administering Articles 1 and 3 as provided by regulations of
730 the board.

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



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

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

743 (i) If any member of this system changes his employment
744 to any agency of the state having an actuarially funded retirement
745 system, the board of trustees may authorize the transfer of the
746 member's creditable service and of the present value of the
747 member's employer's accumulation account and of the present value
748 of the member's accumulated membership contributions to that other
749 system, provided that the employee agrees to the transfer of his
750 accumulated membership contributions and provided that the other
751 system is authorized to receive and agrees to make the transfer.

752 If any member of any other actuarially funded system
753 maintained by an agency of the state changes his employment to an
754 agency covered by this system, the board of trustees may authorize
755 the receipt of the transfer of the member's creditable service and
756 of the present value of the member's employer's accumulation
757 account and of the present value of the member's accumulated
758 membership contributions from the other system, provided that the
759 employee agrees to the transfer of his accumulated membership



760 contributions to this system and provided that the other system is
761 authorized and agrees to make the transfer.

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

765 (k) Employees of a political subdivision or
766 instrumentality who were employed by the political subdivision or
767 instrumentality before an agreement between the entity and the
768 Public Employees' Retirement System to extend the benefits of this
769 article to its employees, and which agreement provides for the
770 establishment of retroactive service credit, and who became
771 members of the retirement system before July 1, 2007, and have
772 remained contributors to the retirement system for four (4) years,
773 or who became members of the retirement system on or after July 1,
774 2007, and have remained contributors to the retirement system for
775 eight (8) years, may receive credit for that retroactive service
776 with the political subdivision or instrumentality, provided that
777 the employee and/or employer, as provided under the terms of the
778 modification of the joinder agreement in allowing that coverage,
779 pay into the retirement system the employer's and employee's
780 contributions on wages paid the member during the previous
781 employment, together with interest or actuarial cost as determined
782 by the board covering the period from the date the service was
783 rendered until the payment for the credit for the service was
784 made. Those wages shall be verified by the Social Security



785 Administration or employer payroll records. Effective July 1,
786 1998, upon eligibility as noted above, a member may receive credit
787 for that retroactive service with the political subdivision or
788 instrumentality provided:

789 (i) The member shall furnish proof satisfactory to
790 the board of trustees of certification of those services from the
791 political subdivision or instrumentality where the services were
792 rendered or verification by the Social Security Administration;
793 and

794 (ii) The member shall pay to the retirement system
795 on the date he or she is eligible for that credit or at any time
796 thereafter before the date of retirement the actuarial cost for
797 each year of that creditable service. The provisions of this
798 subparagraph (ii) shall be subject to the limitations of Section
799 415 of the Internal Revenue Code and regulations promulgated under
800 Section 415.

801 Nothing contained in this paragraph (k) shall be construed to
802 limit the authority of the board to allow the correction of
803 reporting errors or omissions based on the payment of employee and
804 employer contributions plus applicable interest. Payment for that
805 time shall be made beginning with the most recent service. Upon
806 the payment of all or part of the required contributions, plus
807 interest or the actuarial cost as provided above, the member shall
808 receive credit for the period of creditable service for which full
809 payment has been made to the retirement system.



810 (1) Through June 30, 1998, any state service eligible
811 for retroactive service credit, no part of which has ever been
812 reported, and requiring the payment of employee and employer
813 contributions plus interest, or, from and after July 1, 1998, any
814 state service eligible for retroactive service credit, no part of
815 which has ever been reported to the retirement system, and
816 requiring the payment of the actuarial cost for that creditable
817 service, may, at the member's option, be purchased in quarterly
818 increments as provided above at the time that its purchase is
819 otherwise allowed.

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

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

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

827 (a) Patient or inmate help in state charitable, penal
828 or correctional institutions;

829 (b) Students of any state educational institution
830 employed by any agency of the state for temporary, part-time or
831 intermittent work;

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



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

839 **III. TERMINATION OF MEMBERSHIP**

840 Membership in this system shall cease by a member withdrawing
841 his accumulated contributions, or by a member withdrawing from
842 active service with a retirement allowance, or by a member's
843 death.

844 **SECTION 5.** Section 25-11-109, Mississippi Code of 1972, is
845 brought forward as follows:

846 25-11-109. (1) Under such rules and regulations as the
847 board of trustees shall adopt, each person who becomes a member of
848 this retirement system, as provided in Section 25-11-105, on or
849 before July 1, 1953, or who became a member of the system before
850 July 1, 2007, and contributes to the system for a minimum period
851 of four (4) years, or who became a member of the system on or
852 after July 1, 2007, and contributes to the system for a minimum
853 period of eight (8) years, shall receive credit for all state
854 service rendered before February 1, 1953. To receive that credit,
855 the member shall file a detailed statement of all services as an
856 employee rendered by him in the state service before February 1,
857 1953. For any member who joined the system after July 1, 1953,
858 and before July 1, 2007, any creditable service for which the
859 member is not required to make contributions shall not be credited



860 to the member until the member has contributed to the system for a
861 minimum period of at least four (4) years. For any member who
862 joined the system on or after July 1, 2007, any creditable service
863 for which the member is not required to make contributions shall
864 not be credited to the member until the member has contributed to
865 the system for a minimum period of at least eight (8) years.

866 (2) (a) (i) In the computation of creditable service for
867 service rendered before July 1, 2017, under the provisions of this
868 article, the total months of accumulative service during any
869 fiscal year shall be calculated in accordance with the schedule as
870 follows: ten (10) or more months of creditable service during any
871 fiscal year shall constitute a year of creditable service; seven
872 (7) months to nine (9) months inclusive, three-quarters (3/4) of a
873 year of creditable service; four (4) months to six (6) months
874 inclusive, one-half (1/2) year of creditable service; one (1)
875 month to three (3) months inclusive, one-quarter (1/4) of a year
876 of creditable service.

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

881 (b) In no case shall credit be allowed for any period
882 of absence without compensation except for disability while in
883 receipt of a disability retirement allowance, nor shall less than
884 fifteen (15) days of service in any month, or service less than



885 the equivalent of one-half (1/2) of the normal working load for
886 the position and less than one-half (1/2) of the normal
887 compensation for the position in any month, constitute a month of
888 creditable service, nor shall more than one (1) year of service be
889 creditable for all services rendered in any one (1) fiscal year;
890 however, for a school employee, substantial completion of the
891 legal school term when and where the service was rendered shall
892 constitute a year of service credit. Any state or local elected
893 official shall be deemed a full-time employee for the purpose of
894 creditable service. However, an appointed or elected official
895 compensated on a per diem basis only shall not be allowed
896 creditable service for terms of office.

897 (c) In the computation of any retirement allowance or
898 any annuity or benefits provided in this article, any fractional
899 period of service of less than one (1) year shall be taken into
900 account and a proportionate amount of such retirement allowance,
901 annuity or benefit shall be granted for any such fractional period
902 of service.

903 (d) (i) In the computation of unused leave for
904 creditable service authorized in Section 25-11-103, the following
905 shall govern for members who retire before July 1, 2017:
906 twenty-one (21) days of unused leave shall constitute one (1)
907 month of creditable service and in no case shall credit be allowed
908 for any period of unused leave of less than fifteen (15) days.
909 The number of months of unused leave shall determine the number of



910 quarters or years of creditable service in accordance with the
911 above schedule for membership and prior service.

912 (ii) In the computation of unused leave for
913 creditable service authorized in Section 25-11-103, the following
914 shall govern for members who retire on or after July 1, 2017:
915 creditable service for unused leave shall be calculated in monthly
916 increments in which one (1) month of service credit shall be
917 awarded for each twenty-one (21) days of unused leave, except that
918 the first fifteen (15) to fifty-seven (57) days of leave shall
919 constitute three (3) months of service for those who became a
920 member of the system before July 1, 2017.

921 (iii) In order for the member to receive
922 creditable service for the number of days of unused leave under
923 this paragraph, the system must receive certification from the
924 governing authority.

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

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



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

939 (ii) For service on and after July 1, 1984, the
940 member shall receive credit for personal and major medical leave
941 beginning July 1, 1984, at the rates authorized in Sections
942 25-3-93 and 25-3-95, computed as a full-time employee.

943 (iii) If a member is employed in a covered
944 nonelected position and a covered elected position simultaneously,
945 that member may not receive service credit for accumulated unused
946 leave for both positions at retirement for the period during which
947 the member was dually employed. During the period during which
948 the member is dually employed, the member shall only receive
949 credit for leave as provided for in this paragraph for an elected
950 official.

951 (3) Subject to the above restrictions and to such other
952 rules and regulations as the board may adopt, the board shall
953 verify, as soon as practicable after the filing of such statements
954 of service, the services therein claimed.

955 (4) Upon verification of the statement of prior service, the
956 board shall issue a prior service certificate certifying to each
957 member the length of prior service for which credit shall have
958 been allowed on the basis of his statement of service. So long as
959 membership continues, a prior service certificate shall be final



960 and conclusive for retirement purposes as to such service,
961 provided that any member may within five (5) years from the date
962 of issuance or modification of such certificate request the board
963 of trustees to modify or correct his prior service certificate.
964 Any modification or correction authorized shall only apply
965 prospectively.

966 When membership ceases, such prior service certificates shall
967 become void. Should the employee again become a member, he shall
968 enter the system as an employee not entitled to prior service
969 credit except as provided in Sections 25-11-105(I), 25-11-113 and
970 25-11-117.

971 (5) Creditable service at retirement, on which the
972 retirement allowance of a member shall be based, shall consist of
973 the membership service rendered by him since he last became a
974 member, and also, if he has a prior service certificate that is in
975 full force and effect, the amount of the service certified on his
976 prior service certificate.

977 (6) Any member who served on active duty in the Armed Forces
978 of the United States, who served in the Commissioned Corps of the
979 United States Public Health Service before 1972 or who served in
980 maritime service during periods of hostility in World War II,
981 shall be entitled to creditable service at no cost for his service
982 on active duty in the Armed Forces, in the Commissioned Corps of
983 the United States Public Health Service before 1972 or in such
984 maritime service, provided he entered state service after his



985 discharge from the Armed Forces or entered state service after he
986 completed such maritime service. The maximum period for such
987 creditable service for all military service as defined in this
988 subsection (6) shall not exceed four (4) years unless positive
989 proof can be furnished by such person that he was retained in the
990 Armed Forces during World War II or in maritime service during
991 World War II by causes beyond his control and without opportunity
992 of discharge. The member shall furnish proof satisfactory to the
993 board of trustees of certification of military service or maritime
994 service records showing dates of entrance into active duty service
995 and the date of discharge. From and after July 1, 1993, no
996 creditable service shall be granted for any military service or
997 maritime service to a member who qualifies for a retirement
998 allowance in another public retirement system administered by the
999 Board of Trustees of the Public Employees' Retirement System
1000 based, in whole or in part, on such military or maritime service.
1001 In no case shall the member receive creditable service if the
1002 member received a dishonorable discharge from the Armed Forces of
1003 the United States.

1004 (7) (a) Any member of the Public Employees' Retirement
1005 System whose membership service is interrupted as a result of
1006 qualified military service within the meaning of Section 414(u) (5)
1007 of the Internal Revenue Code, and who has received the maximum
1008 service credit available under subsection (6) of this section,
1009 shall receive creditable service for the period of qualified



1010 military service that does not qualify as creditable service under
1011 subsection (6) of this section upon reentering membership service
1012 in an amount not to exceed five (5) years if:

1013 (i) The member pays the contributions he would
1014 have made to the retirement system if he had remained in
1015 membership service for the period of qualified military service
1016 based upon his salary at the time his membership service was
1017 interrupted;

1018 (ii) The member returns to membership service
1019 within ninety (90) days of the end of his qualified military
1020 service; and

1021 (iii) The employer at the time the member's
1022 service was interrupted and to which employment the member returns
1023 pays the contributions it would have made into the retirement
1024 system for such period based on the member's salary at the time
1025 the service was interrupted.

1026 (b) The payments required to be made in paragraph
1027 (a) (i) of this subsection may be made over a period beginning with
1028 the date of return to membership service and not exceeding three
1029 (3) times the member's qualified military service; however, in no
1030 event shall such period exceed five (5) years.

1031 (c) The member shall furnish proof satisfactory to the
1032 board of trustees of certification of military service showing
1033 dates of entrance into qualified service and the date of discharge



1034 as well as proof that the member has returned to active employment
1035 within the time specified.

1036 (8) Any member of the Public Employees' Retirement System
1037 who became a member of the system before July 1, 2007, and who has
1038 at least four (4) years of membership service credit, or who
1039 became a member of the system on or after July 1, 2007, and who
1040 has at least eight (8) years of membership service credit, shall
1041 be entitled to receive a maximum of five (5) years' creditable
1042 service for service rendered in another state as a public employee
1043 of such other state, or a political subdivision, public education
1044 system or other governmental instrumentality thereof, or service
1045 rendered as a teacher in American overseas dependent schools
1046 conducted by the Armed Forces of the United States for children of
1047 citizens of the United States residing in areas outside the
1048 continental United States, provided that:

1049 (a) The member shall furnish proof satisfactory to the
1050 board of trustees of certification of such services from the
1051 state, public education system, political subdivision or
1052 retirement system of the state where the services were performed
1053 or the governing entity of the American overseas dependent school
1054 where the services were performed; and

1055 (b) The member is not receiving or will not be entitled
1056 to receive from the public retirement system of the other state or
1057 from any other retirement plan, including optional retirement



1058 plans, sponsored by the employer, a retirement allowance including
1059 such services; and

1060 (c) The member shall pay to the retirement system on
1061 the date he or she is eligible for credit for such out-of-state
1062 service or at any time thereafter before the date of retirement
1063 the actuarial cost as determined by the actuary for each year of
1064 out-of-state creditable service. The provisions of this
1065 subsection are subject to the limitations of Section 415 of the
1066 Internal Revenue Code and regulations promulgated under that
1067 section.

