

By: Representative Moore (60th)

To: Appropriations

HOUSE BILL NO. 1145

1 AN ACT TO AMEND SECTION 25-11-103, MISSISSIPPI CODE OF 1972,
 2 TO DEFINE "FIRE FIGHTER" AND "LAW ENFORCEMENT OFFICER" FOR THE
 3 PURPOSES OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; TO AMEND
 4 SECTION 25-11-111, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY
 5 FIRE FIGHTER OR LAW ENFORCEMENT OFFICER WHO IS A MEMBER OF THE
 6 PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO HAS COMPLETED AT LEAST
 7 TWENTY YEARS OF CREDITABLE SERVICE AS A FIRE FIGHTER OR LAW
 8 ENFORCEMENT OFFICER MAY RETIRE, REGARDLESS OF AGE, AND RECEIVE A
 9 RETIREMENT ALLOWANCE; TO INCREASE THE PERCENTAGES USED TO
 10 CALCULATE THE RETIREMENT ALLOWANCE OF FIRE FIGHTERS AND LAW
 11 ENFORCEMENT OFFICERS; TO AMEND SECTION 25-13-11, MISSISSIPPI CODE
 12 OF 1972, TO REDUCE TO TWENTY THE NUMBER OF YEARS OF CREDITABLE
 13 SERVICE THAT A MEMBER OF THE HIGHWAY SAFETY PATROL RETIREMENT
 14 SYSTEM MUST HAVE TO RETIRE REGARDLESS OF AGE; TO INCREASE THE
 15 PERCENTAGES USED TO CALCULATE THE RETIREMENT ALLOWANCE OF MEMBERS
 16 OF THE HIGHWAY SAFETY PATROL RETIREMENT SYSTEM; TO AMEND SECTION
 17 25-11-114, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING
 18 PROVISIONS; AND FOR RELATED PURPOSES.

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

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

22 25-11-103. The following words and phrases as used in
 23 Articles 1 and 3, unless a different meaning is plainly required
 24 by the context, shall have the following meanings:

25 (a) "Accumulated contributions" shall mean the sum of
 26 all the amounts deducted from the compensation of a member and
 27 credited to his individual account in the annuity savings account,
 28 together with regular interest thereon as provided in Section
 29 25-11-123.

30 (b) "Actuarial cost" shall mean the amount of funds
 31 presently required to provide future benefits as determined by the
 32 board based on applicable tables and formulas provided by the
 33 actuary.

34 (c) "Actuarial equivalent" shall mean a benefit of
 35 equal value to the accumulated contributions, annuity or benefit,



36 as the case may be, when computed upon the basis of such mortality
37 tables as shall be adopted by the board of trustees, and regular
38 interest.

39 (d) "Actuarial tables" shall mean such tables of
40 mortality and rates of interest as shall be adopted by the board
41 in accordance with the recommendation of the actuary.

42 (e) "Agency" shall mean any governmental body employing
43 persons in the state service.

44 (f) "Average compensation" shall mean the average of
45 the four (4) highest years of earned compensation reported for an
46 employee in a fiscal or calendar year period, or combination
47 thereof which do not overlap, or the last forty-eight (48)
48 consecutive months of earned compensation reported for an
49 employee. The four (4) years need not be successive or joined
50 years of service. In no case shall the average compensation so
51 determined be in excess of One Hundred Twenty-five Thousand
52 Dollars (\$125,000.00). In computing the average compensation, any
53 amount paid in a lump sum for personal leave shall be included in
54 the calculation to the extent that such amount does not exceed an
55 amount which is equal to thirty (30) days of earned compensation
56 and to the extent that it does not cause the employees' earned
57 compensation to exceed the maximum reportable amount specified in
58 Section 25-11-103(k); * * * however, this thirty-day limitation
59 shall not prevent the inclusion in the calculation of leave earned
60 under federal regulations prior to July 1, 1976, and frozen as of
61 that date as referred to in Section 25-3-99. Only the amount of
62 lump sum pay for personal leave due and paid upon the death of a
63 member attributable for up to one hundred fifty (150) days shall
64 be used in the deceased member's average compensation calculation
65 in determining the beneficiary's benefits. In computing the
66 average compensation, no amounts shall be used which are in excess
67 of the amount on which contributions were required and paid. If
68 any member who is or has been granted any increase in annual



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

91 (g) "Beneficiary" shall mean any person entitled to
92 receive a retirement allowance, an annuity or other benefit as
93 provided by Articles 1 and 3. In the event of the death prior to
94 retirement of any member whose spouse and/or children are not
95 entitled to a retirement allowance on the basis that the member
96 has less than four (4) years of service credit and/or has not been
97 married for a minimum of one (1) year or the spouse has waived his
98 or her entitlement to a retirement allowance pursuant to Section
99 25-11-114, the lawful spouse of a member at the time of the death
100 of such member shall be the beneficiary of such member unless the
101 member has designated another beneficiary subsequent to the date



102 of marriage in writing, and filed such writing in the office of
103 the executive director of the board of trustees. No designation
104 or change of beneficiary shall be made in any other manner.

