

By: Representative Moore (60th)

To: Appropriations

## HOUSE BILL NO. 1533

1 AN ACT TO ALLOW ANY PERSON WHO BECOMES A MEMBER OF THE PUBLIC  
2 EMPLOYEES' RETIREMENT SYSTEM AFTER JUNE 30, 2002, TO ELECT TO HAVE  
3 ALL OF HIS OR HER EMPLOYEE AND EMPLOYER CONTRIBUTIONS PAID INTO  
4 THE DEFERRED COMPENSATION PROGRAM INSTEAD OF INTO THE RETIREMENT  
5 SYSTEM; TO PROVIDE THAT ANY PERSON WHO MAKES THAT ELECTION WILL  
6 NOT EARN ANY CREDITABLE SERVICE IN THE RETIREMENT SYSTEM, AND WILL  
7 NOT BE ELIGIBLE FOR A RETIREMENT ALLOWANCE, A DISABILITY  
8 RETIREMENT ALLOWANCE OR DEATH BENEFITS UNDER THE RETIREMENT  
9 SYSTEM; TO PROVIDE THAT A PERSON MAY MAKE THE ELECTION WITHIN ONE  
10 YEAR FROM THE DATE THAT THE PERSON WAS EMPLOYED IN STATE SERVICE;  
11 TO PROVIDE THAT AN ELECTION MADE UNDER THIS SECTION IS IRREVOCABLE  
12 AFTER IT HAS BEEN MADE; TO PROVIDE THAT IF A PERSON WHO MADE THE  
13 ELECTION LEAVES STATE SERVICE FOR MORE THAN ONE YEAR AND LATER  
14 RETURNS TO EMPLOYMENT IN STATE SERVICE, THE PERSON WILL HAVE THE  
15 OPPORTUNITY TO MAKE ANOTHER ELECTION THAT APPLIES TO THE LATER  
16 EMPLOYMENT; TO AMEND SECTIONS 25-11-109, 25-11-111, 25-11-113,  
17 25-11-114, 25-11-117, 25-11-123, 25-11-127, AND 25-14-11,  
18 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS;  
19 AND FOR RELATED PURPOSES.

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

21 **SECTION 1.** (1) Any person who is employed in state service  
22 after June 30, 2002, and becomes a member of the Public Employees'  
23 Retirement System may elect to have all of his or her employee and  
24 employer contributions made under Section 25-11-123 paid into the  
25 deferred compensation program established under Section 25-14-1 et  
26 seq. instead of into the Public Employees' Retirement System.

27 (2) If a person makes the election under this section, the  
28 person will still be a member of the Public Employees' Retirement  
29 System, but the person will not earn any creditable service in the  
30 Public Employees' Retirement System, and will not be eligible for  
31 a retirement allowance a disability retirement allowance or death  
32 benefits under the Public Employees' Retirement System.

33 (3) Any person eligible to make the election under this  
34 section may make the election within one (1) year from the date  
35 that the person was employed in state service. At the time that



36 the election is made, all of the person's employee and employer  
37 contributions that were made to the Public Employees' Retirement  
38 System from the time the person became employed until the time the  
39 election is made shall be transferred to the deferred compensation  
40 program to the credit of the person.

41 (4) An election made under this section is irrevocable after  
42 it has been made. However, if a person who made the election  
43 leaves state service for more than one (1) year and later returns  
44 to employment in state service, the person will have the  
45 opportunity to make another election under this section, in the  
46 same manner as for the original election, that applies to the  
47 later employment. If the person does not make the election for  
48 his or her later employment, none of the employee and employer  
49 contributions that were made to the deferred compensation program  
50 may be transferred to the Public Employees' Retirement System, and  
51 the person will not receive creditable service in the Public  
52 Employees' Retirement System for the years of his or her previous  
53 employment while operating under the election.

54 **SECTION 2.** Section 25-11-109, Mississippi Code of 1972, is  
55 amended as follows:

56 25-11-109. (1) Under such rules and regulations as the  
57 board of trustees shall adopt, each person who becomes a member of  
58 this retirement system, as provided in Section 25-11-105, on or  
59 prior to July 1, 1953, or who becomes a member and contributes to  
60 the system for a minimum period of four (4) years, shall receive  
61 credit for all state service rendered before February 1, 1953. To  
62 receive such credit, such member shall file a detailed statement  
63 of all services as an employee rendered by him in the state  
64 service before February 1, 1953. For any member who joined the  
65 system after July 1, 1953, any creditable service for which the  
66 member is not required to make contributions shall not be credited  
67 to the member until the member has contributed to the system for a  
68 minimum period of at least four (4) years.



69           (2) In the computation of membership service or prior  
70 service under the provisions of this article, the total months of  
71 accumulative service during any fiscal year shall be calculated in  
72 accordance with the schedule as follows: ten (10) or more months  
73 of creditable service during any fiscal year shall constitute a  
74 year of creditable service; seven (7) months to nine (9) months  
75 inclusive, three-quarters (3/4) of a year of creditable service;  
76 four (4) months to six (6) months inclusive, one-half-year of  
77 creditable service; one (1) month to three (3) months inclusive,  
78 one-quarter (1/4) of a year of creditable service. In no case  
79 shall credit be allowed for any period of absence without  
80 compensation except for disability while in receipt of a  
81 disability retirement allowance, nor shall less than fifteen (15)  
82 days of service in any month, or service less than the equivalent  
83 of one-half (1/2) of the normal working load for the position and  
84 less than one-half (1/2) of the normal compensation for the  
85 position in any month, constitute a month of creditable service,  
86 nor shall more than one (1) year of service be creditable for all  
87 services rendered in any one (1) fiscal year; provided that for a  
88 school employee, substantial completion of the legal school term  
89 when and where the service was rendered shall constitute a year of  
90 service credit for both prior service and membership service. Any  
91 state or local elected official shall be deemed a full-time  
92 employee for the purpose of creditable service for prior service  
93 or membership service. However, an appointed or elected official  
94 compensated on a per diem basis only shall not be allowed  
95 creditable service for terms of office.

96           In the computation of any retirement allowance or any annuity  
97 or benefits provided in this article, any fractional period of  
98 service of less than one (1) year shall be taken into account and  
99 a proportionate amount of such retirement allowance, annuity or  
100 benefit shall be granted for any such fractional period of  
101 service.