1068 (9) Any member of the Public Employees' Retirement System
1069 who became a member of the system before July 1, 2007, and has at
1070 least four (4) years of membership service credit, or who became a
1071 member of the system on or after July 1, 2007, and has at least
1072 eight (8) years of membership service credit, and who receives, or
1073 has received, professional leave without compensation for
1074 professional purposes directly related to the employment in state
1075 service shall receive creditable service for the period of
1076 professional leave without compensation provided:

1077 (a) The professional leave is performed with a public
1078 institution or public agency of this state, or another state or
1079 federal agency;

1080 (b) The employer approves the professional leave
1081 showing the reason for granting the leave and makes a



1082 determination that the professional leave will benefit the
1083 employee and employer;

1084 (c) Such professional leave shall not exceed two (2)
1085 years during any ten-year period of state service;

1086 (d) The employee shall serve the employer on a
1087 full-time basis for a period of time equivalent to the
1088 professional leave period granted immediately following the
1089 termination of the leave period;

1090 (e) The contributing member shall pay to the retirement
1091 system the actuarial cost as determined by the actuary for each
1092 year of professional leave. The provisions of this subsection are
1093 subject to the regulations of the Internal Revenue Code
1094 limitations;

1095 (f) Such other rules and regulations consistent
1096 herewith as the board may adopt and in case of question, the board
1097 shall have final power to decide the questions.

1098 Any actively contributing member participating in the School
1099 Administrator Sabbatical Program established in Section 37-9-77
1100 shall qualify for continued participation under this subsection
1101 (9).

1102 (10) Any member of the Public Employees' Retirement System
1103 who became a member of the system before July 1, 2007, and has at
1104 least four (4) years of credited membership service, or who became
1105 a member of the system on or after July 1, 2007, and has at least



1106 eight (8) years of credited membership service, shall be entitled
1107 to receive a maximum of ten (10) years creditable service for:

1108 (a) Any service rendered as an employee of any
1109 political subdivision of this state, or any instrumentality
1110 thereof, that does not participate in the Public Employees'
1111 Retirement System; or

1112 (b) Any service rendered as an employee of any
1113 political subdivision of this state, or any instrumentality
1114 thereof, that participates in the Public Employees' Retirement
1115 System but did not elect retroactive coverage; or

1116 (c) Any service rendered as an employee of any
1117 political subdivision of this state, or any instrumentality
1118 thereof, for which coverage of the employee's position was or is
1119 excluded; provided that the member pays into the retirement system
1120 the actuarial cost as determined by the actuary for each year, or
1121 portion thereof, of such service. After a member has made full
1122 payment to the retirement system for all or any part of such
1123 service, the member shall receive creditable service for the
1124 period of such service for which full payment has been made to the
1125 retirement system.

1126 **SECTION 6.** Section 25-11-111, Mississippi Code of 1972, is
1127 brought forward as follows:

1128 25-11-111. (a) (1) Any member who became a member of the
1129 system before July 1, 2007, upon withdrawal from service upon or
1130 after attainment of the age of sixty (60) years who has completed



1131 at least four (4) years of membership service, or any member who
1132 became a member of the system before July 1, 2011, upon withdrawal
1133 from service regardless of age who has completed at least
1134 twenty-five (25) years of creditable service, shall be entitled to
1135 receive a retirement allowance, which shall begin on the first of
1136 the month following the date the member's application for the
1137 allowance is received by the board, but in no event before
1138 withdrawal from service.

1139 (2) Any member who became a member of the system on or
1140 after July 1, 2007, upon withdrawal from service upon or after
1141 attainment of the age of sixty (60) years who has completed at
1142 least eight (8) years of membership service, or any member who
1143 became a member of the system on or after July 1, 2011, upon
1144 withdrawal from service regardless of age who has completed at
1145 least thirty (30) years of creditable service, shall be entitled
1146 to receive a retirement allowance, which shall begin on the first
1147 of the month following the date the member's application for the
1148 allowance is received by the board, but in no event before
1149 withdrawal from service.

1150 (b) (1) Any member who became a member of the system before
1151 July 1, 2007, whose withdrawal from service occurs before
1152 attaining the age of sixty (60) years who has completed four (4)
1153 or more years of membership service and has not received a refund
1154 of his accumulated contributions, shall be entitled to receive a
1155 retirement allowance, beginning upon his attaining the age of



1156 sixty (60) years, of the amount earned and accrued at the date of
1157 withdrawal from service. The retirement allowance shall begin on
1158 the first of the month following the date the member's application
1159 for the allowance is received by the board, but in no event before
1160 withdrawal from service.

1161 (2) Any member who became a member of the system on or
1162 after July 1, 2007, whose withdrawal from service occurs before
1163 attaining the age of sixty (60) years who has completed eight (8)
1164 or more years of membership service and has not received a refund
1165 of his accumulated contributions, shall be entitled to receive a
1166 retirement allowance, beginning upon his attaining the age of
1167 sixty (60) years, of the amount earned and accrued at the date of
1168 withdrawal from service. The retirement allowance shall begin on
1169 the first of the month following the date the member's application
1170 for the allowance is received by the board, but in no event before
1171 withdrawal from service.

1172 (c) Any member in service who has qualified for retirement
1173 benefits may select any optional method of settlement of
1174 retirement benefits by notifying the Executive Director of the
1175 Board of Trustees of the Public Employees' Retirement System in
1176 writing, on a form prescribed by the board, of the option he has
1177 selected and by naming the beneficiary of the option and
1178 furnishing necessary proof of age. The option, once selected, may
1179 be changed at any time before actual retirement or death, but upon
1180 the death or retirement of the member, the optional settlement



1181 shall be placed in effect upon proper notification to the
1182 executive director.

1183 (d) Any member who became a member of the system before July
1184 1, 2011, shall be entitled to an annual retirement allowance which
1185 shall consist of:

1186 (1) A member's annuity, which shall be the actuarial
1187 equivalent of the accumulated contributions of the member at the
1188 time of retirement computed according to the actuarial table in
1189 use by the system; and

1190 (2) An employer's annuity, which, together with the
1191 member's annuity provided above, shall be equal to two percent
1192 (2%) of the average compensation for each year of service up to
1193 and including twenty-five (25) years of creditable service, and
1194 two and one-half percent (2-1/2%) of the average compensation for
1195 each year of service exceeding twenty-five (25) years of
1196 creditable service.

1197 (3) Any retired member or beneficiary thereof who was
1198 eligible to receive a retirement allowance before July 1, 1991,
1199 and who is still receiving a retirement allowance on July 1, 1992,
1200 shall receive an increase in the annual retirement allowance of
1201 the retired member equal to one-eighth of one percent (1/8 of 1%)
1202 of the average compensation for each year of state service in
1203 excess of twenty-five (25) years of membership service up to and
1204 including thirty (30) years. The maximum increase shall be
1205 five-eighths of one percent (5/8 of 1%). In no case shall a



1206 member who has been retired before July 1, 1987, receive less than
1207 Ten Dollars (\$10.00) per month for each year of creditable service
1208 and proportionately for each quarter year thereof. Persons
1209 retired on or after July 1, 1987, shall receive at least Ten
1210 Dollars (\$10.00) per month for each year of service and
1211 proportionately for each quarter year thereof reduced for the
1212 option selected. However, such Ten Dollars (\$10.00) minimum per
1213 month for each year of creditable service shall not apply to a
1214 retirement allowance computed under Section 25-11-114 based on a
1215 percentage of the member's average compensation.

1216 (e) Any member who became a member of the system on or after
1217 July 1, 2011, shall be entitled to an annual retirement allowance
1218 which shall consist of:

1219 (1) A member's annuity, which shall be the actuarial
1220 equivalent of the accumulated contributions of the member at the
1221 time of retirement computed according to the actuarial table in
1222 use by the system; and

1223 (2) An employer's annuity, which, together with the
1224 member's annuity provided above, shall be equal to two percent
1225 (2%) of the average compensation for each year of service up to
1226 and including thirty (30) years of creditable service, and two and
1227 one-half percent (2-1/2%) of average compensation for each year of
1228 service exceeding thirty (30) years of creditable service.

1229 (f) Any member who became a member of the system on or after
1230 July 1, 2011, upon withdrawal from service upon or after attaining



1231 the age of sixty (60) years who has completed at least eight (8)
1232 years of membership service, or any such member upon withdrawal
1233 from service regardless of age who has completed at least thirty
1234 (30) years of creditable service, shall be entitled to receive a
1235 retirement allowance computed in accordance with the formula set
1236 forth in subsection (e) of this section. In the case of the
1237 retirement of any member who has attained age sixty (60) but who
1238 has not completed at least thirty (30) years of creditable
1239 service, the retirement allowance shall be computed in accordance
1240 with the formula set forth in subsection (e) of this section
1241 except that the total annual retirement allowance shall be reduced
1242 by an actuarial equivalent factor for each year of creditable
1243 service below thirty (30) years or the number of years in age that
1244 the member is below age sixty-five (65), whichever is less.

1245 (g) No member, except members excluded by the Age
1246 Discrimination in Employment Act Amendments of 1986 (Public Law
1247 99-592), under either Article 1 or Article 3 in state service
1248 shall be required to retire because of age.

1249 (h) No payment on account of any benefit granted under the
1250 provisions of this section shall become effective or begin to
1251 accrue until January 1, 1953.

1252 (i) (1) A retiree or beneficiary may, on a form prescribed
1253 by and filed with the retirement system, irrevocably waive all or
1254 a portion of any benefits from the retirement system to which the
1255 retiree or beneficiary is entitled. The waiver shall be binding



1256 on the heirs and assigns of any retiree or beneficiary and the
1257 same must agree to forever hold harmless the Public Employees'
1258 Retirement System of Mississippi from any claim to the waived
1259 retirement benefits.

1260 (2) Any waiver under this subsection shall apply only
1261 to the person executing the waiver. A beneficiary shall be
1262 entitled to benefits according to the option selected by the
1263 member at the time of retirement. However, a beneficiary may, at
1264 the option of the beneficiary, execute a waiver of benefits under
1265 this subsection.

1266 (3) The retirement system shall retain in the annuity
1267 reserve account amounts that are not used to pay benefits because
1268 of a waiver executed under this subsection.

1269 (4) The board of trustees may provide rules and
1270 regulations for the administration of waivers under this
1271 subsection.

1272 **SECTION 7.** Section 25-11-112, Mississippi Code of 1972, is
1273 brought forward as follows:

1274 25-11-112. (1) Any member who is receiving a retirement
1275 allowance for service or disability retirement, or any beneficiary
1276 thereof, who has received a monthly benefit for at least one (1)
1277 full fiscal year, shall be eligible to receive an additional
1278 benefit, on December 1 or July 1 of the year as provided in
1279 subsection (3) of this section, equal to an amount calculated
1280 under paragraph (a) or (b) below:



1281 (a) For any member who became a member of the system
1282 before July 1, 2011, the sum of:

1283 (i) An amount equal to three percent (3%) of the
1284 annual retirement allowance multiplied by the number of full
1285 fiscal years in retirement before the end of the fiscal year in
1286 which the member reaches age fifty-five (55), plus

1287 (ii) An additional amount equal to three percent
1288 (3%) compounded by the number of full fiscal years in retirement
1289 beginning with the fiscal year in which the member reaches age
1290 fifty-five (55), multiplied by the amount of the annual retirement
1291 allowance.

1292 (b) For any member who became a member of the system on
1293 or after July 1, 2011, the sum of:

1294 (i) An amount equal to three percent (3%) of the
1295 annual retirement allowance multiplied by the number of full
1296 fiscal years in retirement before the end of the fiscal year in
1297 which the member reaches age sixty (60), plus

1298 (ii) An additional amount equal to three percent
1299 (3%) compounded by the number of full fiscal years in retirement
1300 beginning with the fiscal year in which the member reaches age
1301 sixty (60), multiplied by the amount of the annual retirement
1302 allowance.

1303 (2) The calculation of the beneficiary's additional benefit
1304 under subsection (1)(a) or (b) of this section shall be based on



1305 the member's age and full fiscal years in retirement as if the
1306 member had lived.

1307 (3) (a) The additional benefit provided for under this
1308 section shall be paid in one (1) payment in December of each year
1309 to those persons who are receiving a retirement allowance on
1310 December 1 of that year, unless an election is made under this
1311 subsection. However, if a retiree who is receiving a retirement
1312 allowance that will terminate upon the retiree's death is
1313 receiving the additional benefit in one (1) payment and dies on or
1314 after July 1 but before December 1, the beneficiary designated on
1315 the retirement application, if any, shall receive in a single
1316 payment a fractional part of the additional benefit based on the
1317 number of months in which a retirement allowance was received
1318 during the fiscal year. Likewise, if a retiree is receiving a
1319 retirement allowance that will terminate upon his or her death in
1320 two (2) to six (6) monthly installments, any remaining payments of
1321 the additional benefit will be paid in a lump sum to the
1322 beneficiary designated on the application, or if none, pursuant to
1323 Section 25-11-117.1(1). Any similar remaining payments of
1324 additional benefits payable under this section to a deceased
1325 beneficiary who was receiving a monthly benefit shall be payable
1326 in accordance with the provisions of Section 25-11-117.1(2). If
1327 the additional monthly benefit is being received in one (1)
1328 payment, the additional benefit shall also be prorated based on
1329 the number of months in which a retirement allowance was received



1330 during the fiscal year when (i) the monthly benefit payable to a
1331 beneficiary terminates due to the expiration of an option,
1332 remarriage or cessation of dependent status or due to the
1333 retiree's return to covered employment, and (ii) the monthly
1334 benefit terminates on or after July 1 and before December 1. The
1335 board may, in its discretion, allow a retired member or a
1336 beneficiary thereof who is receiving the additional annual payment
1337 in the manner provided for in this paragraph to change the manner
1338 in which the additional annual payment is received to that
1339 provided for in paragraph (b) of this subsection if the retired
1340 member or beneficiary submits satisfactory documentation that the
1341 continued receipt of the additional annual payment as provided for
1342 in this paragraph will cause a financial hardship to the retired
1343 member or beneficiary.