105 (h) "Board" shall mean the board of trustees provided
106 in Section 25-11-15 to administer the retirement system herein
107 created.

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

120 (j) "Child" means either a natural child of the member,
121 a child that has been made a child of the member by applicable
122 court action before the death of the member, or a child under the
123 permanent care of the member at the time of the latter's death,
124 which permanent care status shall be determined by evidence
125 satisfactory to the board.

126 (k) "Earned compensation" shall mean the full amount
127 earned by an employee for a given pay period including any
128 maintenance furnished up to a maximum of One Hundred Twenty-five
129 Thousand Dollars (\$125,000.00) per year, and proportionately for
130 less than one (1) year of service. The value of such maintenance
131 when not paid in money shall be fixed by the employing state
132 agency, and, in case of doubt, by the board of trustees as defined
133 in Section 25-11-15. In any case, earned compensation shall be
134 limited to the regular periodic compensation paid, exclusive of



135 litigation fees, bond fees, and other similar extraordinary
136 nonrecurring payments. In addition, any member in a covered
137 position, as defined by Public Employees' Retirement System laws
138 and regulations, who is also employed by another covered agency or
139 political subdivision shall have the earnings of that additional
140 employment reported to the Public Employees' Retirement System
141 regardless of whether the additional employment is sufficient in
142 itself to be a covered position. In the case of fee officials,
143 the net earnings from their office after deduction of expenses
144 shall apply, except that in no case shall earned compensation be
145 less than the total direct payments made by the state or
146 governmental subdivisions to the official, and employer and
147 employee contributions shall be paid thereon. In the case of
148 members of the state Legislature, all remuneration or amounts
149 paid, except mileage allowance, shall apply. The amount by which
150 an eligible employee's salary is reduced pursuant to a salary
151 reduction agreement authorized under Section 25-17-5 shall be
152 included as earned compensation under this paragraph, provided
153 this inclusion does not conflict with federal law, including
154 federal regulations and federal administrative interpretations
155 thereunder, pertaining to the Federal Insurance Contributions Act
156 or to Internal Revenue Code Section 125 cafeteria plans.
157 Compensation in addition to an employee's base salary that is paid
158 to the employee pursuant to the vacation and sick leave policies
159 of a municipality or other political subdivision of the state that
160 employs him which exceeds the maximums authorized by Section
161 25-3-91 et seq., shall be excluded from the calculation of earned
162 compensation under this article. The maximum salary applicable
163 for retirement purposes before July 1, 1992, shall be the salary
164 of the Governor. Nothing in Section 25-3-31 shall affect the
165 determination of the earned compensation of any member for the
166 purposes of this article.



167 (1) "Employee" means any person legally occupying a
168 position in the state service, and shall include the employees of
169 the retirement system created hereunder.

170 (m) "Employer" shall mean the State of Mississippi or
171 any of its departments, agencies or subdivisions from which any
172 employee receives his compensation.

173 (n) "Executive director" shall mean the secretary to
174 the board of trustees, as provided in Section 25-11-15(9), and the
175 administrator of the Public Employees' Retirement System and all
176 systems under the management of the board of trustees. Wherever
177 the term "Executive Secretary of the Public Employees' Retirement
178 System" or "executive secretary" appears in this article or in any
179 other provision of law, it shall be construed to mean the
180 Executive Director of the Public Employees' Retirement System.

181 (o) "Fiscal year" shall mean the period beginning on
182 July 1 of any year and ending on June 30 of the next succeeding
183 year.

184 (p) "Medical board" shall mean the board of physicians
185 or any governmental or nongovernmental disability determination
186 service designated by the board of trustees that is qualified to
187 make disability determinations as provided for in Section
188 25-11-119.

189 (q) "Member" shall mean any person included in the
190 membership of the system as provided in Section 25-11-105.

191 (r) "Membership service" shall mean service as an
192 employee rendered while a member of the retirement system.

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



200 coverage in the Public Employees' Retirement System based on the
201 position held, whether the employee is or becomes eligible for
202 coverage in the Public Employees' Retirement System based upon any
203 other employment in a covered agency or political subdivision. If
204 or when the employee meets the eligibility criteria for coverage
205 in such other position, then the employer must withhold
206 contributions and report wages from the noncovered position in
207 accordance with the provisions for reporting of earned
208 compensation. Failure to deduct and report those contributions
209 shall not relieve the employee or employer of liability thereof.
210 The board shall adopt such rules and regulations as necessary to
211 implement and enforce this provision.

212 (t) "Prior service" shall mean service rendered before
213 February 1, 1953, for which credit is allowable under Sections
214 25-11-105 and 25-11-109, and which shall allow prior service for
215 any person who is now or becomes a member of the Public Employees'
216 Retirement System and who does contribute to the system for a
217 minimum period of four (4) years.

218 (u) "Regular interest" shall mean interest compounded
219 annually at such a rate as shall be determined by the board in
220 accordance with Section 25-11-121.