102 In the computation of unused leave for creditable service  
103 authorized in Section 25-11-103, the following shall govern:  
104 twenty-one (21) days of unused leave shall constitute one (1)  
105 month of creditable service and in no case shall credit be allowed  
106 for any period of unused leave of less than fifteen (15) days.  
107 The number of months of unused leave shall determine the number of  
108 quarters or years of creditable service in accordance with the  
109 above schedule for membership and prior service. In order for the  
110 member to receive creditable service for the number of days of  
111 unused leave, the system must receive certification from the  
112 governing authority.

113 For the purpose of this subsection, for members of the system  
114 who are elected officers and who retire on or after July 1, 1987,  
115 the following shall govern:

116 (a) For service prior to July 1, 1984, the members  
117 shall receive credit for leave (combined personal and major  
118 medical) for service as an elected official prior to that date at  
119 the rate of thirty (30) days per year.

120 (b) For service on and after July 1, 1984, the member  
121 shall receive credit for personal and major medical leave  
122 beginning July 1, 1984, at the rates authorized in Sections  
123 25-3-93 and 25-3-95, computed as a full-time employee.

124 (3) Subject to the above restrictions and to such other  
125 rules and regulations as the board may adopt, the board shall  
126 verify, as soon as practicable after the filing of such statements  
127 of service, the services therein claimed.

128 (4) Upon verification of the statement of prior service, the  
129 board shall issue a prior service certificate certifying to each  
130 member the length of prior service for which credit shall have  
131 been allowed on the basis of his statement of service. So long as  
132 membership continues, a prior service certificate shall be final  
133 and conclusive for retirement purposes as to such service,  
134 provided that any member may within five (5) years from the date



135 of issuance or modification of such certificate request the board  
136 of trustees to modify or correct his prior service certificate.  
137 Any modification or correction authorized shall only apply  
138 prospectively.

139 When membership ceases, such prior service certificates shall  
140 become void. Should the employee again become a member, he shall  
141 enter the system as an employee not entitled to prior service  
142 credit except as provided in Sections 25-11-105(I), 25-11-113 and  
143 25-11-117.

144 (5) Creditable service at retirement, on which the  
145 retirement allowance of a member shall be based, shall consist of  
146 the membership service rendered by him since he last became a  
147 member, and also, if he has a prior service certificate which is  
148 in full force and effect, the amount of the service certified on  
149 his prior service certificate.

150 (6) Anything in this article to the contrary  
151 notwithstanding, any member who served on active duty in the Armed  
152 Forces of the United States, or who served in maritime service  
153 during periods of hostility in World War II, shall be entitled to  
154 creditable service at no cost for his service on active duty in  
155 the Armed Forces or in such maritime service, provided he entered  
156 state service after his discharge from the Armed Forces or entered  
157 state service after he completed such maritime service. The  
158 maximum period for such creditable service for all military  
159 service as defined in this subsection (6) shall not exceed four  
160 (4) years unless positive proof can be furnished by such person  
161 that he was retained in the Armed Forces during World War II or in  
162 maritime service during World War II by causes beyond his control  
163 and without opportunity of discharge. The member shall furnish  
164 proof satisfactory to the board of trustees of certification of  
165 military service or maritime service records showing dates of  
166 entrance into active duty service and the date of discharge. From  
167 and after July 1, 1993, no creditable service shall be granted for



168 any military service or maritime service to a member who qualifies  
169 for a retirement allowance in another public retirement system  
170 administered by the Board of Trustees of the Public Employees'  
171 Retirement System based in whole or in part on such military or  
172 maritime service. In no case shall the member receive creditable  
173 service if the member received a dishonorable discharge from the  
174 Armed Forces of the United States.

175 (7) (a) Any member of the Public Employees' Retirement  
176 System whose membership service is interrupted as a result of  
177 qualified military service within the meaning of Section 414(u)(5)  
178 of the Internal Revenue Code, and who has received the maximum  
179 service credit available under subsection (6) of this section,  
180 shall receive creditable service for the period of qualified  
181 military service that does not qualify as creditable service under  
182 subsection (6) of this section upon reentering membership service  
183 in an amount not to exceed five (5) years if:

184 (i) The member pays the contributions he would  
185 have made to the retirement system if he had remained in  
186 membership service for the period of qualified military service  
187 based upon his salary at the time his membership service was  
188 interrupted;

189 (ii) The member returns to membership service  
190 within ninety (90) days of the end of his qualified military  
191 service; and

192 (iii) The employer at the time the member's  
193 service was interrupted and to which employment the member returns  
194 pays the contributions it would have made into the retirement  
195 system for such period based on the member's salary at the time  
196 the service was interrupted.

197 (b) The payments required to be made in paragraph  
198 (a)(i) of this subsection may be made over a period beginning with  
199 the date of return to membership service and not exceeding three  
200 (3) times the member's qualified military service; provided,



201 however, that in no event shall such period exceed fifteen (15)  
202 years.

203 (c) The member shall furnish proof satisfactory to the  
204 board of trustees of certification of military service showing  
205 dates of entrance into qualified service and the date of discharge  
206 as well as proof that the member has returned to active employment  
207 within the time specified.

208 (8) Any member of the Public Employees' Retirement System  
209 who has at least four (4) years of membership service credit shall  
210 be entitled to receive a maximum of five (5) years creditable  
211 service for service rendered in another state as a public employee  
212 of such other state, or a political subdivision, public education  
213 system or other governmental instrumentality thereof, or service  
214 rendered as a teacher in American overseas dependent schools  
215 conducted by the Armed Forces of the United States for children of  
216 citizens of the United States residing in areas outside the  
217 continental United States, provided that:

218 (a) The member shall furnish proof satisfactory to the  
219 board of trustees of certification of such services from the  
220 state, public education system, political subdivision or  
221 retirement system of the state where the services were performed  
222 or the governing entity of the American overseas dependent school  
223 where the services were performed; and

224 (b) The member is not receiving or will not be entitled  
225 to receive from the public retirement system of the other state or  
226 from any other retirement plan, including optional retirement  
227 plans, sponsored by the employer, a retirement allowance including  
228 such services; and

229 (c) The member shall pay to the retirement system on  
230 the date he or she is eligible for credit for such out-of-state  
231 service or at any time thereafter prior to date of retirement the  
232 actuarial cost as determined by the actuary for each year of  
233 out-of-state creditable service. The provisions of this



234 subsection are subject to the limitations of Section 415 of the  
235 Internal Revenue Code and regulations promulgated thereunder.