1344 (b) Retired members or beneficiaries thereof who on
1345 July 1, 1999, or July 1 of any fiscal year thereafter, are
1346 receiving a retirement allowance, may elect by an irrevocable
1347 agreement in writing filed in the Office of the Public Employees'
1348 Retirement System no less than thirty (30) days before July 1 of
1349 the appropriate year, to begin receiving the additional benefit
1350 provided for under this section in twelve (12) equal monthly
1351 installments beginning July 1, 1999, or July 1 of any fiscal year
1352 thereafter. This irrevocable agreement shall be binding on the
1353 member and subsequent beneficiaries. Payment of those monthly
1354 installments shall not extend beyond the month in which a



1355 retirement allowance is due and payable. The board may, in its
1356 discretion, allow a retired member or a beneficiary thereof who is
1357 receiving the additional annual payment in the manner provided for
1358 in this paragraph to change the manner in which the additional
1359 annual payment is received to that provided for in paragraph (a)
1360 of this subsection if the retired member or beneficiary submits
1361 satisfactory documentation that the continued receipt of the
1362 additional annual payment as provided for in this paragraph will
1363 cause a financial hardship to the retired member or beneficiary.

1364 (4) The additional payment or payments provided for under
1365 this section are for the fiscal year in which they are paid.

1366 (5) (a) The amount provided for under subsection (1)
1367 (a)(ii) of this section is calculated using the following formula:

1368 $[(1.03)^n - 1] \times [\text{annual retirement allowance}]$,

1369 where n is the number of full fiscal years in retirement beginning
1370 with the fiscal year in which the member reaches age fifty-five
1371 (55).

1372 (b) The amount provided for under subsection (1)(b)(ii)
1373 of this section is calculated using the following formula:

1374 $[(1.03)^n - 1] \times [\text{annual retirement allowance}]$,

1375 where n is the number of full fiscal years in retirement beginning
1376 with the fiscal year in which the member reaches age sixty (60).

1377 (6) Any retired member or beneficiary thereof who has
1378 previously elected to receive the additional annual payment in
1379 monthly installments may elect, upon application on a form



1380 prescribed by the board of trustees, to have that payment made in
1381 one (1) additional payment each year. This written election must
1382 be filed in the Office of the Public Employees' Retirement System
1383 before June 1, 2000, and shall be effective for the fiscal year
1384 beginning July 1, 2000.

1385 (7) In the event of death of a retired member or a
1386 beneficiary thereof who is receiving the additional annual payment
1387 in two (2) to six (6) monthly installments pursuant to an election
1388 made before July 1, 1999, and who would otherwise be eligible to
1389 receive the additional benefit provided for under this section in
1390 one (1) payment in December of the current fiscal year, any
1391 remaining amounts shall be paid in a lump sum to the designated
1392 beneficiary.

1393 (8) When a member retires after July 1 and has previously
1394 received a retirement allowance for one or more full fiscal years,
1395 the retired member shall be eligible immediately for the
1396 additional benefit. The additional benefit shall be based on the
1397 current retirement allowance and the number of full fiscal years
1398 in retirement and shall be prorated and paid in monthly
1399 installments based on the number of months a retirement allowance
1400 is paid during the fiscal year.

1401 **SECTION 8.** Section 25-11-113, Mississippi Code of 1972, is
1402 brought forward as follows:

1403 25-11-113. (1) (a) Upon the application of a member or his
1404 employer, any active member in state service who became a member



1405 of the system before July 1, 2007, and who has at least four (4)
1406 years of membership service credit, or any active member in state
1407 service who became a member of the system on or after July 1,
1408 2007, who has at least eight (8) years of membership service
1409 credit, may be retired by the board of trustees on the first of
1410 the month following the date of filing the application on a
1411 disability retirement allowance, but in no event shall the
1412 disability retirement allowance begin before termination of state
1413 service, provided that the medical board, after an evaluation of
1414 medical evidence that may or may not include an actual physical
1415 examination by the medical board, certifies that the member is
1416 mentally or physically incapacitated for the further performance
1417 of duty, that the incapacity is likely to be permanent, and that
1418 the member should be retired; however, the board of trustees may
1419 accept a disability medical determination from the Social Security
1420 Administration in lieu of a certification from the medical board.
1421 If a member who has been approved for a disability retirement
1422 allowance does not terminate state service within ninety (90) days
1423 after approval, the disability retirement and the application for
1424 disability retirement shall be void. For the purposes of
1425 disability determination, the medical board shall apply the
1426 following definition of disability: the inability to perform the
1427 usual duties of employment or the incapacity to perform such
1428 lesser duties, if any, as the employer, in its discretion, may
1429 assign without material reduction in compensation, or the



1430 incapacity to perform the duties of any employment covered by the
1431 Public Employees' Retirement System (Section 25-11-101 et seq.)
1432 that is actually offered and is within the same general
1433 territorial work area, without material reduction in compensation.
1434 The employer shall be required to furnish the job description and
1435 duties of the member. The employer shall further certify whether
1436 the employer has offered the member other duties and has complied
1437 with the applicable provisions of the Americans With Disabilities
1438 Act in affording reasonable accommodations that would allow the
1439 employee to continue employment.

1440 (b) Any member applying for a disability retirement
1441 allowance must provide sufficient objective medical evidence in
1442 support of his or her claim. All disability determinations,
1443 whether the initial examination or reexamination, shall be based
1444 on objective medical evidence. "Objective medical evidence" means
1445 reports of examinations or treatments; medical signs that are
1446 anatomical, physiological, or psychological abnormalities that are
1447 observed and documented by medical professionals; psychiatric
1448 signs that are medically demonstrable phenomena indicating
1449 specific abnormalities of behavior, affect, thought, memory,
1450 orientation, or contact with reality; or laboratory findings that
1451 are anatomical, physiological, or psychological phenomena that are
1452 shown by medically acceptable laboratory diagnostic techniques,
1453 including, but not limited to, chemical tests, electrocardiograms,
1454 electroencephalograms, X-rays, and psychological tests.



1455 Nonmedical information shall not be considered objective medical
1456 evidence.

1457 (c) Any inactive member who became a member of the
1458 system before July 1, 2007, with four (4) or more years of
1459 membership service credit, or any inactive member who became a
1460 member of the system on or after July 1, 2007, with eight (8) or
1461 more years of membership service credit, who has withdrawn from
1462 active state service, is not eligible for a disability retirement
1463 allowance unless the disability occurs within six (6) months of
1464 the termination of active service and unless satisfactory proof is
1465 presented to the board of trustees that the disability was the
1466 direct cause of withdrawal from state service. Application for a
1467 disability retirement allowance must be filed within one (1) year
1468 of termination from active service. This period may be extended
1469 by an additional year if it can be factually demonstrated to the
1470 satisfaction of the board of trustees that throughout the initial
1471 one-year period the member was incapable of applying for benefits
1472 by reason of mental or physical impairment as certified by a
1473 medical doctor.

1474 (d) Any member who is or becomes eligible for service
1475 retirement benefits under Section 25-11-111 while pursuing a
1476 disability retirement allowance under this section or Section
1477 25-11-114 may elect to receive a service retirement allowance
1478 pending a final determination on eligibility for a disability
1479 retirement allowance or withdrawal of the application for the



1480 disability retirement allowance. In such a case, an application
1481 for a disability retirement allowance must be on file with the
1482 system before the beginning of a service retirement allowance. If
1483 the application is approved, the option selected and beneficiary
1484 designated on the retirement application shall be used to
1485 determine the disability retirement allowance. If the application
1486 is not approved or if the application is withdrawn, the service
1487 retirement allowance shall continue to be paid in accordance with
1488 the option selected. No person may apply for a disability
1489 retirement allowance after the person begins to receive a service
1490 retirement allowance.

1491 (e) If the medical board certifies that the member is
1492 not mentally or physically incapacitated for the future
1493 performance of duty, the member may request, within sixty (60)
1494 days, a hearing before the hearing officer as provided in Section
1495 25-11-120. All hearings shall be held in accordance with rules
1496 and regulations adopted by the board to govern those hearings.
1497 The hearing may be closed upon the request of the member.

1498 (f) The medical board may request additional medical
1499 evidence and/or other physicians to conduct an evaluation of the
1500 member's condition. If the medical board requests additional
1501 medical evidence and the member refuses the request, the
1502 application shall be considered void.

1503 (2) Allowance on disability retirement.



1504 (a) Upon retirement for disability, an eligible member
1505 shall receive a retirement allowance if he has attained the age of
1506 sixty (60) years.

1507 (b) Except as provided in paragraph (c) of this
1508 subsection (2), an eligible member who is retired for disability
1509 and who has not attained sixty (60) years of age shall receive a
1510 disability benefit as computed in Section 25-11-111(d), which
1511 shall consist of:

1512 (i) A member's annuity, which shall be the
1513 actuarial equivalent of his accumulated contributions at the time
1514 of retirement; and

1515 (ii) An employer's annuity equal to the amount
1516 that would have been payable as a retirement allowance for
1517 eligible creditable service if the member had continued in service
1518 to the age of sixty (60) years, which shall apply to the allowance
1519 for disability retirement paid to retirees receiving such
1520 allowance upon and after April 12, 1977. This employer's annuity
1521 shall be computed on the basis of the average "earned
1522 compensation" as defined in Section 25-11-103.

1523 (c) For persons who become members after June 30, 1992,
1524 and for active members on June 30, 1992, who elect benefits under
1525 this paragraph (c) instead of those provided under paragraph (b)
1526 of this subsection (2), the disability allowance shall consist of
1527 two (2) parts: a temporary allowance and a deferred allowance.



1528 The temporary allowance shall equal the greater of (i) forty
1529 percent (40%) of average compensation at the time of disability,
1530 plus ten percent (10%) of average compensation for each of the
1531 first two (2) dependent children, as defined in Sections 25-11-103
1532 and 25-11-114, or (ii) the accrued benefit based on actual
1533 service. It shall be payable for a period of time based on the
1534 member's age at disability, as follows:

1535	Age at Disability	Duration
1536	60 and earlier	to age 65
1537	61	to age 66
1538	62	to age 66
1539	63	to age 67
1540	64	to age 67
1541	65	to age 68
1542	66	to age 68
1543	67	to age 69
1544	68	to age 70
1545	69 and over	one year

1546 The deferred allowance shall begin when the temporary
1547 allowance ends and shall be payable for life. The deferred
1548 allowance shall equal the greater of (i) the allowance that would
1549 have been payable had the member continued in service to the
1550 termination age of the temporary allowance, but no more than forty
1551 percent (40%) of average compensation, or (ii) the accrued benefit
1552 based on actual service at the time of disability. The deferred



1553 allowance as determined at the time of disability shall be
1554 adjusted in accordance with Section 25-11-112 for the period
1555 during which the temporary annuity is payable. In no case shall a
1556 member receive less than Ten Dollars (\$10.00) per month for each
1557 year of service and proportionately for each quarter year thereof
1558 reduced for the option selected.

1559 (d) The member may elect to receive the actuarial
1560 equivalent of the disability retirement allowance in a reduced
1561 allowance payable throughout life under any of the provisions of
1562 the options provided under Section 25-11-115.

1563 (e) If a disability retiree who has not selected an
1564 option under Section 25-11-115 dies before being repaid in
1565 disability benefits the sum of his total contributions, then his
1566 named beneficiary shall receive the difference in cash, which
1567 shall apply to all deceased disability retirees from and after
1568 January 1, 1953.

1569 (3) Reexamination of retirees retired on account of
1570 disability. Except as otherwise provided in this section, once
1571 each year during the first five (5) years following retirement of
1572 a member on a disability retirement allowance, and once in every
1573 period of three (3) years thereafter, the board of trustees may,
1574 and upon his application shall, require any disability retiree who
1575 has not yet attained the age of sixty (60) years or the
1576 termination age of the temporary allowance under subsection (2)(c)
1577 of this section to undergo a medical examination, the examination



1578 to be made at the place of residence of the retiree or other place
1579 mutually agreed upon by a physician or physicians designated by
1580 the board. The board, however, in its discretion, may authorize
1581 the medical board to establish reexamination schedules appropriate
1582 to the medical condition of individual disability retirees. If
1583 any disability retiree who has not yet attained the age of sixty
1584 (60) years or the termination age of the temporary allowance under
1585 subsection (2)(c) of this section refuses to submit to any medical
1586 examination provided in this section, his allowance may be
1587 discontinued until his withdrawal of that refusal; and if his
1588 refusal continues for one (1) year, all his rights to a disability
1589 benefit shall be revoked by the board of trustees.

1590 (4) If the medical board reports and certifies to the board
1591 of trustees, after a comparable job analysis or other similar
1592 study, that the disability retiree is engaged in, or is able to
1593 engage in, a gainful occupation paying more than the difference
1594 between his disability allowance, exclusive of cost-of-living
1595 adjustments, and the average compensation, and if the board of
1596 trustees concurs in the report, the disability benefit shall be
1597 reduced to an amount that, together with the amount earnable by
1598 him, equals the amount of his average compensation. If his
1599 earning capacity is later changed, the amount of the benefit may
1600 be further modified, provided that the revised benefit shall not
1601 exceed the amount originally granted. A retiree receiving a
1602 disability benefit who is restored to active service at a salary



1603 less than the average compensation shall not become a member of
1604 the retirement system.