221 (v) "Retirement allowance" shall mean an annuity for
222 life as provided in this article, payable each year in twelve (12)
223 equal monthly installments beginning as of the date fixed by the
224 board. The retirement allowance shall be calculated in accordance
225 with Section 25-11-111. * * * Any spouse who received a spouse
226 retirement benefit in accordance with Section 25-11-111(d) before
227 March 31, 1971, and those benefits were terminated because of
228 eligibility for a social security benefit, may again receive his
229 spouse retirement benefit from and after making application with
230 the board of trustees to reinstate the spouse retirement benefit.



231 (w) "Retroactive service" shall mean service rendered
232 after February 1, 1953, for which credit is allowable under
233 Section 25-11-105(b) and Section 25-11-105(k).

234 (x) "System" shall mean the Public Employees'
235 Retirement System of Mississippi established and described in
236 Section 25-11-101.

237 (y) "State" shall mean the State of Mississippi or any
238 political subdivision thereof or instrumentality thereof.

239 (z) "State service" shall mean all offices and
240 positions of trust or employment in the employ of the state, or
241 any political subdivision or instrumentality thereof, which elect
242 to participate as provided by Section 25-11-105(f), including the
243 position of elected or fee officials of the counties and their
244 deputies and employees performing public services or any
245 department, independent agency, board or commission thereof, and
246 shall also include all offices and positions of trust or
247 employment in the employ of joint state and federal agencies
248 administering state and federal funds and service rendered by
249 employees of the public schools. Effective July 1, 1973, all
250 nonprofessional public school employees, such as bus drivers,
251 janitors, maids, maintenance workers and cafeteria employees,
252 shall have the option to become members in accordance with Section
253 25-11-105(b), and shall be eligible to receive credit for services
254 before July 1, 1973, provided the contributions and interest are
255 paid by the employee in accordance with that section; * * * the
256 county or municipal separate school district may pay the employer
257 contribution and pro rata share of interest of the retroactive
258 service from available funds. From and after July 1, 1998,
259 retroactive service credit shall be purchased at the actuarial
260 cost in accordance with Section 25-11-105(b).

261 (aa) "Withdrawal from service" shall mean complete
262 severance of employment in the state service of any member by
263 resignation, dismissal or discharge.



264 (bb) "Fire fighter" means a person who is trained for
265 the prevention and control of loss of life and property from fire
266 and other emergencies, who is assigned to fire fighting activity
267 and is required to respond to alarms and perform emergency actions
268 at the location of a fire, hazardous materials or other emergency
269 incident, and who is employed full time at that position.

270 (cc) "Law enforcement officer" means a person who is
271 employed full time as a lawfully sworn municipal police officer or
272 narcotics agent, sheriff, deputy sheriff, constable, conservation
273 officer, enforcement officer of the Department of Marine
274 Resources, agent or inspector of the Alcoholic Beverage Control
275 Division of the State Tax Commission, inspection station employee
276 or field inspector of the Mississippi Department of
277 Transportation, state correctional facility guard or enforcement
278 officer of the Department of Corrections, enforcement officer of
279 the Public Service Commission, or any other full-time officer or
280 employee of the state or any agency, department, institution or
281 county thereof who is authorized to carry a firearm while in the
282 performance of his official duties and who has met the minimum
283 educational and training standards established by the Board on Law
284 Enforcement Officer Standards and Training for permanent,
285 full-time law enforcement officers and has received a certificate
286 from that board.

287 (dd) The masculine pronoun, wherever used, shall
288 include the feminine pronoun.

289 **SECTION 2.** Section 25-11-111, Mississippi Code of 1972, is
290 amended as follows:

291 25-11-111. (a) (1) Except as otherwise provided in this
292 section, any member upon withdrawal from service upon or after
293 attainment of the age of sixty (60) years who has completed at
294 least four (4) years of creditable service, or any member upon
295 withdrawal from service regardless of age who has completed at
296 least twenty-five (25) years of creditable service, shall be



297 entitled to receive a retirement allowance computed in accordance
298 with the formula set forth in this section, which shall begin on
299 the first of the month following the date the member's application
300 for the allowance is received by the board, but in no event before
301 withdrawal from service.

302 (2) Any member upon withdrawal from service, regardless
303 of age, who was employed as a fire fighter or law enforcement
304 officer at the time of that withdrawal from service and who has
305 completed at least twenty (20) years of creditable service as a
306 fire fighter or law enforcement officer, shall be entitled to
307 receive a retirement allowance computed in accordance with the
308 formula set forth in this section, which shall begin on the first
309 of the month following the date the member's application for the
310 allowance is received by the board, but in no event before
311 withdrawal from service.

312 (b) Any member whose withdrawal from service occurs prior to
313 attaining the age of sixty (60) years who shall have completed
314 four (4) or more years of creditable service and shall not have
315 received a refund of his accumulated contributions shall be
316 entitled to receive a retirement allowance, beginning upon his
317 attaining the age of sixty (60) years, of the amount earned and
318 accrued at the date of withdrawal from service.