236 (9) Any member of the Public Employees' Retirement System  
237 who has at least four (4) years of membership service credit and  
238 who receives, or has received, professional leave without  
239 compensation for professional purposes directly related to the  
240 employment in state service shall receive creditable service for  
241 the period of professional leave without compensation provided:

242 (a) The professional leave is performed with a public  
243 institution or public agency of this state, or another state or  
244 federal agency;

245 (b) The employer approves the professional leave  
246 showing the reason for granting the leave and makes a  
247 determination that the professional leave will benefit the  
248 employee and employer;

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

251 (d) The employee shall serve the employer on a  
252 full-time basis for a period of time equivalent to the  
253 professional leave period granted immediately following the  
254 termination of the leave period;

255 (e) The contributing member shall pay to the retirement  
256 system the actuarial cost as determined by the actuary for each  
257 year of professional leave. The provisions of this subsection are  
258 subject to the regulations of the Internal Revenue Code  
259 limitations;

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

263 Any actively contributing member participating in the School  
264 Administrator Sabbatical Program established in Section 37-9-77  
265 shall qualify for continued participation under this subsection  
266 (9).





267 (10) Any member of the Public Employees' Retirement System  
268 who has at least four (4) years of credited membership service  
269 shall be entitled to receive a maximum of ten (10) years  
270 creditable service for:

271 (a) Any service rendered as an employee of any  
272 political subdivision of this state, or any instrumentality  
273 thereof, which does not participate in the Public Employees'  
274 Retirement System; or

275 (b) Any service rendered as an employee of any  
276 political subdivision of this state, or any instrumentality  
277 thereof, which participates in the Public Employees' Retirement  
278 System but did not elect retroactive coverage; or

279 (c) Any service rendered as an employee of any  
280 political subdivision of this state, or any instrumentality  
281 thereof, for which coverage of the employee's position was or is  
282 excluded; provided that the member pays into the retirement system  
283 the actuarial cost as determined by the actuary for each year, or  
284 portion thereof, of such service. Payment for such service may be  
285 made in increments of one-quarter-year of creditable service.  
286 After a member has made full payment to the retirement system for  
287 all or any part of such service, the member shall receive  
288 creditable service for the period of such service for which full  
289 payment has been made to the retirement system.

290 (11) Any person who has made the election provided for under  
291 Section 1 of this act is not eligible for creditable service under  
292 this article for the person's employment while operating under the  
293 election.

294 **SECTION 3.** Section 25-11-111, Mississippi Code of 1972, is  
295 amended as follows:

296 25-11-111. (a) Any member upon withdrawal from service upon  
297 or after attainment of the age of sixty (60) years who shall have  
298 completed at least four (4) years of creditable service, or any  
299 member upon withdrawal from service regardless of age who shall



300 have completed at least twenty-five (25) years of creditable  
301 service, shall be entitled to receive a retirement allowance which  
302 shall begin on the first of the month following the date the  
303 member's application for the allowance is received by the board,  
304 but in no event before withdrawal from service.

305 (b) Any member whose withdrawal from service occurs prior to  
306 attaining the age of sixty (60) years who shall have completed  
307 four (4) or more years of creditable service and shall not have  
308 received a refund of his accumulated contributions shall be  
309 entitled to receive a retirement allowance, beginning upon his  
310 attaining the age of sixty (60) years, of the amount earned and  
311 accrued at the date of withdrawal from service.

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

323 (d) The annual amount of the retirement allowance shall  
324 consist of:

325 (1) A member's annuity which shall be the actuarial  
326 equivalent of the accumulated contributions of the member at the  
327 time of retirement computed according to the actuarial table in  
328 use by the system; and

329 (2) An employer's annuity which, together with the  
330 member's annuity provided above, shall be equal to one and  
331 seven-eighths percent (1-7/8%) of the average compensation for  
332 each year of state service up to and including twenty-five (25)



333 years of membership service, and two and one-fourth percent  
334 (2-1/4%) of the average compensation for each year of state  
335 service exceeding twenty-five (25) years of membership service.  
336 However, after the board of trustees has begun implementing the  
337 changes in the computation of the retirement allowance as provided  
338 in subsection (e), the employer's annuity shall be equal to:

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

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

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

353 (3) A prior service annuity equal to one and  
354 seven-eighths percent (1-7/8%) of the average compensation for  
355 each year of state service up to and including twenty-five (25)  
356 years of prior service, and two and one-fourth percent (2-1/4%) of  
357 the average compensation for each year of state service exceeding  
358 twenty-five (25) years of prior service for which the member is  
359 allowed credit. However, after the board of trustees has begun  
360 implementing the changes in the computation of the retirement  
361 allowance as provided in subsection (e), the prior service annuity  
362 shall be equal to:

363 (i) One and seven-eighths percent (1-7/8%) of the  
364 average compensation for each year of prior service up to and  
365 including the number of years specified in Column A of the table



366 in subsection (e) for the latest phase that has been implemented,  
367 and

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

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

377 (4) Any retired member or beneficiary thereof who was  
378 eligible to receive a retirement allowance before July 1, 1991,  
379 and who is still receiving a retirement allowance on July 1, 1992,  
380 shall receive an increase in the annual retirement allowance of  
381 the retired member equal to one-eighth of one percent (1/8 of 1%)  
382 of the average compensation for each year of state service in  
383 excess of twenty-five (25) years of membership service up to and  
384 including thirty (30) years. The maximum increase shall be  
385 five-eighths of one percent (5/8 of 1%). In no case shall a  
386 member who has been retired prior to July 1, 1987, receive less  
387 than Ten Dollars (\$10.00) per month for each year of creditable  
388 service and proportionately for each quarter year thereof.  
389 Persons retired on or after July 1, 1987, shall receive at least  
390 Ten Dollars (\$10.00) per month for each year of service and  
391 proportionately for each quarter year thereof reduced for the  
392 option selected. However, such Ten Dollars (\$10.00) minimum per  
393 month for each year of creditable service shall not apply to a  
394 retirement allowance computed under Section 25-11-114 based on a  
395 percentage of the member's average compensation.

396 (5) The board shall recalculate the retirement  
397 allowance of any member or the beneficiary of such a member, if  
398 the member or beneficiary is eligible to receive a retirement



399 allowance before July 1, 1999, by using the criteria in paragraphs  
400 (2) and (3) of this subsection (d) that provides for two and  
401 one-fourth percent (2-1/4%) of the average compensation for each  
402 year of service exceeding twenty-five (25) years.