1605 (5) If a disability retiree under the age of sixty (60)
1606 years or the termination age of the temporary allowance under
1607 subsection (2) (c) of this section is restored to active service at
1608 a compensation not less than his average compensation, his
1609 disability benefit shall end, he shall again become a member of
1610 the retirement system, and contributions shall be withheld and
1611 reported. Any such prior service certificate, on the basis of
1612 which his service was computed at the time of retirement, shall be
1613 restored to full force and effect. In addition, upon his later
1614 retirement he shall be credited with all creditable service as a
1615 member, but the total retirement allowance paid to the retired
1616 member in his previous retirement shall be deducted from his
1617 retirement reserve and taken into consideration in recalculating
1618 the retirement allowance under a new option selected.

1619 (6) If following reexamination in accordance with the
1620 provisions contained in this section, the medical board determines
1621 that a retiree retired on account of disability is physically and
1622 mentally able to return to the employment from which he is
1623 retired, the board of trustees, upon certification of those
1624 findings from the medical board, shall, after a reasonable period
1625 of time, terminate the disability allowance, whether or not the
1626 retiree is reemployed or seeks that reemployment. In addition, if
1627 the board of trustees determines that the retiree is no longer



1628 sustaining a loss of income as established by documented evidence
1629 of the retiree's earned income, the eligibility for a disability
1630 allowance shall terminate and the allowance terminated within a
1631 reasonable period of time. If the retirement allowance is
1632 terminated under the provisions of this section, the retiree may
1633 later qualify for a retirement allowance under Section 25-11-111
1634 based on actual years of service credit plus credit for the period
1635 during which a disability allowance was paid.

1636 (7) Any current member as of June 30, 1992, who retires on a
1637 disability retirement allowance after June 30, 1992, and who has
1638 not elected to receive benefits under subsection (2)(c) of this
1639 section, shall relinquish all rights under the Age Discrimination
1640 in Employment Act of 1967, as amended, with regard to the benefits
1641 payable under this section.

1642 **SECTION 9.** Section 25-11-114, Mississippi Code of 1972, is
1643 brought forward as follows:

1644 25-11-114. (1) The applicable benefits provided in
1645 subsections (2) and (3) of this section shall be paid to eligible
1646 beneficiaries of any member who became a member of the system
1647 before July 1, 2007, and has completed four (4) or more years of
1648 membership service, or who became a member of the system on or
1649 after July 1, 2007, and has completed eight (8) or more years of
1650 membership service, and who dies before retirement and who has not
1651 filed a Pre-Retirement Optional Retirement Form as provided in
1652 Section 25-11-111.



1653 (2) (a) The surviving spouse of a member who dies before
1654 retirement shall receive a monthly benefit computed in accordance
1655 with paragraph (d) of this subsection (2) as if the member had
1656 nominated his spouse as beneficiary if:

1657 (i) The member completed the requisite minimum
1658 number of years of membership service to qualify for a retirement
1659 allowance at age sixty (60);

1660 (ii) The spouse has been married to the member for
1661 not less than one (1) year preceding the death of the member;

1662 (iii) The member has not exercised any other
1663 option.

1664 (b) If, at the time of the member's death, there are no
1665 dependent children, and the surviving spouse, who otherwise would
1666 receive the annuity under this subsection (2), has filed with the
1667 system a signed written waiver of his or her rights to the annuity
1668 and that waiver was in effect at the time of the member's death, a
1669 lump-sum distribution of the deceased member's accumulated
1670 contributions shall be refunded in accordance with Section
1671 25-11-117.

1672 (c) The spouse annuity shall begin on the first day of
1673 the month following the date of the member's death, but in case of
1674 late filing, retroactive payments will be made for a period of not
1675 more than one (1) year.



1676 (d) The spouse of a member who is eligible to receive a
1677 monthly benefit under paragraph (a) of this subsection (2) shall
1678 receive a benefit for life equal to the higher of the following:

1679 (i) The greater of twenty percent (20%) of the
1680 deceased member's average compensation as defined in Section
1681 25-11-103 at the time of death or Fifty Dollars (\$50.00) monthly;
1682 or

1683 (ii) Benefits calculated under Option 2 of Section
1684 25-11-115. The method of calculating the retirement benefits
1685 shall be on the same basis as provided in Section 25-11-111(d) or
1686 (e), as applicable. However, if the member dies before being
1687 qualified for a full, unreduced retirement allowance, then the
1688 benefits shall be reduced by an actuarially determined percentage
1689 or factor based on the lesser of either the number of years of
1690 service credit or the number of years in age required to qualify
1691 for a full, unreduced retirement allowance in Section 25-11-111(d)
1692 or (e), as applicable.

1693 (e) The surviving spouse of a deceased member who
1694 previously received spouse retirement benefits under paragraph
1695 (d)(i) of this subsection from and after July 1, 1992, and whose
1696 benefits were terminated before July 1, 2004, because of
1697 remarriage, may again receive the retirement benefits authorized
1698 under paragraph (d)(i) of this subsection by making application
1699 with the board to reinstate those benefits. Any reinstatement of
1700 the benefits shall be prospective only and shall begin after the



1701 first of the month following the date of the application for
1702 reinstatement, but no earlier than July 1, 2004. From and after
1703 July 1, 2010, any spouse who chose Option 2 from and after July 1,
1704 1992, but before July 1, 2004, where the benefit, although payable
1705 for life, was less than the benefit available under the
1706 calculation in paragraph (d)(i) of this subsection shall have his
1707 or her benefit increased to the amount which provides the greater
1708 benefit.

1709 (3) (a) Subject to the maximum limitation provided in this
1710 paragraph, the member's dependent children each shall receive an
1711 annuity of the greater of ten percent (10%) of the member's
1712 average compensation as defined in Section 25-11-103 at the time
1713 of the death of the member or Fifty Dollars (\$50.00) monthly;
1714 however, if there are more than three (3) dependent children, each
1715 dependent child shall receive an equal share of a total annuity
1716 equal to thirty percent (30%) of the member's average
1717 compensation, provided that the total annuity shall not be less
1718 than One Hundred Fifty Dollars (\$150.00) per month for all
1719 children.

1720 (b) A child shall be considered to be a dependent child
1721 until marriage, or the attainment of age nineteen (19), whichever
1722 comes first; however, this age limitation shall be extended beyond
1723 age nineteen (19), but in no event beyond the attainment of age
1724 twenty-three (23), as long as the child is a student regularly
1725 pursuing a full-time course of resident study or training in an



1726 accredited high school, trade school, technical or vocational
1727 institute, junior or community college, college, university or
1728 comparable recognized educational institution duly licensed by a
1729 state. A student child who is receiving a retirement allowance as
1730 of June 30, 2016, whose birthday falls during the school year
1731 (September 1 through June 30) is considered not to reach age
1732 twenty-three (23) until the July 1 following the actual
1733 twenty-third birthday. A full-time course of resident study or
1734 training means a day or evening noncorrespondence course that
1735 includes school attendance at the rate of at least thirty-six (36)
1736 weeks per academic year or other applicable period with a subject
1737 load sufficient, if successfully completed, to attain the
1738 educational or training objective within the period generally
1739 accepted as minimum for completion, by a full-time day student, of
1740 the academic or training program concerned. Any child who is
1741 physically or mentally incompetent, as adjudged by either a
1742 Mississippi court of competent jurisdiction or by the board, shall
1743 receive benefits for as long as the incompetency exists.

1744 (c) If there are more than three (3) dependent
1745 children, upon a child's ceasing to be a dependent child, his
1746 annuity shall terminate and there shall be a redetermination of
1747 the amounts payable to any remaining dependent children.

1748 (d) Annuities payable under this subsection (3) shall
1749 begin the first day of the month following the date of the
1750 member's death or in case of late filing, retroactive payments



1751 will be made for a period of not more than one (1) year. Those
1752 benefits may be paid to a surviving parent or the lawful custodian
1753 of a dependent child for the use and benefit of the child without
1754 the necessity of appointment as guardian.

1755 (4) (a) Death benefits in the line of duty. Regardless of
1756 the number of years of the member's creditable service, the spouse
1757 and/or the dependent children of an active member who is killed or
1758 dies as a direct result of a physical injury sustained from an
1759 accident or a traumatic event caused by external violence or
1760 physical force occurring in the line of performance of duty shall
1761 qualify, on approval of the board, for a retirement allowance on
1762 the first of the month following the date of death, but in the
1763 case of late filing, retroactive payments will be made for a
1764 period of not more than one (1) year. The spouse shall receive a
1765 retirement allowance for life equal to one-half (1/2) of the
1766 average compensation as defined in Section 25-11-103. In addition
1767 to the retirement allowance for the spouse, or if there is no
1768 surviving spouse, the member's dependent child shall receive a
1769 retirement allowance in the amount of one-fourth (1/4) of the
1770 member's average compensation as defined in Section 25-11-103;
1771 however, if there are two (2) or more dependent children, each
1772 dependent child shall receive an equal share of a total annuity
1773 equal to one-half (1/2) of the member's average compensation. If
1774 there are more than two (2) dependent children, upon a child's
1775 ceasing to be a dependent child, his annuity shall terminate and



1776 there shall be a redetermination of the amounts payable to any
1777 remaining dependent children. Those benefits shall cease to be
1778 paid for the support and maintenance of each child upon the child
1779 attaining the age of nineteen (19) years; however, the spouse
1780 shall continue to be eligible for the aforesaid retirement
1781 allowance. Those benefits may be paid to a surviving parent or
1782 lawful custodian of the children for the use and benefit of the
1783 children without the necessity of appointment as guardian. Any
1784 spouse who received spouse retirement benefits under this
1785 paragraph (a) from and after April 4, 1984, and whose benefits
1786 were terminated before July 1, 2004, because of remarriage, may
1787 again receive the retirement benefits authorized under this
1788 paragraph (a) by making application with the board to reinstate
1789 those benefits. Any reinstatement of the benefits shall be
1790 prospective only and shall begin after the first of the month
1791 following the date of the application for reinstatement, but not
1792 earlier than July 1, 2004.

1793 (b) A child shall be considered to be a dependent child
1794 until marriage, or the attainment of age nineteen (19), whichever
1795 comes first; however, this age limitation shall be extended beyond
1796 age nineteen (19), but in no event beyond the attainment of age
1797 twenty-three (23), as long as the child is a student regularly
1798 pursuing a full-time course of resident study or training in an
1799 accredited high school, trade school, technical or vocational
1800 institute, junior or community college, college, university or



1801 comparable recognized educational institution duly licensed by a
1802 state. A student child who is receiving a retirement allowance as
1803 of June 30, 2016, whose birthday falls during the school year
1804 (September 1 through June 30) is considered not to reach age
1805 twenty-three (23) until the July 1 following the actual
1806 twenty-third birthday. A full-time course of resident study or
1807 training means a day or evening noncorrespondence course that
1808 includes school attendance at the rate of at least thirty-six (36)
1809 weeks per academic year or other applicable period with a subject
1810 load sufficient, if successfully completed, to attain the
1811 educational or training objective within the period generally
1812 accepted as minimum for completion, by a full-time day student, of
1813 the academic or training program concerned. Any child who is
1814 physically or mentally incompetent, as adjudged by either a
1815 Mississippi court of competent jurisdiction or by the board, shall
1816 receive benefits for as long as the incompetency exists.

1817 (5) If all the annuities provided for in this section
1818 payable on account of the death of a member terminate before there
1819 has been paid an aggregate amount equal to the member's
1820 accumulated contributions standing to the member's credit in the
1821 annuity savings account at the time of the member's death, the
1822 difference between the accumulated contributions and the aggregate
1823 amount of annuity payments shall be paid to the person that the
1824 member has nominated by written designation duly executed and
1825 filed with the board. If there is no designated beneficiary



1826 surviving at termination of benefits, the difference shall be
1827 payable under Section 25-11-117.1(1).

1828 (6) Regardless of the number of years of creditable service,
1829 upon the application of a member or employer, any active member
1830 who becomes disabled as a direct result of a physical injury
1831 sustained from an accident or traumatic event caused by external
1832 violence or physical force occurring in the line of performance of
1833 duty, provided that the medical board or other designated
1834 governmental agency after a medical examination certifies that the
1835 member is mentally or physically incapacitated for the further
1836 performance of duty and the incapacity is likely to be permanent,
1837 may be retired by the board of trustees on the first of the month
1838 following the date of filing the application but in no event shall
1839 the retirement allowance begin before the termination of state
1840 service. If a member who has been approved for a retirement
1841 allowance under this subsection does not terminate state service
1842 within ninety (90) days after the approval, the retirement
1843 allowance and the application for the allowance shall be void.
1844 The retirement allowance shall equal the allowance on disability
1845 retirement as provided in Section 25-11-113 but shall not be less
1846 than fifty percent (50%) of average compensation. Line of duty
1847 disability benefits under this section shall be administered in
1848 accordance with the provisions of Section 25-11-113(1) (b), (c),
1849 (d), (e) and (f), (3), (4), (5) and (6).



1850 (7) For purposes of determining death or disability benefits
1851 under this section, the following shall apply:

1852 (a) Death or permanent and total disability resulting
1853 from a cardiovascular, pulmonary or musculoskeletal condition that
1854 was not a direct result of a physical injury sustained from an
1855 accident or a traumatic event caused by external violence or
1856 physical force occurring in the performance of duty shall be
1857 deemed a natural death or an ordinary disability.

1858 (b) A mental disability based exclusively on employment
1859 duties occurring on an ongoing basis shall be deemed an ordinary
1860 disability.

1861 (8) If the deceased or disabled member has less than four
1862 (4) years of membership service, the average compensation as
1863 defined in Section 25-11-103 shall be the average of all annual
1864 earned compensation in state service for the purposes of benefits
1865 provided in this section.

1866 (9) In case of death or total and permanent disability under
1867 subsection (4) or subsection (6) of this section and before the
1868 board shall consider any application for a retirement allowance,
1869 the employer must certify to the board that the member's death or
1870 disability was a direct result of an accident or a traumatic event
1871 occurring during and as a result of the performance of the regular
1872 and assigned duties of the employee and that the death or
1873 disability was not the result of the willful negligence of the
1874 employee.