319 (c) Any member in service who has qualified for retirement
320 benefits may select any optional method of settlement of
321 retirement benefits by notifying the Executive Director of the
322 Board of Trustees of the Public Employees' Retirement System in
323 writing, on a form prescribed by the board, of the option he has
324 selected and by naming the beneficiary of such option and
325 furnishing necessary proof of age. Such option, once selected,
326 may be changed at any time prior to actual retirement or death,
327 but upon the death or retirement of the member, the optional
328 settlement shall be placed in effect upon proper notification to
329 the executive director.



330 (d) The annual amount of the retirement allowance shall
331 consist of:

332 (1) A member's annuity which shall be the actuarial
333 equivalent of the accumulated contributions of the member at the
334 time of retirement computed according to the actuarial table in
335 use by the system; and

336 (2) An employer's annuity which, together with the
337 member's annuity provided above, shall be equal to one and
338 seven-eighths percent (1-7/8%) of the average compensation for
339 each year of state service up to and including twenty-five (25)
340 years of membership service, and two and one-fourth percent
341 (2-1/4%) of the average compensation for each year of state
342 service exceeding twenty-five (25) years of membership service.
343 However, after the board of trustees has begun implementing the
344 changes in the computation of the retirement allowance as provided
345 in subsection (e), the employer's annuity shall be equal to:

346 (i) One and seven-eighths percent (1-7/8%) of the
347 average compensation for each year of membership service up to and
348 including the number of years specified in Column A of the table
349 in subsection (e) for the latest phase that has been implemented,
350 and

351 (ii) Two percent (2%) of the average compensation
352 for each year of membership service exceeding the number of years
353 specified in Column A of the table in subsection (e) for the
354 latest phase that has been implemented up to and including
355 twenty-five (25) years, and

356 (iii) The percentage of the average compensation
357 specified in Column B of the table in subsection (e) for the
358 latest phase that has been implemented for each year of membership
359 service exceeding twenty-five (25) years.

360 Notwithstanding the above, in the case of a fire fighter or
361 law enforcement officer, the employer's annuity shall be equal to
362 three and three-fourths percent (3-3/4%) of the average



363 compensation for each year of state service as a fire fighter or
364 law enforcement officer up to and including twenty (20) years of
365 membership service, and three percent (3%) of the average
366 compensation for each year of state service as a fire fighter or
367 law enforcement officer exceeding twenty (20) years of membership
368 service.

369 (3) A prior service annuity equal to one and
370 seven-eighths percent (1-7/8%) of the average compensation for
371 each year of state service up to and including twenty-five (25)
372 years of prior service, and two and one-fourth percent (2-1/4%) of
373 the average compensation for each year of state service exceeding
374 twenty-five (25) years of prior service for which the member is
375 allowed credit. However, after the board of trustees has begun
376 implementing the changes in the computation of the retirement
377 allowance as provided in subsection (e), the prior service annuity
378 shall be equal to:

379 (i) One and seven-eighths percent (1-7/8%) of the
380 average compensation for each year of prior service up to and
381 including the number of years specified in Column A of the table
382 in subsection (e) for the latest phase that has been implemented,
383 and

384 (ii) Two percent (2%) of the average compensation
385 for each year of prior service exceeding the number of years
386 specified in Column A of the table in subsection (e) for the
387 latest phase that has been implemented up to and including
388 twenty-five (25) years, and

389 (iii) The percentage of the average compensation
390 specified in Column B of the table in subsection (e) for the
391 latest phase that has been implemented for each year of prior
392 service exceeding twenty-five (25) years.

393 Notwithstanding the above, in the case of a fire fighter or
394 law enforcement officer, the prior service annuity shall be equal
395 to three and three-fourths percent (3-3/4%) of the average



396 compensation for each year of prior service as a fire fighter or
397 law enforcement officer up to and including twenty (20) years of
398 prior service, and three percent (3%) of the average compensation
399 for each year of prior service as a fire fighter or law
400 enforcement officer exceeding twenty (20) years of prior service.

401 (4) Any retired member or beneficiary thereof who was
402 eligible to receive a retirement allowance before July 1, 1991,
403 and who is still receiving a retirement allowance on July 1, 1992,
404 shall receive an increase in the annual retirement allowance of
405 the retired member equal to one-eighth of one percent (1/8 of 1%)
406 of the average compensation for each year of state service in
407 excess of twenty-five (25) years of membership service up to and
408 including thirty (30) years. The maximum increase shall be
409 five-eighths of one percent (5/8 of 1%). In no case shall a
410 member who has been retired prior to July 1, 1987, receive less
411 than Ten Dollars (\$10.00) per month for each year of creditable
412 service and proportionately for each quarter year thereof.
413 Persons retired on or after July 1, 1987, shall receive at least
414 Ten Dollars (\$10.00) per month for each year of service and
415 proportionately for each quarter year thereof reduced for the
416 option selected. However, such Ten Dollars (\$10.00) minimum per
417 month for each year of creditable service shall not apply to a
418 retirement allowance computed under Section 25-11-114 based on a
419 percentage of the member's average compensation.