403 (6) Any member upon withdrawal from service upon or  
404 after attaining the age of sixty (60) years who has completed at  
405 least four (4) years of creditable service, or any member upon  
406 withdrawal from service regardless of age who has completed at  
407 least twenty-five (25) years of creditable service, shall be  
408 entitled to receive a retirement allowance computed in accordance  
409 with the formula set forth in this section. Such retirement  
410 allowance otherwise payable may be converted into a retirement  
411 allowance of equivalent actuarial value in such an amount that,  
412 with the member's benefit under Title II of the federal Social  
413 Security Act, the member will receive, so far as possible,  
414 approximately the same amount annually before and after the  
415 earliest age at which the member becomes eligible to receive a  
416 social security benefit.

417 (e) Beginning on July 1, 2000, the board of trustees shall  
418 implement changes in the computation of the amount of the annual  
419 retirement allowance, which changes shall be implemented in phases  
420 as set forth in the table in this subsection. The board of  
421 trustees shall implement the phases systematically upon July 1  
422 after the board's actuary certifies that implementation of a phase  
423 will not cause the unfunded accrued actuarial liability  
424 amortization period for the retirement system to exceed twenty-two  
425 (22) years. The board of trustees shall have the exclusive  
426 authority to set the assumptions that are used in the actuarial  
427 evaluation in accordance with Section 25-11-119(9). The board of  
428 trustees shall recalculate the retirement allowance of any retired  
429 member or beneficiary of such a member as each phase is  
430 implemented.

431 RETIREMENT ALLOWANCE COMPUTATION



432

IMPLEMENTATION TABLE

433

(A)

(B)

434

PHASE

2% FOR YEARS

PERCENTAGE

435

ABOVE THIS

FOR YEARS

436

NUMBER AND

ABOVE 25

437

≤25 YEARS

YEARS

438

439

Phase 1

20 years

2.250%

440

Phase 2

15 years

2.250%

441

Phase 3

10 years

2.250%

442

Phase 4

5 years

2.250%

443

Phase 5

0 years

2.250%

444

Phase 6

0 years

2.375%

445

Phase 7

0 years

2.500%

446

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

451

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

454

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

458

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

461

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



465 on the heirs and assigns of any retiree or beneficiary and the  
466 same must agree to forever hold harmless the Public Employees'  
467 Retirement System of Mississippi from any claim to such waived  
468 retirement benefits.

469 (2) Any waiver pursuant to this subsection shall apply  
470 only to the person executing the waiver. A beneficiary shall be  
471 entitled to benefits according to the option selected by the  
472 member at the time of retirement. However, a beneficiary may, at  
473 the option of the beneficiary, execute a waiver of benefits  
474 pursuant to this subsection.

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

478 (4) The board of trustees may provide rules and  
479 regulations for the administration of waivers under this  
480 subsection.

481 (i) Any person who has made the election provided for under  
482 Section 1 of this act is not eligible for a retirement allowance  
483 under this section based on any period of the person's employment  
484 while operating under the election.

485 **SECTION 4.** Section 25-11-113, Mississippi Code of 1972, is  
486 amended as follows:

487 25-11-113. (1) (a) Upon the application of a member or his  
488 employer, any active member in state service who has at least four  
489 (4) years of membership service credit may be retired by the board  
490 of trustees on the first of the month following the date of filing  
491 such application on a disability retirement allowance, but in no  
492 event shall the disability retirement allowance commence before  
493 termination of state service, provided that the medical board,  
494 after a medical examination, shall certify that the member is  
495 mentally or physically incapacitated for the further performance  
496 of duty, that such incapacity is likely to be permanent, and that  
497 the member should be retired; however, the board of trustees may



498 accept a disability medical determination from the Social Security  
499 Administration in lieu of a certification from the medical board.  
500 For the purposes of disability determination, the medical board  
501 shall apply the following definition of disability: the inability  
502 to perform the usual duties of employment or the incapacity to  
503 perform such lesser duties, if any, as the employer, in its  
504 discretion, may assign without material reduction in compensation,  
505 or the incapacity to perform the duties of any employment covered  
506 by the Public Employees' Retirement System (Section 25-11-101 et  
507 seq.) that is actually offered and is within the same general  
508 territorial work area, without material reduction in compensation.  
509 The employer shall be required to furnish the job description and  
510 duties of the member. The employer shall further certify whether  
511 the employer has offered the member other duties and has complied  
512 with the applicable provisions of the Americans With Disabilities  
513 Act in affording reasonable accommodations which would allow the  
514 employee to continue employment.

515 (b) Any inactive member with four (4) or more years of  
516 membership service credit, who has withdrawn from active state  
517 service, is not eligible for a disability retirement allowance  
518 unless the disability occurs within six (6) months of the  
519 termination of active service and unless satisfactory proof is  
520 presented to the board of trustees that the disability was the  
521 direct cause of withdrawal from state service.

522 (c) If the medical board certifies that the member is  
523 not mentally or physically incapacitated for the future  
524 performance of duty, the member may request, within sixty (60)  
525 days, a hearing before the hearing officer as provided in Section  
526 25-11-120. All hearings shall be held in accordance with rules  
527 and regulations adopted by the board of trustees to govern such  
528 hearings. Such hearing may be closed upon the request of the  
529 member.





530           (d) The medical board may request additional medical  
531 evidence and/or other physicians to conduct an evaluation of the  
532 member's condition. If the medical board requests additional  
533 medical evidence and the member refuses the request, the  
534 application shall be considered void.

535           (2) Allowance on disability retirement.

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

539           (b) Except as provided in paragraph (c) of this  
540 subsection (2), an eligible member who is retired for disability  
541 and who has not attained sixty (60) years of age shall receive a  
542 disability benefit as computed in Section 25-11-111(d)(1) through  
543 (d)(4) which shall consist of:

544                   (i) A member's annuity which shall be the  
545 actuarial equivalent of his accumulated contributions at the time  
546 of retirement; and

547                   (ii) An employer's annuity equal to the amount  
548 that would have been payable as a retirement allowance for both  
549 membership service and prior service had the member continued in  
550 service to the age of sixty (60) years, which shall apply to the  
551 allowance for disability retirement paid to retirees receiving  
552 such allowance upon and after April 12, 1977. This employer's  
553 annuity shall be computed on the basis of the average "earned  
554 compensation" as defined in Section 25-11-103.