1875 (10) The application for the retirement allowance must be
1876 filed within one (1) year after death of an active member who is
1877 killed in the line of performance of duty or dies as a direct
1878 result of an accident occurring in the line of performance of duty
1879 or traumatic event; but the board of trustees may consider an
1880 application for disability filed after the one-year period if it
1881 can be factually demonstrated to the satisfaction of the board of
1882 trustees that the disability is due to the accident and that the
1883 filing was not accomplished within the one-year period due to a
1884 delayed manifestation of the disability or to circumstances beyond
1885 the control of the member. However, in case of late filing,
1886 retroactive payments will be made for a period of not more than
1887 one (1) year only.

1888 (11) (a) Notwithstanding any other section of this article
1889 and in lieu of any payments to a designated beneficiary for a
1890 refund of contributions under Section 25-11-117, the spouse and/or
1891 children shall be eligible for the benefits payable under this
1892 section, and the spouse may elect, for both the spouse and/or
1893 children, to receive benefits in accordance with either
1894 subsections (2) and (3) or subsection (4) of this section;
1895 otherwise, the contributions to the credit of the deceased member
1896 shall be refunded in accordance with Section 25-11-117.

1897 (b) Notwithstanding any other section of this article,
1898 a spouse who is entitled to receive a monthly benefit under either
1899 subsection (2) or (4) of this section and who is also the named



1900 beneficiary for a refund of accumulated contributions in the
1901 member's annuity savings account, may, after the death of the
1902 member, elect to receive a refund of accumulated contributions in
1903 lieu of a monthly allowance, provided that there are no dependent
1904 children entitled to benefits under subsection (3) of this
1905 section.

1906 (12) If the member has previously received benefits from the
1907 system to which he was not entitled and has not repaid in full all
1908 amounts payable by him to the system, the annuity amounts
1909 otherwise provided by this section shall be withheld and used to
1910 effect repayment until the total of the withholdings repays in
1911 full all amounts payable by him to the system.

1912 **SECTION 10.** Section 25-11-115, Mississippi Code of 1972, is
1913 brought forward as follows:

1914 25-11-115. (1) Upon application for superannuation or
1915 disability retirement, any member may elect to receive his or her
1916 benefit in a retirement allowance payable throughout life with no
1917 further payments to anyone at the member's death, except that if
1918 the member's total retirement payments under this article do not
1919 equal the member's total contributions under this article, the
1920 named beneficiary shall receive the difference in cash at the
1921 member's death. Or the member may elect upon retirement, or upon
1922 becoming eligible for retirement, to receive the actuarial
1923 equivalent subject to the provisions of subsection (3) of this



1924 section of his or her retirement allowance in a reduced retirement
1925 allowance payable throughout life with the provision that:

1926 **Option 1.** If the retired member dies before he or she has
1927 received in annuity payment the value of the member's annuity
1928 savings account as it was at the time of the member's retirement,
1929 the balance shall be paid to the legal representative or to such
1930 person as the member has nominated by written designation duly
1931 acknowledged and filed with the board;

1932 **Option 2.** Upon the retired member's death, his or her
1933 reduced retirement allowance shall be continued throughout the
1934 life of, and paid to, such person as the member has nominated by
1935 written designation duly acknowledged and filed with the board of
1936 trustees at the time of his or her retirement;

1937 **Option 3.** Upon the retired member's death, one-half (1/2) of
1938 his or her reduced retirement allowance shall be continued
1939 throughout the life of, and paid to, such person as the member has
1940 nominated by written designation duly acknowledged and filed with
1941 the board of trustees at the time of his or her retirement, and
1942 the other one-half (1/2) of his or her reduced retirement
1943 allowance to some other designated beneficiary;

1944 **Option 4.** Upon the retired member's death, three-fourths
1945 (3/4) of his or her reduced retirement allowance, or such other
1946 specified amount, shall be continued throughout the life of, and
1947 paid to, such person as the member has nominated by written



1948 designation duly acknowledged and filed with the board of trustees
1949 at the time of his or her retirement;

1950 **Option 4-A.** Upon the retired member's death, one-half (1/2)
1951 of his or her reduced retirement allowance, or such other
1952 specified amount, shall be continued throughout the life of, and
1953 paid to, such person as the member has nominated by written
1954 designation duly acknowledged and filed with the board of trustees
1955 at the time of his or her retirement;

1956 **Option 4-B.** A reduced retirement allowance shall be
1957 continued throughout the life of the retirant, but with the
1958 further guarantee of payments to the named beneficiary or
1959 beneficiaries for a specified number of years certain. If the
1960 retired member or the last designated beneficiary both die before
1961 receiving all guaranteed payments due, the actuarial equivalent of
1962 the remaining payments shall be paid to the successors of the
1963 retired member under Section 25-11-117.1(1);

1964 **Option 6.** Any member who became a member of the system
1965 before July 1, 2007, and who has at least twenty-eight (28) years
1966 of creditable service at the time of retirement or who is at least
1967 sixty-three (63) years of age and eligible to retire, may select
1968 the maximum retirement benefit or an optional benefit as provided
1969 in this subsection together with a partial lump-sum distribution.
1970 Any member who became a member of the system on or after July 1,
1971 2007, but before July 1, 2011, and who has at least twenty-eight
1972 (28) years of creditable service at the time of retirement may



1973 select the maximum retirement benefit or any optional benefit as
1974 provided in this subsection together with a partial lump-sum
1975 distribution. Any member who became a member of the system on or
1976 after July 1, 2011, and who has at least thirty-three (33) years
1977 of creditable service at the time of retirement may select the
1978 maximum retirement benefit or any optional benefit as provided in
1979 this subsection together with a partial lump-sum distribution.
1980 The amount of the lump-sum distribution under this option shall be
1981 equal to the maximum monthly benefit multiplied by twelve (12),
1982 twenty-four (24) or thirty-six (36) as selected by the member.
1983 The maximum retirement benefit shall be actuarially reduced to
1984 reflect the amount of the lump-sum distribution selected and
1985 further reduced for any other optional benefit selected. The
1986 annuity and lump-sum distribution shall be computed to result in
1987 no actuarial loss to the system. The lump-sum distribution shall
1988 be made as a single payment payable at the time the first monthly
1989 annuity payment is paid to the retiree. The amount of the
1990 lump-sum distribution shall be deducted from the member's annuity
1991 savings account in computing what contributions remain at the
1992 death of the retiree and/or a beneficiary. The lump-sum
1993 distribution option may be elected only once by a member upon
1994 initial retirement, and may not be elected by a retiree, by
1995 members applying for a disability retirement annuity, or by
1996 survivors.



1997 (2) No change in the option selected shall be permitted
1998 after the member's death or after the member has received his or
1999 her first retirement check except as provided in subsections (3)
2000 and (4) of this section and in Section 25-11-127. Members who are
2001 pursuing a disability retirement allowance and simultaneously or
2002 later elect to begin to receive a service retirement allowance
2003 while continuing to pursue a disability retirement allowance,
2004 shall not be eligible to select Option 6 and that option may not
2005 be selected at a later time if the application for a disability
2006 retirement allowance is voided or denied. However, any retired
2007 member who is receiving a retirement allowance under Option 2 or
2008 Option 4-A upon July 1, 1992, and whose designated beneficiary
2009 predeceased him or her or whose marriage to a spouse who is his or
2010 her designated beneficiary is terminated by divorce or other
2011 dissolution, upon written notification to the retirement system of
2012 the death of the designated beneficiary or of the termination of
2013 the retired member's marriage to the designated beneficiary, the
2014 retirement allowance payable to the member after receipt of that
2015 notification by the retirement system shall be equal to the
2016 retirement allowance that would have been payable if the member
2017 had not elected the option. In addition, any retired member who
2018 is receiving the maximum retirement allowance for life, a
2019 retirement allowance under Option 1 or who is receiving a
2020 retirement allowance under Option 2 or Option 4-A on July 1, 1992,
2021 may elect to provide survivor benefits under Option 2 or Option



2022 4-A to a spouse who was not previously the member's beneficiary
2023 and whom the member married before July 1, 1992.

2024 (3) Any retired member who is receiving a reduced retirement
2025 allowance under Option 2, Option 4 or Option 4-A whose designated
2026 beneficiary predeceases him or her, or whose marriage to a spouse
2027 who is his or her designated beneficiary is terminated by divorce
2028 or other dissolution, may elect to cancel the reduced retirement
2029 allowance and receive the maximum retirement allowance for life in
2030 an amount equal to the amount that would have been payable if the
2031 member had not elected Option 2, Option 4 or Option 4-A. That
2032 election must be made in writing to the office of the executive
2033 director of the system on a form prescribed by the board. Any
2034 such election shall be effective the first of the month following
2035 the date the election is received by the system; however, the
2036 election may be applied retroactively for not more than three (3)
2037 months but no earlier than the first of the month following the
2038 date of the death of the beneficiary.

2039 (4) Any retired member who is receiving the maximum
2040 retirement allowance for life, or a retirement allowance under
2041 Option 1, and who marries after his or her retirement may elect to
2042 cancel the maximum retirement allowance and receive a reduced
2043 retirement allowance under Option 2, Option 4 or Option 4-A to
2044 provide continuing lifetime benefits to his or her spouse. That
2045 election must be made in writing to the office of the executive
2046 director of the system on a form prescribed by the board not



2047 earlier than the date of the marriage and not later than one (1)
2048 year from the date of the marriage. Any such election shall be
2049 effective the first of the month following the date the election
2050 is received by the system.

2051 (5) (a) Except as otherwise provided in this subsection, if
2052 the election of an optional benefit is made after the member has
2053 attained the age of sixty-five (65) years, the actuarial
2054 equivalent factor shall be used to compute the reduced retirement
2055 allowance as if the election had been made on his or her
2056 sixty-fifth birthday; however, from and after January 1, 2003, if
2057 there is an election of Option 6 after the member has attained the
2058 age of sixty-five (65) years, the actuarial equivalent factor
2059 based on the retiree's age at the time of retirement shall be used
2060 to compute the reduced maximum monthly retirement allowance.
2061 However, if a retiree marries or remarries after retirement and
2062 elects either Option 2 or Option 4-A as provided in subsection (2)
2063 or (4) of this section, the actuarial equivalent factor used to
2064 compute the reduced retirement allowance shall be the factor for
2065 the age of the retiree and his or her beneficiary at the time such
2066 election for recalculation of benefits is made.

2067 (b) For members who retire on or after July 1, 2012,
2068 the actuarial equivalent factor used to compute the reduced
2069 retirement allowance at retirement or upon any subsequent
2070 recalculation of the benefit shall be the factor for the age of



2071 the retiree and his or her beneficiary at the time of retirement
2072 or at the time an election for recalculation of benefits is made.

2073 (6) Notwithstanding any provision of Section 25-11-1 et
2074 seq., no payments may be made for a retirement allowance on a
2075 monthly basis for a period of time in excess of that allowed by
2076 federal law.

2077 (7) If a retirant and his or her eligible beneficiary, if
2078 any, both die before they have received in annuity payments a
2079 total amount equal to the accumulated contributions standing to
2080 the retirant's credit in the annuity savings account at the time
2081 of his or her retirement, the difference between the accumulated
2082 contributions and the total amount of annuities received by them
2083 shall be paid to such persons as the retirant has nominated by
2084 written designation duly executed and filed in the office of the
2085 executive director. If no designated person survives the retirant
2086 and his or her beneficiary, the difference, if any, shall be paid
2087 under Section 25-11-117.1(1).

2088 (8) Any retired member who retired on Option 2(5) or 4-A(5)
2089 before July 1, 1992, who is still receiving a retirement allowance
2090 on July 1, 1994, shall receive an increase in the annual
2091 retirement allowance effective July 1, 1994, equal to the amount
2092 they would have received under Option 2 or Option 4-A without a
2093 reduction for Option 5 based on the ages at retirement of the
2094 retiree and beneficiary and option factors in effect on July 1,
2095 1992. That increase shall be prospective only.



2096 **SECTION 11.** Section 25-11-117, Mississippi Code of 1972, is
2097 brought forward as follows:

2098 25-11-117. (1) A member may be paid a refund of the amount
2099 of accumulated contributions to the credit of the member in the
2100 annuity savings account, provided that the member has withdrawn
2101 from state service and has not returned to state service on the
2102 date the refund of the accumulated contributions would be paid.
2103 That refund of the contributions to the credit of the member in
2104 the annuity savings account shall be paid within ninety (90) days
2105 from receipt in the office of the retirement system of the
2106 properly completed form requesting the payment. In the event of
2107 death before retirement of any member whose spouse and/or children
2108 are not entitled to a retirement allowance, the accumulated
2109 contributions to the credit of the deceased member in the annuity
2110 savings account shall be paid to the designated beneficiary on
2111 file in writing in the office of the executive director of the
2112 board of trustees within ninety (90) days from receipt of a
2113 properly completed form requesting the payment. If there is no
2114 such designated beneficiary on file for the deceased member in the
2115 office of the system, upon the filing of a proper request with the
2116 board, the contributions to the credit of the deceased member in
2117 the annuity savings account shall be refunded under Section
2118 25-11-117.1(1). The payment of the refund shall discharge all
2119 obligations of the retirement system to the member on account of
2120 any creditable service rendered by the member before the receipt



2121 of the refund. By the acceptance of the refund, the member shall
2122 waive and relinquish all accrued rights in the system.