420 (5) The board shall recalculate the retirement
421 allowance of any member or the beneficiary of such a member, if
422 the member or beneficiary is eligible to receive a retirement
423 allowance before July 1, 1999, by using the criteria in paragraphs
424 (2) and (3) of this subsection (d) that provides for two and
425 one-fourth percent (2-1/4%) of the average compensation for each
426 year of service exceeding twenty-five (25) years.

427 (6) * * * The retirement allowance otherwise payable
428 may be converted into a retirement allowance of equivalent



429 actuarial value in such an amount that, with the member's benefit
 430 under Title II of the federal Social Security Act, the member will
 431 receive, so far as possible, approximately the same amount
 432 annually before and after the earliest age at which the member
 433 becomes eligible to receive a social security benefit.

434 (e) Beginning on July 1, 2000, the board of trustees shall
 435 implement changes in the computation of the amount of the annual
 436 retirement allowance, which changes shall be implemented in phases
 437 as set forth in the table in this subsection. The board of
 438 trustees shall implement the phases systematically upon July 1
 439 after the board's actuary certifies that implementation of a phase
 440 will not cause the unfunded accrued actuarial liability
 441 amortization period for the retirement system to exceed twenty-two
 442 (22) years. The board of trustees shall have the exclusive
 443 authority to set the assumptions that are used in the actuarial
 444 evaluation in accordance with Section 25-11-119(9). The board of
 445 trustees shall recalculate the retirement allowance of any retired
 446 member or beneficiary of such a member as each phase is
 447 implemented.

448 RETIREMENT ALLOWANCE COMPUTATION

449 IMPLEMENTATION TABLE

450	(A)	(B)	
451	2% FOR YEARS	PERCENTAGE	
452	ABOVE THIS	FOR YEARS	
453	NUMBER AND	ABOVE 25	
454	≤25 YEARS	YEARS	
456	Phase 1	20 years	2.250%
457	Phase 2	15 years	2.250%
458	Phase 3	10 years	2.250%
459	Phase 4	5 years	2.250%
460	Phase 5	0 years	2.250%
461	Phase 6	0 years	2.375%



462 Phase 7 0 years 2.500%

463 Column A shows the years to which two percent (2%) is
464 applicable in computing the retirement allowance, which are all
465 the years of service exceeding the number specified in Column A
466 for the phase that has been implemented up to and including
467 twenty-five (25) years.

468 Column B shows the percentage that is applicable to the
469 number of years of service exceeding twenty-five (25) years in
470 computing the retirement allowance.

471 (f) No member, except members excluded by the Age
472 Discrimination in Employment Act Amendments of 1986 (Public Law
473 99-592), under either Article 1 or Article 3 in state service
474 shall be required to retire because of age.

475 (g) No payment on account of any benefit granted under the
476 provisions of this section shall become effective or begin to
477 accrue until January 1, 1953.

478 (h) (1) A retiree or beneficiary may, on a form prescribed
479 by and filed with the retirement system, irrevocably waive all or
480 a portion of any benefits from the retirement system to which the
481 retiree or beneficiary is entitled. Such waiver shall be binding
482 on the heirs and assigns of any retiree or beneficiary and the
483 same must agree to forever hold harmless the Public Employees'
484 Retirement System of Mississippi from any claim to such waived
485 retirement benefits.

486 (2) Any waiver pursuant to this subsection shall apply
487 only to the person executing the waiver. A beneficiary shall be
488 entitled to benefits according to the option selected by the
489 member at the time of retirement. However, a beneficiary may, at
490 the option of the beneficiary, execute a waiver of benefits
491 pursuant to this subsection.

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



495 (4) The board of trustees may provide rules and
496 regulations for the administration of waivers under this
497 subsection.

498 **SECTION 3.** Section 25-13-11, Mississippi Code of 1972, is
499 amended as follows:

500 25-13-11. Any member upon withdrawal from service, upon or
501 after attainment of the age of fifty-five (55) years, who has
502 completed at least five (5) years of creditable service, * * * or
503 any member upon withdrawal from service, regardless of age, who
504 has completed at least twenty (20) years of creditable service,
505 shall be entitled to receive a retirement allowance, which shall
506 be payable the first of the month following receipt of the
507 member's application in the Office of the Executive Director of
508 the Public Employees' Retirement System, but in no event before
509 withdrawal from service.

510 Any member whose withdrawal from service occurs prior to
511 attaining the age of fifty-five (55) years, who has completed more
512 than five (5) years of creditable service and has not * * *
513 received a refund of the member's accumulated contributions, shall
514 be entitled to receive a retirement allowance beginning upon his
515 attaining the age of fifty-five (55) years of the amount earned
516 and accrued at the date of withdrawal from service.

517 The annual amount of the retirement allowance shall consist
518 of:

519 (a) A member's annuity, which shall be the actuarial
520 equivalent of the accumulated contributions of the member at the
521 time of retirement, computed according to the actuarial table in
522 use by the system.