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

560           The temporary allowance shall equal the greater of (i) forty  
561 percent (40%) of average compensation at the time of disability,  
562 plus ten percent (10%) of average compensation for each of the



563 first two (2) dependent children, as defined in Sections 25-11-103  
564 and 25-11-114, or (ii) the accrued benefit based on actual  
565 service. It shall be payable for a period of time based on the  
566 member's age at disability, as follows:

567	Age at Disability	Duration
568	60 and earlier	to age 65
569	61	to age 66
570	62	to age 66
571	63	to age 67
572	64	to age 67
573	65	to age 68
574	66	to age 68
575	67	to age 69
576	68	to age 70
577	69 and over	one year

578 The deferred allowance shall commence when the temporary  
579 allowance ceases and shall be payable for life. The deferred  
580 allowance shall equal the greater of (i) the allowance that would  
581 have been payable had the member continued in service to the  
582 termination age of the temporary allowance, but no more than forty  
583 percent (40%) of average compensation, or (ii) the accrued benefit  
584 based on actual service at the time of disability. The deferred  
585 allowance as determined at the time of disability shall be  
586 adjusted in accordance with Section 25-11-112 for the period  
587 during which the temporary annuity is payable. In no case shall a  
588 member receive less than Ten Dollars (\$10.00) per month for each  
589 year of service and proportionately for each quarter year thereof  
590 reduced for the option selected.

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



595           (e) Should a disability retiree who has not selected an  
596 option under Section 25-11-115 die before being repaid in  
597 disability benefits the sum of his total contributions, then his  
598 named beneficiary shall receive the difference in cash, which  
599 shall apply to all deceased disability retirees from and after  
600 January 1, 1953.

601           (3) Reexamination of retirees retired on account of  
602 disability. Except as otherwise provided in this section, once  
603 each year during the first five (5) years following retirement of  
604 a member on a disability retirement allowance, and once in every  
605 period of three (3) years thereafter, the board of trustees may,  
606 and upon his application shall, require any disability retiree who  
607 has not yet attained the age of sixty (60) years or the  
608 termination age of the temporary allowance under paragraph (2)(c)  
609 of this section to undergo a medical examination, such examination  
610 to be made at the place of residence of said retiree or other  
611 place mutually agreed upon by a physician or physicians designated  
612 by the board. The board, however, in its discretion, may  
613 authorize the medical board to establish reexamination schedules  
614 appropriate to the medical condition of individual disability  
615 retirees. Should any disability retiree who has not yet attained  
616 the age of sixty (60) years or the termination age of the  
617 temporary allowance under paragraph (2)(c) of this section refuse  
618 to submit to any medical examination provided herein, his  
619 allowance may be discontinued until his withdrawal of such  
620 refusal; and should his refusal continue for one (1) year, all his  
621 rights to a disability benefit shall be revoked by the board of  
622 trustees.

623           (4) If the medical board reports and certifies to the board  
624 of trustees, after a comparable job analysis or other similar  
625 study, that such disability retiree is engaged in, or is able to  
626 engage in, a gainful occupation paying more than the difference  
627 between his disability allowance, exclusive of cost of living



628 adjustments, and the average compensation, and if the board of  
629 trustees concurs in such report, the disability benefit shall be  
630 reduced to an amount which, together with the amount earnable by  
631 him, shall equal the amount of his average compensation. If his  
632 earning capacity be later changed, the amount of the said benefit  
633 may be further modified, provided that the revised benefit shall  
634 not exceed the amount originally granted. A retiree receiving a  
635 disability benefit who is restored to active service at a salary  
636 less than the average compensation shall not become a member of  
637 the retirement system.

638 (5) Should a disability retiree under the age of sixty (60)  
639 years or the termination age of the temporary allowance under  
640 paragraph (2)(c) of this section be restored to active service at  
641 a compensation not less than his average compensation, his  
642 disability benefit shall cease, he shall again become a member of  
643 the retirement system, and contributions shall be withheld and  
644 reported. Any such prior service certificate, on the basis of  
645 which his service was computed at the time of retirement, shall be  
646 restored to full force and effect. In addition, upon his  
647 subsequent retirement he shall be credited with all creditable  
648 service as a member, but the total retirement allowance paid to  
649 the retired member in his previous retirement shall be deducted  
650 from his retirement reserve and taken into consideration in  
651 recalculating the retirement allowance under a new option  
652 selected.

653 (6) If following reexamination in accordance with the  
654 provisions contained in this section, the medical board determines  
655 that a retiree retired on account of disability is physically and  
656 mentally able to return to the employment from which he is  
657 retired, the board of trustees, upon certification of such  
658 findings from the medical board, shall, after a reasonable period  
659 of time, terminate the disability allowance, whether or not the  
660 retiree is reemployed or seeks such reemployment. In addition, if



661 the board of trustees determines that the retiree is no longer  
662 sustaining a loss of income as established by documented evidence  
663 of the retiree's earned income, the eligibility for a disability  
664 allowance shall terminate and the allowance terminated within a  
665 reasonable period of time. In the event the retirement allowance  
666 is terminated under the provisions of this section, the retiree  
667 may subsequently qualify for a retirement allowance under Section  
668 25-11-111 based on actual years of service credit plus credit for  
669 the period during which a disability allowance was paid.

670 (7) Any current member as of June 30, 1992, who retires on a  
671 disability retirement allowance after June 30, 1992, and who has  
672 not elected to receive benefits under paragraph (2)(c) of this  
673 section, shall relinquish all rights under the Age Discrimination  
674 in Employment Act of 1967, as amended, with regard to the benefits  
675 payable under this section.

676 (8) Any person who has made the election provided for under  
677 Section 1 of this act is not eligible for a disability retirement  
678 allowance under this section during the person's employment while  
679 operating under the election.

680 **SECTION 5.** Section 25-11-114, Mississippi Code of 1972, is  
681 amended as follows:

682 25-11-114. (1) The applicable benefits provided in  
683 subsections (2) and (3) of this section shall be paid to eligible  
684 beneficiaries of any member who has completed four (4) or more  
685 years of creditable service and who dies before retirement and who  
686 has not filed a Pre-Retirement Optional Retirement Form as  
687 provided in Section 25-11-111.

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

692 (i) Had retired on the date of his death with  
693 entitlement to an annuity provided for in Section 25-11-111,



694 notwithstanding that he might not have attained age sixty (60) or  
695 acquired twenty-five (25) years of creditable service;

696 (ii) Had nominated his spouse as beneficiary.

697 (b) If, at the time of the member's death, there are no  
698 dependent children, and the surviving spouse, who otherwise would  
699 receive the annuity under this subsection (2), has filed with the  
700 system a signed written waiver of his or her rights to the annuity  
701 and that waiver was in effect at the time of the member's death, a  
702 lump sum distribution of the deceased member's accumulated  
703 contributions shall be refunded in accordance with Section  
704 25-11-117.

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

709 (d) The spouse annuity shall be the greater of twenty  
710 percent (20%) of the deceased member's average compensation as  
711 defined in Section 25-11-103 at the time of death or Fifty Dollars  
712 (\$50.00) monthly. If the spouse dies or if the spouse remarries  
713 before age sixty (60), the spouse annuity shall terminate.