2123 (2) Under the Unemployment Compensation Amendments of 1992
2124 (Public Law 102-318 (UCA)), a member or the spouse of a member who
2125 is an eligible beneficiary entitled to a refund under this section
2126 may elect, on a form prescribed by the board under rules and
2127 regulations established by the board, to have an eligible rollover
2128 distribution of accumulated contributions payable under this
2129 section paid directly to an eligible retirement plan, as defined
2130 under applicable federal law, or an individual retirement account.
2131 If the member or the spouse of a member who is an eligible
2132 beneficiary makes that election and specifies the eligible
2133 retirement plan or individual retirement account to which the
2134 distribution is to be paid, the distribution will be made in the
2135 form of a direct trustee-to-trustee transfer to the specified
2136 eligible retirement plan. A nonspouse beneficiary may elect to
2137 have an eligible rollover distribution paid in the form of a
2138 direct trustee-to-trustee transfer to an individual retirement
2139 account established to receive the distribution on behalf of the
2140 nonspouse beneficiary. Flexible rollovers under this subsection
2141 shall not be considered assignments under Section 25-11-129.

2142 (3) (a) If any person who has received a refund, reenters
2143 the state service and again becomes a member of the system before
2144 July 1, 2007, the member may repay all or part of the amounts
2145 previously received as a refund, together with regular interest



2146 covering the period from the date of refund to the date of
2147 repayment; however, the amounts that are repaid by the member and
2148 the creditable service related thereto shall not be used in any
2149 benefit calculation or determination until the member has remained
2150 a contributor to the system for a period of at least four (4)
2151 years after the member's reentry into state service. Repayment
2152 for that time shall be made beginning with the most recent service
2153 for which refund has been made. Upon the repayment of all or part
2154 of that refund and interest, the member shall again receive credit
2155 for the period of creditable service for which full repayment has
2156 been made to the system.

2157 (b) If any person who has received a refund, reenters
2158 the state service and again becomes a member of the system on or
2159 after July 1, 2007, the member may repay all or part of the
2160 amounts previously received as a refund, together with regular
2161 interest covering the period from the date of refund to the date
2162 of repayment; however, the amounts that are repaid by the member
2163 and the creditable service related thereto shall not be used in
2164 any benefit calculation or determination until the member has
2165 remained a contributor to the system for a period of at least
2166 eight (8) years after the member's reentry into state service.
2167 Repayment for that time shall be made beginning with the most
2168 recent service for which refund has been made. Upon the repayment
2169 of all or part of that refund and interest, the member shall again



2170 receive credit for the period of creditable service for which full
2171 repayment has been made to the system.

2172 (4) (a) In order to provide a source of income to members
2173 who have applied for disability benefits under Section 25-11-113
2174 or 25-11-114, the board may provide, at the employee's election, a
2175 temporary benefit to be paid from the member's accumulated
2176 contributions, if any, without forfeiting the right to pursue
2177 disability benefits, provided that the member has exhausted all
2178 personal and medical leave and has terminated his or her
2179 employment. The board may prescribe rules and regulations for
2180 carrying out the provisions of this subsection (4).

2181 (b) If a member who has elected to receive temporary
2182 benefits under this subsection later applies for a refund of his
2183 or her accumulated contributions, all amounts paid under this
2184 subsection shall be deducted from the accumulated contributions
2185 and the balance will be paid to the member. If a member who has
2186 elected to receive temporary benefits under this subsection is
2187 later approved for a disability retirement allowance, and a
2188 service retirement allowance or survivor benefits are paid on the
2189 account, the board shall adjust the benefits in such a manner that
2190 no more than the actuarial equivalent of the benefits to which the
2191 member or beneficiary was or is entitled shall be paid.

2192 (c) The board may study, develop and propose a
2193 disability benefit structure, including short- and long-term
2194 disability benefits, provided that it is the actuarial equivalent



2195 of the benefits currently provided in Section 25-11-113 or
2196 25-11-114.

2197 **SECTION 12.** Section 25-11-117.1, Mississippi Code of 1972,
2198 is brought forward as follows:

2199 25-11-117.1. (1) Except as otherwise provided in subsection
2200 (2) of this section, where benefits are payable to a designated
2201 beneficiary or beneficiaries under this article and the designated
2202 beneficiary or beneficiaries as provided by the member on the most
2203 recent form filed with the system is deceased or otherwise
2204 disqualified at the time such benefits become payable, the
2205 following persons, in descending order of precedence, shall be
2206 eligible to receive such benefits:

2207 (a) The surviving spouse of the member or retiree;

2208 (b) The children of the member or retiree or their
2209 descendants, per stirpes;

2210 (c) The brothers and sisters of the member or retiree
2211 or their descendants, per stirpes;

2212 (d) The parents of the member or retiree;

2213 (e) The executor or administrator on behalf of the
2214 member or retiree's estate;

2215 (f) The persons entitled by law to distribution of the
2216 member or retiree's estate.

2217 (2) Any monthly benefits payable to a beneficiary who dies
2218 prior to cashing his or her final check(s) and/or any additional
2219 benefits payable pursuant to Section 25-11-112 still payable at



2220 the death of a beneficiary receiving monthly benefits shall be
2221 paid as follows:

2222 (a) The surviving spouse of the beneficiary;

2223 (b) The children of the beneficiary or their
2224 descendants, per stirpes;

2225 (c) The brothers and sisters of the beneficiary or
2226 their descendants, per stirpes;

2227 (d) The parents of the beneficiary;

2228 (e) The executor or administrator on behalf of the
2229 beneficiary's estate;

2230 (f) The persons entitled by law to distribution of the
2231 beneficiary's estate.

2232 (3) In the event no claim is made by any individual listed
2233 in subsection (2) of this section, a distribution may be made
2234 pursuant to the provisions of subsection (1) of this section.

2235 (4) Payment under the provisions of this section shall bar
2236 recovery by any other person of the benefits distributed. Payment
2237 of benefits made to one or more members of a class of individuals
2238 are made on behalf of all members of the class. Any members of
2239 the class coming forward after payment is made must look to those
2240 who received the payment.

2241 **SECTION 13.** Section 25-11-119, Mississippi Code of 1972, is
2242 brought forward as follows:



2243 25-11-119. (1) The board shall keep such data as shall be
2244 necessary for actuarial valuation of the assets and liabilities of
2245 the system and for checking its operating experience.

2246 (2) The board shall keep minutes which shall be open to
2247 public inspection. It shall have the accounts of the system
2248 audited annually by the State Audit Department and shall publish
2249 as of the end of each fiscal year a report showing the fiscal
2250 transactions of the system for the preceding fiscal year, the
2251 amount of the accumulated cash and securities of the system, a
2252 statement of income and expenditures, a statement of investments
2253 acquired and disposed of, and a balance sheet showing the
2254 financial condition of the system by means of an actuarial
2255 valuation of its assets and liabilities. It shall also publish a
2256 synopsis of the report.

2257 (3) The board shall establish a general office for the
2258 meeting of the board and for the administrative personnel; provide
2259 for the installation of an adequate system of books, accounts, and
2260 records which will give effect to all requirements of Articles 1
2261 and 3; and credit all assets received by the funds according to
2262 the purposes for which they are held. All books, accounts and
2263 records shall be kept in the general office of the board and shall
2264 be public records except for individual member records. The
2265 system shall not disclose the name, address or contents of any
2266 individual member records without the prior written consent of the



2267 individual to whom the record pertains, except as authorized by
2268 regulations of the board.

2269 (4) The board shall hold regular meetings at least quarterly
2270 in each year and such special meetings as may be deemed necessary.
2271 All meetings shall be open to the public.

2272 (5) The board shall have power to make contracts, and to sue
2273 and be sued, under the name of the Board of Trustees of the Public
2274 Employees' Retirement System of Mississippi.

2275 (6) Legal advisor. The Attorney General shall be the legal
2276 advisor of the board; and the board may employ counsel when
2277 needed.

2278 (7) Medical board. The board may designate a medical board
2279 to be composed of three (3) physicians or may contract with
2280 another governmental agency or nongovernmental disability
2281 determination service that is qualified to make disability
2282 determinations. If required, other physicians may be engaged to
2283 report on special cases. The medical board or other governmental
2284 or nongovernmental disability determination service agency so
2285 designated shall arrange for, and pass upon, all medical
2286 examinations required under the provisions of this article; shall
2287 investigate all essential statements and certificates by or on
2288 behalf of a member in connection with an application for
2289 disability retirement; and shall report in writing to the board of
2290 trustees its conclusions and recommendations upon all the matters
2291 referred to it.



2292 (8) Duties of actuary. The board of trustees shall
2293 designate an actuary who shall be the technical advisor of the
2294 board on matters regarding the operation of the system, and shall
2295 perform such other duties as are required in connection therewith.

2296 (9) At least once in each two-year period, the actuary shall
2297 make an actuarial survey of the mortality, service, withdrawal and
2298 compensation experience of the members and beneficiaries of the
2299 retirement system, and shall make a valuation of the assets and
2300 liabilities of the system. Taking into account the result of such
2301 investigation and valuation, the board of trustees shall adopt for
2302 the retirement system such mortality, service, and other tables as
2303 shall be deemed necessary. On the basis of such tables as the
2304 board of trustees shall adopt, the actuary shall make valuations
2305 of the assets and liabilities of the funds of the system.

2306 **SECTION 14.** Section 25-11-120, Mississippi Code of 1972, is
2307 brought forward as follows:

2308 25-11-120. (1) Any individual aggrieved by an
2309 administrative determination, including a determination of the
2310 medical board, relating to the eligibility for or payment of
2311 benefits, or the calculation of creditable service or other
2312 similar matters relating to the Public Employees' Retirement
2313 System or any other retirement system or program administered by
2314 the board, may request a hearing before a hearing officer
2315 designated by the board. Such hearings shall be conducted in
2316 accordance with rules and regulations adopted by the board and



2317 formal rules of evidence shall not apply. The hearing officer is
2318 authorized to administer oaths, hear testimony of witnesses and
2319 receive documentary and other evidence. In case of disability
2320 appeals, the hearing officer shall have the authority to defer a
2321 decision in order to request a medical evaluation or test or
2322 additional existing medical records not previously furnished by
2323 the claimant. After the hearing and the receipt of any additional
2324 medical evidence requested by the hearing officer, the hearing
2325 officer shall certify the record to the board, which shall include
2326 the hearing officer's proposed statement of facts, conclusions of
2327 law and recommendation. The record may include a taped recording
2328 of the proceedings of the hearing in lieu of a transcribed copy of
2329 the proceedings. The board shall receive the record and make its
2330 determination based solely on matters contained therein.

2331 (2) Any individual aggrieved by the determination of the
2332 board may appeal to the Circuit Court of the First Judicial
2333 District of Hinds County, Mississippi, in accordance with the
2334 Uniform Circuit Court Rules governing appeals to the circuit court
2335 in civil cases. Such appeal shall be made solely on the record
2336 before the board and this procedure shall be the exclusive method
2337 of appealing determinations of the board.

2338 (3) The board is authorized to appoint a committee of the
2339 board to serve as hearing officer or to employ or contract with
2340 qualified personnel to perform the duties of hearing officer and
2341 court reporter as may be necessary for conducting, recording and



2342 transcribing such hearings. The board may assess and collect fees
2343 to offset costs related to such hearings. Those fees shall be
2344 deposited to the credit of the Public Employees' Retirement
2345 System.

2346 (4) Interest shall not be paid on any benefits, including,
2347 but not limited to, benefits that are delayed as a result of an
2348 administrative determination or an appeal from an administrative
2349 determination.

2350 **SECTION 15.** Section 25-11-121, Mississippi Code of 1972, is
2351 brought forward as follows:

2352 25-11-121. (1) The board shall, from time to time,
2353 determine the current requirements for benefit payments and
2354 administrative expense which shall be maintained as a cash working
2355 balance, except that such cash working balance shall not exceed at
2356 any time an amount necessary to meet the current obligations of
2357 the system for a period of ninety (90) days. Any amounts in
2358 excess of such cash working balance shall be invested, as follows:

2359 (a) Funds may be deposited in any institution insured
2360 by the Federal Deposit Insurance Corporation that maintains a
2361 facility that takes deposits in the State of Mississippi or a
2362 custodial bank;

2363 (b) Corporate bonds and taxable municipal bonds; or
2364 corporate short-term obligations of corporations or of wholly
2365 owned subsidiaries of corporations, whose short-term obligations
2366 are rated A-2 or better by Standard and Poor's, rated P-2 or



2367 better by Moody's Investment Service, F-2 or better by Fitch
2368 Ratings, Ltd., or the equivalent of these ratings if assigned by
2369 another United States Securities and Exchange Commission
2370 designated Nationally Recognized Statistical Rating Organization;

2371 (c) Agency and nonagency residential and commercial
2372 mortgage-backed securities and collateralized mortgage
2373 obligations;

2374 (d) Asset-backed securities;

2375 (e) Bank loans;

2376 (f) Convertible bonds;

2377 (g) Bonds of the Tennessee Valley Authority;

2378 (h) Bonds, notes, certificates and other valid
2379 obligations of the United States, and other valid obligations of
2380 any federal instrumentality that issues securities under authority
2381 of an act of Congress and are exempt from registration with the
2382 Securities and Exchange Commission;

2383 (i) Bonds, notes, debentures and other securities
2384 issued by any federal instrumentality and fully guaranteed by the
2385 United States;

2386 (j) Interest-bearing revenue bonds or notes or bonds or
2387 notes which are general obligations of any state in the United
2388 States or of any city or county therein;

2389 (k) Bonds of established non-United States companies
2390 and foreign government securities. The board may take requisite
2391 action to effectuate or hedge transactions or invest in currency



2392 through foreign or domestic banks, including the purchase and
2393 sale, transfer, exchange, or otherwise disposal of, and generally
2394 deal in foreign exchange through the use of foreign currency,
2395 interbank forward contracts, futures contracts, options contracts,
2396 swaps and other related derivative instruments, notwithstanding
2397 any other provisions of this article to the contrary;

2398 (1) Shares of stocks, common and/or preferred, of
2399 corporations created by or existing under the laws of the United
2400 States or any state, district or territory thereof and shares of
2401 stocks, common and/or preferred, and convertible securities of
2402 non-United States companies; provided:

2403 (i) The maximum investments in stocks shall not
2404 exceed eighty percent (80%) of the total book value of the total
2405 investment fund of the system;

2406 (ii) The stock of such corporation shall:

- 2407 1. Be listed on a national stock exchange; or
2408 2. Be traded in the over-the-counter market;

2409 (iii) The outstanding shares of such corporation
2410 shall have a total market value of not less than Fifty Million
2411 Dollars (\$50,000,000.00);

2412 (iv) The amount of investment in any one (1)
2413 corporation shall not exceed three percent (3%) of the book value
2414 of the assets of the system;



2415 (v) The shares of any one (1) corporation owned by
2416 the system shall not exceed five percent (5%) of that
2417 corporation's outstanding stock.