523 (b) An employer's annuity which, together with the
524 member's annuity provided above, shall be equal to three and
525 three-fourths percent (3-3/4%) of the average compensation, based
526 on the four (4) highest consecutive years, for each year of
527 membership service up to and including twenty (20) years, and



528 three percent (3%) of the average compensation for each year of
529 membership service exceeding twenty (20) years.

530 (c) A prior service annuity equal to three and
531 three-fourths percent (3-3/4%) of the average compensation, based
532 on the four (4) highest consecutive years, for each year of prior
533 service for which the member is allowed credit up to and including
534 twenty (20) years, and three percent (3%) of the average
535 compensation for each year of prior service for which the member
536 is allowed credit exceeding twenty (20) years.

537 * * *

538 (d) Upon retiring from service, a member shall be
539 eligible to obtain retirement benefits, as computed above, for
540 life, except that the aggregate amount of the employer's annuity
541 and prior service annuity above described shall not exceed more
542 than one hundred percent (100%) of the average compensation
543 regardless of the years of service.

544 (e) Any member in the service who has attained the age
545 of sixty (60) years shall be retired forthwith. However, any
546 member who has attained age sixty (60) may ask the Commissioner of
547 Public Safety to allow him to continue in service with the
548 Mississippi Highway Safety Patrol beyond age sixty (60). If the
549 commissioner determines that the member's continuance in service
550 would be advantageous to the Highway Safety Patrol because of his
551 expert knowledge, experience or qualifications, the member shall
552 be allowed to continue in service beyond age sixty (60) for a
553 period of one (1) year. After the initial one-year continuance,
554 the commissioner may authorize the member to continue in service
555 for additional periods of one (1) year until the member attains
556 age sixty-five (65), at which time retirement shall be mandatory.

557 (f) Notwithstanding any provision of this chapter
558 pertaining to the Mississippi Highway Safety Patrol Retirement
559 System, no payments may be made for a retirement allowance on a



560 monthly basis for a period of time in excess of that allowed by
561 any applicable federal law.

562 (g) In no case shall any retired member who has
563 completed at least fifteen (15) years of creditable service
564 receive less than Five Hundred Dollars (\$500.00) per month; in no
565 case shall any retired member who has completed ten (10) or more
566 years of creditable service, but less than fifteen (15) years of
567 creditable service, receive less than Three Hundred Dollars
568 (\$300.00) per month; and in no case shall any retired member who
569 has completed less than ten (10) years of creditable service
570 receive less than Two Hundred Fifty Dollars (\$250.00) per month.
571 In no case shall a beneficiary who is receiving a retirement
572 allowance receive less than Two Hundred Fifty Dollars (\$250.00)
573 per month or Three Thousand Dollars (\$3,000.00) per year.

574 (h) Any retired member who is receiving a retirement
575 allowance on July 1, 1999, shall receive an ad hoc increase in the
576 annual retirement allowance equal to Three Dollars and Fifty Cents
577 (\$3.50) per month for each full fiscal year through June 30, 1999,
578 that the member has actually drawn retirement payments from the
579 date of retirement, or the date of last retirement if there is
580 more than one (1) retirement date, plus an amount equal to One
581 Dollar (\$1.00) per month for each full year of creditable service
582 and proportionately for each quarter year of creditable service,
583 as documented by the system and on which benefits are being paid.
584 If there are multiple beneficiaries receiving a retirement
585 allowance from a deceased member's account, the ad hoc increase
586 shall be divided proportionately.

587 **SECTION 4.** Section 25-11-114, Mississippi Code of 1972, is
588 amended as follows:

589 25-11-114. (1) The applicable benefits provided in
590 subsections (2) and (3) of this section shall be paid to eligible
591 beneficiaries of any member who has completed four (4) or more
592 years of creditable service and who dies before retirement and who



593 has not filed a Pre-Retirement Optional Retirement Form as
594 provided in Section 25-11-111.

595 (2) (a) The member's surviving spouse who has been married
596 to the member for not less than one (1) year immediately preceding
597 his death shall receive an annuity computed in accordance with
598 paragraph (d) of this subsection (2) as if the member:

599 (i) Had retired on the date of his death with
600 entitlement to an annuity provided for in Section 25-11-111,
601 notwithstanding that he might not have attained age sixty (60) or
602 acquired twenty-five (25) years of creditable service or, in the
603 case of a fire fighter or law enforcement officer, twenty (20)
604 years of creditable service; and

605 (ii) Had nominated his spouse as beneficiary.

606 (b) If, at the time of the member's death, there are no
607 dependent children, and the surviving spouse, who otherwise would
608 receive the annuity under this subsection (2), has filed with the
609 system a signed written waiver of his or her rights to the annuity
610 and that waiver was in effect at the time of the member's death, a
611 lump sum distribution of the deceased member's accumulated
612 contributions shall be refunded in accordance with Section
613 25-11-117.

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

618 (d) The spouse annuity shall be the greater of twenty
619 percent (20%) of the deceased member's average compensation as
620 defined in Section 25-11-103 at the time of death or Fifty Dollars
621 (\$50.00) monthly. If the spouse dies or if the spouse remarries
622 before age sixty (60), the spouse annuity shall terminate.