714 (e) However, the spouse may elect by an irrevocable  
715 agreement on a form prescribed by the board of trustees to receive  
716 a monthly allowance as computed under either paragraph (d) or this  
717 paragraph. Such irrevocable agreement shall constitute a waiver  
718 by the spouse to any current and future monthly allowance under  
719 the paragraph not elected and such waiver shall be a complete and  
720 full discharge of all obligations of the retirement system under  
721 such paragraph.

722 Any member who has completed four (4) or more years of  
723 creditable service and who dies before retirement and leaves a  
724 spouse who has been married to the member for not less than one  
725 (1) year immediately preceding his death and has not exercised any  
726 other option shall be deemed to have exercised Option 2 under



727 Section 25-11-115 for the benefit of his spouse, which spouse  
728 shall be paid Option 2 settlement benefits under this article  
729 beginning on the first of the month following the date of death,  
730 but in case of late filing, retroactive payments will be made for  
731 a period of not more than one (1) year. The method of calculating  
732 such retirement benefits shall be on the same basis as provided in  
733 Section 25-11-111(d). However, if the member dies before being  
734 qualified for full unreduced benefits, then the benefits shall be  
735 reduced by three percent (3%) per year for the lesser of either  
736 the years of service or age required for full unreduced benefits  
737 in Section 25-11-111(d).

738 (3) (a) Subject to the maximum limitation provided in this  
739 paragraph, the member's dependent children each shall receive an  
740 annuity of the greater of ten percent (10%) of the member's  
741 average compensation as defined in Section 25-11-103 at the time  
742 of the death of the member or Fifty Dollars (\$50.00) monthly;  
743 however, if there are more than three (3) dependent children, each  
744 dependent child shall receive an equal share of a total annuity  
745 equal to thirty percent (30%) of the member's average  
746 compensation, provided that such total annuity shall not be less  
747 than One Hundred Fifty Dollars (\$150.00) per month for all  
748 children.

749 (b) A child shall be considered to be a dependent child  
750 until marriage, or the attainment of age nineteen (19), whichever  
751 comes first; however, this age limitation shall be extended beyond  
752 age nineteen (19), but in no event beyond the attainment of age  
753 twenty-three (23), as long as the child is a student regularly  
754 pursuing a full-time course of resident study or training in an  
755 accredited high school, trade school, technical or vocational  
756 institute, junior or community college, college, university or  
757 comparable recognized educational institution duly licensed by a  
758 state. A student child whose birthday falls during the school  
759 year (September 1 through June 30) is considered not to reach age



760 twenty-three (23) until the July 1 following the actual  
761 twenty-third birthday. A full-time course of resident study or  
762 training means a day or evening noncorrespondence course that  
763 includes school attendance at the rate of at least thirty-six (36)  
764 weeks per academic year or other applicable period with a subject  
765 load sufficient, if successfully completed, to attain the  
766 educational or training objective within the period generally  
767 accepted as minimum for completion, by a full-time day student, of  
768 the academic or training program concerned. Any child who is  
769 physically or mentally incompetent, as adjudged by either a  
770 Mississippi court of competent jurisdiction or by the board, shall  
771 receive benefits for as long as the incompetency exists.

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

776 (d) Annuities payable under this subsection (3) shall  
777 begin the first day of the month following the date of the  
778 member's death or in case of late filing, retroactive payments  
779 will be made for a period of not more than one (1) year. Such  
780 benefits may be paid to a surviving parent or the lawful custodian  
781 of a dependent child for the use and benefit of such child without  
782 the necessity of appointment as guardian.

783 (4) (a) Death benefits in the line of duty. Regardless of  
784 the number of years of the member's creditable service, the spouse  
785 and/or the dependent children of an active member who is killed in  
786 the line of performance of duty or dies as a direct result of an  
787 accident occurring in the line of performance of duty shall  
788 qualify, on approval of the board, for a retirement allowance on  
789 the first of the month following the date of death, but in the  
790 case of late filing, retroactive payments will be made for a  
791 period of not more than one (1) year. The spouse shall receive a  
792 retirement allowance equal to one-half (1/2) of the average





793 compensation as defined in Section 25-11-103. In addition to the  
794 retirement allowance for the spouse, or if there is no surviving  
795 spouse, the member's dependent child shall receive a retirement  
796 allowance in the amount of one-fourth (1/4) of the member's  
797 average compensation as defined in Section 25-11-103; however, if  
798 there are two (2) or more dependent children, each dependent child  
799 shall receive an equal share of a total annuity equal to one-half  
800 (1/2) of the member's average compensation. If there are more  
801 than two (2) dependent children, upon a child's ceasing to be a  
802 dependent child, his annuity shall terminate and there shall be a  
803 redetermination of the amounts payable to any remaining dependent  
804 children. Such benefits shall cease to be paid for the support  
805 and maintenance of each child upon such child attaining the age of  
806 nineteen (19) years; however, the spouse shall continue to be  
807 eligible for the aforesaid retirement allowance. Such benefits  
808 may be paid to a surviving parent or lawful custodian of such  
809 children for the use and benefit of the children without the  
810 necessity of appointment as guardian. Such retirement allowance  
811 shall cease to the spouse upon remarriage but continue to be  
812 payable for each dependent child until the age of nineteen (19)  
813 years.

814 (b) A child shall be considered to be a dependent child  
815 until marriage, or the attainment of age nineteen (19), whichever  
816 comes first; however, this age limitation shall be extended beyond  
817 age nineteen (19), but in no event beyond the attainment of age  
818 twenty-three (23), as long as the child is a student regularly  
819 pursuing a full-time course of resident study or training in an  
820 accredited high school, trade school, technical or vocational  
821 institute, junior or community college, college, university or  
822 comparable recognized educational institution duly licensed by a  
823 state. A student child whose birthday falls during the school  
824 year (September 1 through June 30) is considered not to reach age  
825 twenty-three (23) until the July 1 following the actual



826 twenty-third birthday. A full-time course of resident study or  
827 training means a day or evening noncorrespondence course that  
828 includes school attendance at the rate of at least thirty-six (36)  
829 weeks per academic year or other applicable period with a subject  
830 load sufficient, if successfully completed, to attain the  
831 educational or training objective within the period generally  
832 accepted as minimum for completion, by a full-time day student, of  
833 the academic or training program concerned. Any child who is  
834 physically or mentally incompetent, as adjudged by either a  
835 Mississippi court of competent jurisdiction or by the board, shall  
836 receive benefits for as long as the incompetency exists.