2418 The board may take requisite action utilizing foreign
2419 currency as an investment vehicle, or to effectuate or hedge
2420 transactions for shares of stocks and convertible securities of
2421 non-United States companies through foreign or domestic banks,
2422 including the purchase and sale, transfer, exchange, or otherwise
2423 disposal of, and generally deal in foreign exchange through the
2424 use of foreign currency, interbank forward contracts, futures
2425 contracts, options contracts, swaps and other related derivative
2426 instruments, notwithstanding any other provisions of this article
2427 to the contrary;

2428 (m) Covered call and put options on securities or
2429 indices traded on one or more of the regulated exchanges;

2430 (n) Pooled or commingled funds managed by a corporate
2431 trustee or by a Securities and Exchange Commission registered
2432 investment advisory firm retained as an investment manager by the
2433 board of trustees, and shares of investment companies and unit
2434 investment trusts registered under the Investment Company Act of
2435 1940, where such pooled or commingled funds or shares are
2436 comprised of common or preferred stocks, bonds, money market
2437 instruments or other investments authorized under this section.
2438 Such investment in commingled funds or shares shall be held in
2439 trust; provided that the total book value of investments under



2440 this paragraph shall at no time exceed five percent (5%) of the
2441 total book value of all investments of the system. Any investment
2442 manager approved by the board of trustees shall invest such
2443 commingled funds or shares as a fiduciary;

2444 (o) Pooled or commingled real estate funds or real
2445 estate securities managed by a corporate trustee or by a
2446 Securities and Exchange Commission registered investment advisory
2447 firm retained as an investment manager by the board of trustees.
2448 Such investment in commingled funds or shares shall be held in
2449 trust; provided that the total book value of investments under
2450 this paragraph shall at no time exceed ten percent (10%) of the
2451 total book value of all investments of the system. Any investment
2452 manager approved by the board of trustees shall invest such
2453 commingled funds or shares as a fiduciary. The ten percent (10%)
2454 limitation in this paragraph shall not be subject to the five
2455 percent (5%) limitation in paragraph (n) of this subsection;

2456 (p) Types of investments not specifically authorized by
2457 this subsection if the investments are in the form of a separate
2458 account managed by a Securities and Exchange Commission registered
2459 investment advisory firm retained as an investment manager by the
2460 board; or a limited partnership or commingled fund approved by the
2461 board; provided that the total book value of investments under
2462 this paragraph shall at no time exceed twenty percent (20%) of the
2463 total book value of all investments of the system. Any person or
2464 entity who exercises any discretionary authority or discretionary



2465 control respecting management of the separate account, limited
2466 partnership or commingled fund, or who exercises any authority or
2467 control respecting management or disposition of the assets of the
2468 separate account, limited partnership or commingled fund, shall
2469 exercise such authority or control as a fiduciary.

2470 (2) All investments shall be acquired at prices not
2471 exceeding the prevailing market values for such investments.

2472 (3) Any limitations herein set forth shall be applicable
2473 only at the time of purchase and shall not require the liquidation
2474 of any investment at any time. All investments shall be clearly
2475 marked to indicate ownership by the system and to the extent
2476 possible shall be registered in the name of the system.

2477 (4) Subject to the above terms, conditions, limitations and
2478 restrictions, the board shall have power to sell, assign, transfer
2479 and dispose of any of the securities and investments of the
2480 system, provided that said sale, assignment or transfer has the
2481 majority approval of the entire board. The board may employ or
2482 contract with investment managers, evaluation services or other
2483 such services as determined by the board to be necessary for the
2484 effective and efficient operation of the system.

2485 (5) Except as otherwise provided herein, no trustee and no
2486 employee of the board shall have any direct or indirect interest
2487 in the income, gains or profits of any investment made by the
2488 board, nor shall any such person receive any pay or emolument for
2489 his services in connection with any investment made by the board.



2490 No trustee or employee of the board shall become an endorser or
2491 surety, or in any manner an obligor for money loaned by or
2492 borrowed from the system.

2493 (6) All interest derived from investments and any gains from
2494 the sale or exchange of investments shall be credited by the board
2495 to the account of the system.

2496 (7) The board of trustees shall credit regular interest to
2497 the annuity savings account monthly. Regular interest shall mean
2498 such per centum rate to be compounded annually as set by the board
2499 of trustees through regulation.

2500 (8) The board of trustees shall be the custodian of the
2501 funds of the system. All retirement allowance payrolls shall be
2502 certified by the executive director who shall furnish the board a
2503 surety bond in a company authorized to do business in Mississippi
2504 in such an amount as shall be required by the board, the premium
2505 to be paid by the board from the expense account.

2506 (9) For the purpose of meeting disbursements for retirement
2507 allowances, annuities and other payments, cash may be kept
2508 available, not exceeding the requirements of the system for a
2509 period of ninety (90) days, on deposit in one or more banks or
2510 trust companies organized under the laws of the State of
2511 Mississippi or the laws of the United States, provided that the
2512 sum on deposit in any one (1) bank or trust company shall not
2513 exceed thirty-five percent (35%) of the paid-up capital and
2514 regular surplus of such bank or trust company.



2515 (10) The board, the executive director and employees shall
2516 discharge their duties with respect to the investments of the
2517 system solely for the interest of the system with the care, skill,
2518 prudence and diligence under the circumstances then prevailing
2519 that a prudent investor acting in a like capacity and familiar
2520 with such matters would use in the conduct of an enterprise of a
2521 like character and with like aims, including diversifying the
2522 investments of the system so as to minimize the risk of large
2523 losses, unless under the circumstances it is clearly prudent not
2524 to do so.

2525 (11) Documentary material or data made or received by the
2526 system which consists of trade secrets or commercial or financial
2527 information that relates to the investments of the system shall be
2528 exempt from the Mississippi Public Records Act of 1983 if the
2529 disclosure of the material or data is likely to impair the
2530 system's ability to obtain such information in the future, or is
2531 likely to cause substantial harm to the competitive position of
2532 the person or entity from whom the information was obtained.

2533 **SECTION 16.** Section 25-11-123, Mississippi Code of 1972, is
2534 brought forward as follows:

2535 25-11-123. All of the assets of the system shall be credited
2536 according to the purpose for which they are held to one (1) of
2537 four (4) reserves; namely, the annuity savings account, the
2538 annuity reserve, the employer's accumulation account, and the
2539 expense account.



2540 (a) **Annuity savings account.** In the annuity savings account
2541 shall be accumulated the contributions made by members to provide
2542 for their annuities, including interest thereon which shall be
2543 posted monthly. Credits to and charges against the annuity
2544 savings account shall be made as follows:

2545 (1) Beginning July 1, 2010, the employer shall cause to
2546 be deducted from the salary of each member on each and every
2547 payroll of the employer for each and every payroll period nine
2548 percent (9%) of earned compensation as defined in Section
2549 25-11-103. Future contributions shall be fixed biennially by the
2550 board on the basis of the liabilities of the retirement system for
2551 the various allowances and benefits as shown by actuarial
2552 valuation; however, any member earning at a rate less than Sixteen
2553 Dollars and Sixty-seven Cents (\$16.67) per month, or Two Hundred
2554 Dollars (\$200.00) per year, shall contribute not less than One
2555 Dollar (\$1.00) per month, or Twelve Dollars (\$12.00) per year.

2556 (2) The deductions provided in paragraph (1) of this
2557 subsection shall be made notwithstanding that the minimum
2558 compensation provided by law for any member is reduced by the
2559 deduction. Every member shall be deemed to consent and agree to
2560 the deductions made and provided for in paragraph (1) of this
2561 subsection and shall receipt for his full salary or compensation,
2562 and payment of salary or compensation less the deduction shall be
2563 a full and complete discharge and acquittance of all claims and
2564 demands whatsoever for the services rendered by the person during



2565 the period covered by the payment, except as to the benefits
2566 provided under Articles 1 and 3. The board shall provide by rules
2567 for the methods of collection of contributions from members and
2568 the employer. The board shall have full authority to require the
2569 production of evidence necessary to verify the correctness of
2570 amounts contributed.

2571 (b) **Annuity reserve.** The annuity reserve shall be the
2572 account representing the actuarial value of all annuities in
2573 force, and to it shall be charged all annuities and all benefits
2574 in lieu of annuities, payable as provided in this article. If a
2575 beneficiary retired on account of disability is restored to active
2576 service with a compensation not less than his average final
2577 compensation at the time of his last retirement, the remainder of
2578 his contributions shall be transferred from the annuity reserve to
2579 the annuity savings account and credited to his individual account
2580 therein, and the balance of his annuity reserve shall be
2581 transferred to the employer's accumulation account.

2582 (c) **Employer's accumulation account.** The employer's
2583 accumulation account shall represent the accumulation of all
2584 reserves for the payment of all retirement allowances and other
2585 benefits payable from contributions made by the employer, and
2586 against this account shall be charged all retirement allowances
2587 and other benefits on account of members. Credits to and charges
2588 against the employer's accumulation account shall be made as
2589 follows:



2590 (1) On account of each member there shall be paid
2591 monthly into the employer's accumulation account by the employers
2592 for the preceding fiscal year an amount equal to a certain
2593 percentage of the total earned compensation, as defined in Section
2594 25-11-103, of each member. The percentage rate of those
2595 contributions shall be fixed biennially by the board on the basis
2596 of the liabilities of the retirement system for the various
2597 allowances and benefits as shown by actuarial valuation.
2598 Beginning January 1, 1990, the rate shall be fixed at nine and
2599 three-fourths percent (9-3/4%). The board shall reduce the
2600 employer's contribution rate by one percent (1%) from and after
2601 July 1 of the year following the year in which the board
2602 determines and the board's actuary certifies that the employer's
2603 contribution rate can be reduced by that amount without causing
2604 the unfunded accrued actuarial liability amortization period for
2605 the retirement system to exceed twenty (20) years. Political
2606 subdivisions joining Article 3 of the Public Employees' Retirement
2607 System after July 1, 1968, may adjust the employer's contributions
2608 by agreement with the Board of Trustees of the Public Employees'
2609 Retirement System to provide service credits for any period before
2610 execution of the agreement based upon an actuarial determination
2611 of employer's contribution rates.

2612 (2) On the basis of regular interest and of such
2613 mortality and other tables as are adopted by the board of
2614 trustees, the actuary engaged by the board to make each valuation



2615 required by this article during the period over which the accrued
2616 liability contribution is payable, immediately after making that
2617 valuation, shall determine the uniform and constant percentage of
2618 the earnable compensation of each member which, if contributed by
2619 the employer on the basis of compensation of the member throughout
2620 his entire period of membership service, would be sufficient to
2621 provide for the payment of any retirement allowance payable on his
2622 account for that service. The percentage rate so determined shall
2623 be known as the "normal contribution rate." After the accrued
2624 liability contribution has ceased to be payable, the normal
2625 contribution rate shall be the percentage rate of the salary of
2626 all members obtained by deducting from the total liabilities on
2627 account of membership service the amount in the employer's
2628 accumulation account, and dividing the remainder by one percent
2629 (1%) of the present value of the prospective future salaries of
2630 all members as computed on the basis of the mortality and service
2631 tables adopted by the board of trustees and regular interest. The
2632 normal rate of contributions shall be determined by the actuary
2633 after each valuation.

2634 (3) The total amount payable in each year to the
2635 employer's accumulation account shall not be less than the sum of
2636 the percentage rate known as the "normal contribution rate" and
2637 the "accrued liability contribution rate" of the total
2638 compensation earnable by all members during the preceding year,
2639 provided that the payment by the employer shall be sufficient,



2640 when combined with the amounts in the account, to provide the
2641 allowances and other benefits chargeable to this account during
2642 the year then current.

2643 (4) The accrued liability contribution shall be
2644 discontinued as soon as the accumulated balance in the employer's
2645 accumulation account shall equal the present value, computed on
2646 the basis of the normal contribution rate then in force, or the
2647 prospective normal contributions to be received on account of all
2648 persons who are at that time members.

2649 (5) All allowances and benefits in lieu thereof, with
2650 the exception of those payable on account of members who receive
2651 no prior service credit, payable from contributions of the
2652 employer, shall be paid from the employer's accumulation account.

2653 (6) Upon the retirement of a member, an amount equal to
2654 his retirement allowance shall be transferred from the employer's
2655 accumulation account to the annuity reserve.

2656 (7) The employer's accumulation account shall be
2657 credited with any assets authorized by law to be credited to the
2658 account.

2659 (d) **Expense account.** The expense account shall be the
2660 account to which the expenses of the administration of the system
2661 shall be charged, exclusive of amounts payable as retirement
2662 allowances and as other benefits provided herein. The Legislature
2663 shall make annual appropriations in amounts sufficient to
2664 administer the system, which shall be credited to this account.