623 (e) However, the spouse may elect by an irrevocable
624 agreement on a form prescribed by the board of trustees to receive
625 a monthly allowance as computed under either paragraph (d) or this



626 paragraph. Such irrevocable agreement shall constitute a waiver
627 by the spouse to any current and future monthly allowance under
628 the paragraph not elected and such waiver shall be a complete and
629 full discharge of all obligations of the retirement system under
630 such paragraph.

631 Any member who has completed four (4) or more years of
632 creditable service and who dies before retirement and leaves a
633 spouse who has been married to the member for not less than one
634 (1) year immediately preceding his death and has not exercised any
635 other option shall be deemed to have exercised Option 2 under
636 Section 25-11-115 for the benefit of his spouse, which spouse
637 shall be paid Option 2 settlement benefits under this article
638 beginning on the first of the month following the date of death,
639 but in case of late filing, retroactive payments will be made for
640 a period of not more than one (1) year. The method of calculating
641 such retirement benefits shall be on the same basis as provided in
642 Section 25-11-111(d). However, if the member dies before being
643 qualified for full unreduced benefits, then the benefits shall be
644 reduced by three percent (3%) per year for the lesser of either
645 the years of service or age required for full unreduced benefits
646 in Section 25-11-111(d).

647 (3) (a) Subject to the maximum limitation provided in this
648 paragraph, the member's dependent children each shall receive an
649 annuity of the greater of ten percent (10%) of the member's
650 average compensation as defined in Section 25-11-103 at the time
651 of the death of the member or Fifty Dollars (\$50.00) monthly;
652 however, if there are more than three (3) dependent children, each
653 dependent child shall receive an equal share of a total annuity
654 equal to thirty percent (30%) of the member's average
655 compensation, provided that such total annuity shall not be less
656 than One Hundred Fifty Dollars (\$150.00) per month for all
657 children.



658 (b) A child shall be considered to be a dependent child
659 until marriage, or the attainment of age nineteen (19), whichever
660 comes first; however, this age limitation shall be extended beyond
661 age nineteen (19), but in no event beyond the attainment of age
662 twenty-three (23), as long as the child is a student regularly
663 pursuing a full-time course of resident study or training in an
664 accredited high school, trade school, technical or vocational
665 institute, junior or community college, college, university or
666 comparable recognized educational institution duly licensed by a
667 state. A student child whose birthday falls during the school
668 year (September 1 through June 30) is considered not to reach age
669 twenty-three (23) until the July 1 following the actual
670 twenty-third birthday. A full-time course of resident study or
671 training means a day or evening noncorrespondence course that
672 includes school attendance at the rate of at least thirty-six (36)
673 weeks per academic year or other applicable period with a subject
674 load sufficient, if successfully completed, to attain the
675 educational or training objective within the period generally
676 accepted as minimum for completion, by a full-time day student, of
677 the academic or training program concerned. Any child who is
678 physically or mentally incompetent, as adjudged by either a
679 Mississippi court of competent jurisdiction or by the board, shall
680 receive benefits for as long as the incompetency exists.

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

685 (d) Annuities payable under this subsection (3) shall
686 begin the first day of the month following the date of the
687 member's death or in case of late filing, retroactive payments
688 will be made for a period of not more than one (1) year. Such
689 benefits may be paid to a surviving parent or the lawful custodian



690 of a dependent child for the use and benefit of such child without
691 the necessity of appointment as guardian.

692 (4) (a) Death benefits in the line of duty. Regardless of
693 the number of years of the member's creditable service, the spouse
694 and/or the dependent children of an active member who is killed in
695 the line of performance of duty or dies as a direct result of an
696 accident occurring in the line of performance of duty shall
697 qualify, on approval of the board, for a retirement allowance on
698 the first of the month following the date of death, but in the
699 case of late filing, retroactive payments will be made for a
700 period of not more than one (1) year. The spouse shall receive a
701 retirement allowance equal to one-half (1/2) of the average
702 compensation as defined in Section 25-11-103. In addition to the
703 retirement allowance for the spouse, or if there is no surviving
704 spouse, the member's dependent child shall receive a retirement
705 allowance in the amount of one-fourth (1/4) of the member's
706 average compensation as defined in Section 25-11-103; however, if
707 there are two (2) or more dependent children, each dependent child
708 shall receive an equal share of a total annuity equal to one-half
709 (1/2) of the member's average compensation. If there are more
710 than two (2) dependent children, upon a child's ceasing to be a
711 dependent child, his annuity shall terminate and there shall be a
712 redetermination of the amounts payable to any remaining dependent
713 children. Such benefits shall cease to be paid for the support
714 and maintenance of each child upon such child attaining the age of
715 nineteen (19) years; however, the spouse shall continue to be
716 eligible for the aforesaid retirement allowance. Such benefits
717 may be paid to a surviving parent or lawful custodian of such
718 children for the use and benefit of the children without the
719 necessity of appointment as guardian. Such retirement allowance
720 shall cease to the spouse upon remarriage but continue to be
721 payable for each dependent child until the age of nineteen (19)
722 years.