837 (5) If all the annuities provided for in this section  
838 payable on account of the death of a member terminate before there  
839 has been paid an aggregate amount equal to the member's  
840 accumulated contributions standing to the member's credit in the  
841 annuity savings account at the time of the member's death, the  
842 difference between the accumulated contributions and the aggregate  
843 amount of annuity payments shall be paid to such person as the  
844 member has nominated by written designation duly executed and  
845 filed with the board. If there is no designated beneficiary  
846 surviving at termination of benefits, the difference shall be  
847 payable pursuant to Section 25-11-117.1(1).

848 (6) Regardless of the number of years of creditable service  
849 upon the application of a member or employer, any active member  
850 who becomes disabled as a direct result of an accident or  
851 traumatic event resulting in a physical injury occurring in the  
852 line of performance of duty, provided the medical board or other  
853 designated governmental agency after a medical examination  
854 certifies that the member is mentally or physically incapacitated  
855 for the further performance of duty and such incapacity is likely  
856 to be permanent, may be retired by the board of trustees on the  
857 first of the month following the date of filing such application  
858 but in no event shall the retirement allowance commence before the



859 termination of state service. The retirement allowance shall  
860 equal the allowance on disability retirement as provided in  
861 Section 25-11-113 but shall not be less than fifty percent (50%)  
862 of average compensation.

863 Permanent and total disability resulting from a  
864 cardiovascular, pulmonary or musculo-skeletal condition which was  
865 not a direct result of a traumatic event occurring in the  
866 performance of duty shall be deemed an ordinary disability. A  
867 mental disability based exclusively on employment duties occurring  
868 on an ongoing basis shall be deemed an ordinary disability.

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

874 (8) In case of death or total and permanent disability under  
875 subsection (4) or subsection (6) of this section and before the  
876 board shall consider any application for a retirement allowance,  
877 the employer must certify to the board that the member's death or  
878 disability was a direct result of an accident or a traumatic event  
879 occurring during and as a result of the performance of the regular  
880 and assigned duties of the employee and that the death or  
881 disability was not the result of the willful negligence of the  
882 employee.

883 (9) The application for such retirement allowance must be  
884 filed within one (1) year after death of an active member who is  
885 killed in the line of performance of duty or dies as a direct  
886 result of an accident occurring in the line of performance of duty  
887 or traumatic event; but the board of trustees may consider an  
888 application for disability filed after the one-year period if it  
889 can be factually demonstrated to the satisfaction of the board of  
890 trustees that the disability is due to the accident and that the  
891 filing was not accomplished within the one-year period due to a



892 delayed manifestation of the disability or to circumstances beyond  
893 the control of the member. However, in case of late filing,  
894 retroactive payments will be made for a period of not more than  
895 one (1) year only.

896 (10) Notwithstanding any other section of this article and  
897 in lieu of any payments to a designated beneficiary for a refund  
898 of contributions under Section 25-11-117, the spouse and/or  
899 children shall be eligible for the benefits payable pursuant to  
900 this section, and the spouse may elect, for both the spouse and/or  
901 children, to receive benefits in accordance with either  
902 subsections (2) and (3) or subsection (4) of this section;  
903 otherwise, the contributions to the credit of the deceased member  
904 shall be refunded in accordance with Section 25-11-117.

905 (11) If the member has previously received benefits from the  
906 system to which he was not entitled and has not repaid in full all  
907 amounts payable by him to the system, the annuity amounts  
908 otherwise provided by this section shall be withheld and used to  
909 effect repayment until the total of the withholdings repays in  
910 full all amounts payable by him to the system.

911 (12) Any person who has made the election provided for under  
912 Section 1 of this act is not eligible for any benefits under this  
913 section during the person's employment while operating under the  
914 election.

915 **SECTION 6.** Section 25-11-117, Mississippi Code of 1972, is  
916 amended as follows:

917 25-11-117. (1) A member may be paid a refund of the amount  
918 of accumulated contributions to the credit of the member in the  
919 annuity savings account provided the member has withdrawn from  
920 state service and further provided the member has not returned to  
921 state service on the date the refund of the accumulated  
922 contributions would be paid. Such refund of the contributions to  
923 the credit of the member in the annuity savings account shall be  
924 paid within ninety (90) days from receipt in the office of the



925 retirement system of the properly completed form requesting such  
926 payment. In the event of death prior to retirement of any member  
927 whose spouse and/or children are not entitled to a retirement  
928 allowance, the accumulated contributions to the credit of the  
929 deceased member in the annuity savings account shall be paid to  
930 the designated beneficiary on file in writing in the office of the  
931 executive director of the board of trustees within ninety (90)  
932 days from receipt of a properly completed form requesting such  
933 payment. If there is no such designated beneficiary on file for  
934 such deceased member in the office of the system, upon the filing  
935 of a proper request with the board, the contributions to the  
936 credit of the deceased member in the annuity savings account shall  
937 be refunded pursuant to Section 25-11-117.1(1). The payment of  
938 the refund shall discharge all obligations of the retirement  
939 system to the member on account of any creditable service rendered  
940 by the member prior to the receipt of the refund. By the  
941 acceptance of the refund, the member shall waive and relinquish  
942 all accrued rights in the system.

943 (2) Pursuant to the Unemployment Compensation Amendments of  
944 1992 (Public Law 102-318 (UCA)), a member or the spouse of a  
945 member who is an eligible beneficiary entitled to a refund under  
946 this section may elect, on a form prescribed by the board under  
947 rules and regulations established by the board, to have an  
948 eligible rollover distribution of accumulated contributions  
949 payable under this section paid directly to an eligible retirement  
950 plan or individual retirement account. If the member or the  
951 spouse of a member who is an eligible beneficiary makes such  
952 election and specifies the eligible retirement plan or individual  
953 retirement account to which such distribution is to be paid, the  
954 distribution will be made in the form of a direct  
955 trustee-to-trustee transfer to the specified eligible retirement  
956 plan. Flexible rollovers under this subsection shall not be  
957 considered assignments under Section 25-11-129.



958           (3) If any person who has received a refund reenters the  
959 state service and again becomes a member of the system, the member  
960 may repay all or part of the amounts previously received as a  
961 refund, together with regular interest covering the period from  
962 the date of refund to the date of repayment; provided, however,  
963 that the amounts that are repaid by the member and the creditable  
964 service related thereto shall not be used in any benefit  
965 calculation or determination until the member has remained a  
966 contributor to the system for a period of at least four (4) years  
967 subsequent to such member's reentry into state service. Repayment  
968 for such time shall be made in increments of not less than  
969 one-quarter (1/4) year of creditable service beginning with the  
970 most recent service for which refund has been made. Upon the  
971 repayment of all or part of such refund and interest, the member  
972 shall again receive credit for the period of creditable service  
973 for which full repayment has been made to the system.