2665 There shall be transferred to the State Treasury from this
2666 account, not less than once per month, an amount sufficient for
2667 payment of the estimated expenses of the system for the succeeding
2668 thirty (30) days. Any interest earned on the expense account
2669 shall accrue to the benefit of the system. However,
2670 notwithstanding the provisions of Sections 25-11-15(10) and
2671 25-11-105(f) (v)5, all expenses of the administration of the system
2672 shall be paid from the interest earnings, provided the interest
2673 earnings are in excess of the actuarial interest assumption as
2674 determined by the board, and provided the present cost of the
2675 administrative expense fee of two percent (2%) of the
2676 contributions reported by the political subdivisions and
2677 instrumentalities shall be reduced to one percent (1%) from and
2678 after July 1, 1983, through June 30, 1984, and shall be eliminated
2679 thereafter.

2680 (e) **Collection of contributions.** The employer shall cause
2681 to be deducted on each and every payroll of a member for each and
2682 every payroll period, beginning subsequent to January 31, 1953,
2683 the contributions payable by the member as provided in Articles 1
2684 and 3.

2685 The employer shall make deductions from salaries of employees
2686 as provided in Articles 1 and 3 and shall transmit monthly, or at
2687 such time as the board of trustees designates, the amount
2688 specified to be deducted to the Executive Director of the Public
2689 Employees' Retirement System. The executive director, after



2690 making a record of all those receipts, shall deposit such amounts
2691 as provided by law.

2692 (f) (1) Upon the basis of each actuarial valuation provided
2693 herein, the board of trustees shall biennially determine the
2694 normal contribution rate and the accrued liability contribution
2695 rate as provided in this section. The sum of these two (2) rates
2696 shall be known as the "employer's contribution rate." Beginning
2697 on earned compensation effective January 1, 1990, the rate
2698 computed as provided in this section shall be nine and
2699 three-fourths percent (9-3/4%). The board shall reduce the
2700 employer's contribution rate by one percent (1%) from and after
2701 July 1 of the year following the year in which the board
2702 determines and the board's actuary certifies that the employer's
2703 contribution rate can be reduced by that amount without causing
2704 the unfunded accrued actuarial liability amortization period for
2705 the retirement system to exceed twenty (20) years. The percentage
2706 rate of those contributions shall be fixed biennially by the board
2707 on the basis of the liabilities of the retirement system for the
2708 various allowances and benefits as shown by actuarial valuation.

2709 (2) The amount payable by the employer on account of
2710 normal and accrued liability contributions shall be determined by
2711 applying the employer's contribution rate to the amount of
2712 compensation earned by employees who are members of the system.
2713 Monthly, or at such time as the board of trustees designates, each
2714 department or agency shall compute the amount of the employer's



2715 contribution payable, with respect to the salaries of its
2716 employees who are members of the system, and shall cause that
2717 amount to be paid to the board of trustees from the personal
2718 service allotment of the amount appropriated for the operation of
2719 the department or agency, or from funds otherwise available to the
2720 agency, for the payment of salaries to its employees.

2721 (3) Except as otherwise provided in Section 25-11-106:

2722 (i) Constables shall pay employer and employee
2723 contributions on their net fee income as well as the employee
2724 contributions on all direct treasury or county payroll income.

2725 (ii) The county shall be responsible for the
2726 employer contribution on all direct treasury or county payroll
2727 income of constables.

2728 (4) Except as otherwise provided in Section
2729 25-11-106.1, chancery and circuit clerks shall be responsible for
2730 both the employer and employee share of contributions on the
2731 proportionate share of net income attributable to fees, as well as
2732 the employee share of net income attributable to direct treasury
2733 or county payroll income, and the employing county shall be
2734 responsible for the employer contributions on the net income
2735 attributable to direct treasury or county payroll income.

2736 (5) Once each year, under procedures established by the
2737 system, each employer shall submit to the Public Employees'
2738 Retirement System a copy of their report to Social Security of all
2739 employees' earnings.



2740 (6) The board shall provide by rules for the methods of
2741 collection of contributions of employers and members. The amounts
2742 determined due by an agency to the various funds as specified in
2743 Articles 1 and 3 are made obligations of the agency to the board
2744 and shall be paid as provided herein. Failure to deduct those
2745 contributions shall not relieve the employee and employer from
2746 liability thereof. Delinquent employee contributions and any
2747 accrued interest shall be the obligation of the employee and
2748 delinquent employer contributions and any accrued interest shall
2749 be the obligation of the employer. The employer may, in its
2750 discretion, elect to pay any or all of the interest on delinquent
2751 employee contributions. From and after July 1, 1996, under rules
2752 and regulations established by the board, all employers are
2753 authorized and shall transfer all funds due to the Public
2754 Employees' Retirement System electronically and shall transmit any
2755 wage or other reports by computerized reporting systems.

2756 **SECTION 17.** Section 25-11-127, Mississippi Code of 1972, is
2757 brought forward as follows:

2758 25-11-127. (1) (a) No person who is being paid a
2759 retirement allowance or a pension after retirement under this
2760 article shall be employed or paid for any service by the State of
2761 Mississippi, including services as an employee, contract worker,
2762 contractual employee or independent contractor, until the retired
2763 person has been retired for not less than ninety (90) consecutive
2764 days from his or her effective date of retirement. After the



2765 person has been retired for not less than ninety (90) consecutive
2766 days from his or her effective date of retirement or such later
2767 date as established by the board, he or she may be reemployed
2768 while being paid a retirement allowance under the terms and
2769 conditions provided in this section.

2770 (b) No retiree of this retirement system who is
2771 reemployed or is reelected to office after retirement shall
2772 continue to draw retirement benefits while so reemployed, except
2773 as provided in this section.

2774 (c) No person employed or elected under the exceptions
2775 provided for in this section shall become a member under Article 3
2776 of the retirement system.

2777 (2) Any person who has been retired under the provisions of
2778 Article 3 and who is later reemployed in service covered by this
2779 article shall cease to receive benefits under this article and
2780 shall again become a contributing member of the retirement system.
2781 When the person retires again, if the reemployment exceeds six (6)
2782 months, the person shall have his or her benefit recomputed,
2783 including service after again becoming a member, provided that the
2784 total retirement allowance paid to the retired member in his or
2785 her previous retirement shall be deducted from the member's
2786 retirement reserve and taken into consideration in recalculating
2787 the retirement allowance under a new option selected.

2788 (3) The board shall have the right to prescribe rules and
2789 regulations for carrying out the provisions of this section.



2790 (4) The provisions of this section shall not be construed to
2791 prohibit any retiree, regardless of age, from being employed and
2792 drawing a retirement allowance either:

2793 (a) For a period of time not to exceed one-half (1/2)
2794 of the normal working days for the position in any fiscal year
2795 during which the retiree will receive no more than one-half (1/2)
2796 of the salary in effect for the position at the time of
2797 employment, or

2798 (b) For a period of time in any fiscal year sufficient
2799 in length to permit a retiree to earn not in excess of twenty-five
2800 percent (25%) of retiree's average compensation.

2801 To determine the normal working days for a position under
2802 paragraph (a) of this subsection, the employer shall determine the
2803 required number of working days for the position on a full-time
2804 basis and the equivalent number of hours representing the
2805 full-time position. The retiree then may work up to one-half
2806 (1/2) of the required number of working days or up to one-half
2807 (1/2) of the equivalent number of hours and receive up to one-half
2808 (1/2) of the salary for the position. In the case of employment
2809 with multiple employers, the limitation shall equal one-half (1/2)
2810 of the number of days or hours for a single full-time position.

2811 Notice shall be given in writing to the executive director,
2812 setting forth the facts upon which the employment is being made,
2813 and the notice shall be given within five (5) days from the date



2814 of employment and also from the date of termination of the
2815 employment.

2816 (5) Except as otherwise provided in subsection (6) of this
2817 section, the employer of any person who is receiving a retirement
2818 allowance and who is employed in service covered by subsection (4)
2819 of this section as an employee or a contractual employee shall pay
2820 to the board the full amount of the employer's contribution on the
2821 amount of compensation received by the retiree for his or her
2822 employment in accordance with regulations prescribed by the board.
2823 The retiree shall not receive any additional creditable service in
2824 the retirement system as a result of the payment of the employer's
2825 contribution. This subsection does not apply to persons who are
2826 receiving a retirement allowance and who contract with an employer
2827 to provide services as a true independent contractor, as defined
2828 by the board through regulation.

2829 (6) (a) A member may retire and continue in municipal or
2830 county elective office provided that the member has reached the
2831 age and/or service requirement that will not result in a
2832 prohibited in-service distribution as defined by the Internal
2833 Revenue Service, or a retiree may be elected to a municipal or
2834 county office, provided that the person:

2835 (i) Files annually, in writing, in the office of
2836 the employer and the office of the executive director of the
2837 system before the person takes office or as soon as possible after
2838 retirement, a waiver of all salary or compensation and elects to



2839 receive in lieu of that salary or compensation a retirement
2840 allowance as provided in this section, in which event no salary or
2841 compensation shall thereafter be due or payable for those
2842 services; however, any such officer or employee may receive, in
2843 addition to the retirement allowance, office expense allowance,
2844 mileage or travel expense authorized by any statute of the State
2845 of Mississippi; or

2846 (ii) Elects to receive compensation for that
2847 elective office in an amount not to exceed twenty-five percent
2848 (25%) of the retiree's average compensation. In order to receive
2849 compensation as allowed in this subparagraph, the retiree shall
2850 file annually, in writing, in the office of the employer and the
2851 office of the executive director of the system, an election to
2852 receive, in addition to a retirement allowance, compensation as
2853 allowed in this subparagraph.

2854 (b) The municipality or county in which the retired
2855 person holds elective office shall pay to the board the amount of
2856 the employer's contributions on the full amount of the regular
2857 compensation for the elective office that the retired person
2858 holds.

2859 (c) As used in this subsection, the term "compensation"
2860 does not include office expense allowance, mileage or travel
2861 expense authorized by a statute of the State of Mississippi.

2862 **SECTION 18.** Section 25-11-133, Mississippi Code of 1972, is
2863 brought forward as follows:



2864 25-11-133. (1) The maintenance of actuarial reserves for
2865 the various allowances and benefits under Articles 1 and 3, and
2866 the payment of all annuities, retirement allowances, refunds and
2867 other benefits granted hereunder are made obligations of the
2868 employer's accumulation accounts. All income, interest and
2869 dividends derived from deposits and investments authorized by
2870 those articles shall be used for the payment of the obligations of
2871 the system.

2872 (2) In the event of the termination of the Public Employees'
2873 Retirement System established pursuant to the provisions of
2874 Section 25-11-101 et seq., all members of the system as of the
2875 date of termination of the system shall be deemed to have a vested
2876 right to benefits to the extent and in the same manner that rights
2877 would be vested under the statute existing as of the date of
2878 termination of the system, except that any member who, because of
2879 a termination of the system has not fulfilled the requirements for
2880 length of service, shall nonetheless be entitled to compensation
2881 as of the date that such member would otherwise be eligible, with
2882 such compensation to be computed on the basis of time actually a
2883 member of the service and compensation actually earned during the
2884 time a member, in the manner now provided by statute.

2885 In the event of a deficit in the availability of funds for
2886 payment due under the provisions of the Public Employees'
2887 Retirement System, an appropriation shall be made sufficient for
2888 the payment thereof as an obligation of the state.



2889 (3) (a) Notwithstanding any provisions of this section or
2890 this title to the contrary, the maximum annual retirement
2891 allowance attributable to the employer contributions payable by
2892 the system to a member shall be subject to the limitations set
2893 forth in Section 415 of the Internal Revenue Code and any
2894 regulations issued thereunder as applicable to governmental plans
2895 as the term is defined under Section 414(d) of the Internal
2896 Revenue Code.

2897 (b) The board is authorized to provide by rule or
2898 regulation for the payment of benefits as provided under this
2899 chapter to members or beneficiaries of the retirement system at a
2900 time and under circumstances not otherwise provided for in this
2901 chapter to the extent that the payment is required to maintain the
2902 system as a qualified retirement plan for purposes of federal
2903 income tax laws.

2904 (4) Notwithstanding any other provision of this plan, all
2905 distributions from this plan shall conform to the regulations
2906 issued under Section 401(a)(9) of the Internal Revenue Code,
2907 applicable to governmental plans, as defined in Section 414(d) of
2908 the Internal Revenue Code, including the incidental death benefit
2909 provisions of Section 401(a)(9)(G) of the Internal Revenue Code.
2910 Further, the regulations shall override any plan provision that is
2911 inconsistent with Section 401(a)(9) of the Internal Revenue Code.

2912 (5) The actuarial assumptions used to convert a retirement
2913 allowance from the normal form of payment to an optional form of



2914 payment shall be an appendix to Article 3 and subject to approval
2915 by the board based upon certification by the actuary.

2916 (6) Notwithstanding any other provision of this plan, the
2917 maximum compensation that can be considered for all plan purposes
2918 shall not be greater than that allowed under Section 401(a)(17) of
2919 the Internal Revenue Code.

2920 **SECTION 19.** Section 25-11-139, Mississippi Code of 1972, is
2921 brought forward as follows:

2922 25-11-139. Any retirement allowance or other annuity or
2923 benefit provided by Articles 1 and 3 shall be paid in equal
2924 monthly installments for life and shall not be increased,
2925 decreased, revoked or repealed, except for error upon detection,
2926 regardless of the length of time between the reporting error or
2927 the time payment started and the time the board became aware of
2928 the error, or except where specifically otherwise provided by said
2929 articles. This responsibility is, and has been, the duty of the
2930 board since the creation of the retirement system.

2931 Pursuant to Section 25-11-111, Mississippi Code of 1972, it
2932 is and has been the sole responsibility of the member or
2933 beneficiary thereof to apply for benefits and no benefits shall be
2934 paid for any period prior to the first of the month following the
2935 receipt of such application for such benefits, but in no event
2936 prior to termination of employment, except as authorized in
2937 Section 25-11-114.



2938 **SECTION 20.** This act shall take effect and be in force from
2939 and after July 1, 2024.