723 (b) A child shall be considered to be a dependent child
724 until marriage, or the attainment of age nineteen (19), whichever
725 comes first; however, this age limitation shall be extended beyond
726 age nineteen (19), but in no event beyond the attainment of age
727 twenty-three (23), as long as the child is a student regularly
728 pursuing a full-time course of resident study or training in an
729 accredited high school, trade school, technical or vocational
730 institute, junior or community college, college, university or
731 comparable recognized educational institution duly licensed by a
732 state. A student child whose birthday falls during the school
733 year (September 1 through June 30) is considered not to reach age
734 twenty-three (23) until the July 1 following the actual
735 twenty-third birthday. A full-time course of resident study or
736 training means a day or evening noncorrespondence course that
737 includes school attendance at the rate of at least thirty-six (36)
738 weeks per academic year or other applicable period with a subject
739 load sufficient, if successfully completed, to attain the
740 educational or training objective within the period generally
741 accepted as minimum for completion, by a full-time day student, of
742 the academic or training program concerned. Any child who is
743 physically or mentally incompetent, as adjudged by either a
744 Mississippi court of competent jurisdiction or by the board, shall
745 receive benefits for as long as the incompetency exists.

746 (5) If all the annuities provided for in this section
747 payable on account of the death of a member terminate before there
748 has been paid an aggregate amount equal to the member's
749 accumulated contributions standing to the member's credit in the
750 annuity savings account at the time of the member's death, the
751 difference between the accumulated contributions and the aggregate
752 amount of annuity payments shall be paid to such person as the
753 member has nominated by written designation duly executed and
754 filed with the board. If there is no designated beneficiary



755 surviving at termination of benefits, the difference shall be
756 payable pursuant to Section 25-11-117.1(1).

757 (6) Regardless of the number of years of creditable service
758 upon the application of a member or employer, any active member
759 who becomes disabled as a direct result of an accident or
760 traumatic event resulting in a physical injury occurring in the
761 line of performance of duty, provided the medical board or other
762 designated governmental agency after a medical examination
763 certifies that the member is mentally or physically incapacitated
764 for the further performance of duty and such incapacity is likely
765 to be permanent, may be retired by the board of trustees on the
766 first of the month following the date of filing such application
767 but in no event shall the retirement allowance commence before the
768 termination of state service. The retirement allowance shall
769 equal the allowance on disability retirement as provided in
770 Section 25-11-113 but shall not be less than fifty percent (50%)
771 of average compensation.

772 Permanent and total disability resulting from a
773 cardiovascular, pulmonary or musculo-skeletal condition which was
774 not a direct result of a traumatic event occurring in the
775 performance of duty shall be deemed an ordinary disability. A
776 mental disability based exclusively on employment duties occurring
777 on an ongoing basis shall be deemed an ordinary disability.

778 (7) In the event the deceased or disabled member has less
779 than four (4) years of creditable service, the average
780 compensation as defined in Section 25-11-103 shall be the average
781 of all annual earned compensation in state service for the
782 purposes of benefits provided in this section.

783 (8) In case of death or total and permanent disability under
784 subsection (4) or subsection (6) of this section and before the
785 board shall consider any application for a retirement allowance,
786 the employer must certify to the board that the member's death or
787 disability was a direct result of an accident or a traumatic event



788 occurring during and as a result of the performance of the regular
789 and assigned duties of the employee and that the death or
790 disability was not the result of the willful negligence of the
791 employee.

792 (9) The application for such retirement allowance must be
793 filed within one (1) year after death of an active member who is
794 killed in the line of performance of duty or dies as a direct
795 result of an accident occurring in the line of performance of duty
796 or traumatic event; but the board of trustees may consider an
797 application for disability filed after the one-year period if it
798 can be factually demonstrated to the satisfaction of the board of
799 trustees that the disability is due to the accident and that the
800 filing was not accomplished within the one-year period due to a
801 delayed manifestation of the disability or to circumstances beyond
802 the control of the member. However, in case of late filing,
803 retroactive payments will be made for a period of not more than
804 one (1) year only.

805 (10) Notwithstanding any other section of this article and
806 in lieu of any payments to a designated beneficiary for a refund
807 of contributions under Section 25-11-117, the spouse and/or
808 children shall be eligible for the benefits payable pursuant to
809 this section, and the spouse may elect, for both the spouse and/or
810 children, to receive benefits in accordance with either
811 subsections (2) and (3) or subsection (4) of this section;
812 otherwise, the contributions to the credit of the deceased member
813 shall be refunded in accordance with Section 25-11-117.

814 (11) If the member has previously received benefits from the
815 system to which he was not entitled and has not repaid in full all
816 amounts payable by him to the system, the annuity amounts
817 otherwise provided by this section shall be withheld and used to
818 effect repayment until the total of the withholdings repays in
819 full all amounts payable by him to the system.



820 **SECTION 5.** This act shall take effect and be in force from
821 and after July 1, 2002.