974           (8) Any person who has made the election provided for under  
975 Section 1 of this act is not eligible under this section for a  
976 refund of any contributions made during the person's employment  
977 while operating under the election, except as allowed under the  
978 deferred compensation program.

979           **SECTION 7.** Section 25-11-123, Mississippi Code of 1972, is  
980 amended as follows:

981           25-11-123. All of the assets of the system shall be credited  
982 according to the purpose for which they are held to one (1) of  
983 four (4) reserves; namely, the annuity savings account, the  
984 annuity reserve, the employer's accumulation account, and the  
985 expense account.

986           (a) **Annuity savings account.** In the annuity savings account  
987 shall be accumulated the contributions made by members to provide  
988 for their annuities, including interest thereon which shall be  
989 posted monthly. Credits to and charges against the annuity  
990 savings account shall be made as follows:



991           (1) Beginning July 1, 1991, the employer shall cause to  
992 be deducted from the salary of each member on each and every  
993 payroll of such employer for each and every payroll period seven  
994 and one-fourth percent (7-1/4%) of earned compensation as defined  
995 in Section 25-11-103. Future contributions shall be fixed  
996 biennially by the board on the basis of the liabilities of the  
997 retirement system for the various allowances and benefits as shown  
998 by actuarial valuation; provided, however, that any member earning  
999 at a rate less than Sixteen Dollars and Sixty-seven Cents (\$16.67)  
1000 per month, or Two Hundred Dollars (\$200.00) per year, shall  
1001 contribute not less than One Dollar (\$1.00) per month, or Twelve  
1002 Dollars (\$12.00) per year.

1003           (2) The deductions provided herein shall be made  
1004 notwithstanding that the minimum compensation provided by law for  
1005 any member shall be reduced thereby. Every member shall be deemed  
1006 to consent and agree to the deductions made and provided for  
1007 herein and shall receipt for his full salary or compensation, and  
1008 payment of salary or compensation less the deduction shall be a  
1009 full and complete discharge and acquittance of all claims and  
1010 demands whatsoever for the services rendered by such person during  
1011 the period covered by such payment, except as to the benefits  
1012 provided under Articles 1 and 3. The board shall provide by rules  
1013 for the methods of collection of contributions from members and  
1014 the employer. The board shall have full authority to require the  
1015 production of evidence necessary to verify the correctness of  
1016 amounts contributed.

1017           (3) For any person who has made the election provided  
1018 for under Section 1 of this act, the employee's contributions  
1019 provided for under this subsection shall be paid into the deferred  
1020 compensation program as provided in Section 1 of this act instead  
1021 of into the annuity savings account.

1022           (b) **Annuity reserve.** The annuity reserve shall be the  
1023 account representing the actuarial value of all annuities in



1024 force, and to it shall be charged all annuities and all benefits  
1025 in lieu of annuities, payable as provided in this article. If a  
1026 beneficiary retired on account of disability is restored to active  
1027 service with a compensation not less than his average final  
1028 compensation at the time of his last retirement, the remainder of  
1029 his contributions shall be transferred from the annuity reserve to  
1030 the annuity savings account and credited to his individual account  
1031 therein, and the balance of his annuity reserve shall be  
1032 transferred to the employer's accumulation account.

1033 (c) **Employer's accumulation account.** The employer's  
1034 accumulation account shall represent the accumulation of all  
1035 reserves for the payment of all retirement allowances and other  
1036 benefits payable from contributions made by the employer, and  
1037 against this account shall be charged all retirement allowances  
1038 and other benefits on account of members. Credits to and charges  
1039 against the employer's accumulation account shall be made as  
1040 follows:

1041 (1) On account of each member there shall be paid  
1042 monthly into the employer's accumulation account by the employers  
1043 for the preceding fiscal year an amount equal to a certain  
1044 percentage of the total earned compensation, as defined in Section  
1045 25-11-103, of each member. The percentage rate of such  
1046 contributions shall be fixed biennially by the board on the basis  
1047 of the liabilities of the retirement system for the various  
1048 allowances and benefits as shown by actuarial valuation. Beginning  
1049 January 1, 1990, the rate shall be fixed at nine and three-fourths  
1050 percent (9-3/4%). Political subdivisions joining Article 3 of the  
1051 Public Employees' Retirement System after July 1, 1968, may adjust  
1052 the employer's contributions by agreement with the Board of  
1053 Trustees of the Public Employees' Retirement System to provide  
1054 service credits for any period prior to execution of the agreement  
1055 based upon an actuarial determination of employer's contribution  
1056 rates.





1057           (2) On the basis of regular interest and of such  
1058 mortality and other tables as shall be adopted by the board of  
1059 trustees, the actuary engaged by the board to make each valuation  
1060 required by this article during the period over which the accrued  
1061 liability contribution is payable, immediately after making such  
1062 valuation, shall determine the uniform and constant percentage of  
1063 the earnable compensation of each member which, if contributed by  
1064 the employer on the basis of compensation of such member  
1065 throughout his entire period of membership service, would be  
1066 sufficient to provide for the payment of any retirement allowance  
1067 payable on his account for such service. The percentage rate so  
1068 determined shall be known as the "normal contribution rate."  
1069 After the accrued liability contribution has ceased to be payable,  
1070 the normal contribution rate shall be the percentage rate of the  
1071 salary of all members obtained by deducting from the total  
1072 liabilities on account of membership service the amount in the  
1073 employer's accumulation account, and dividing the remainder by one  
1074 percent (1%) of the present value of the prospective future  
1075 salaries of all members as computed on the basis of the mortality  
1076 and service tables adopted by the board of trustees and regular  
1077 interest. The normal rate of contributions shall be determined by  
1078 the actuary after each valuation.

1079           (3) The total amount payable in each year to the  
1080 employer's accumulation account shall not be less than the sum of  
1081 the percentage rate known as the "normal contribution" rate and  
1082 the "accrued liability contribution" rate of the total  
1083 compensation earnable by all members during the preceding year,  
1084 provided that the payment by the employer shall be sufficient,  
1085 when combined with the amounts in the account, to provide the  
1086 allowances and other benefits chargeable to this account during  
1087 the year then current.

1088           (4) The accrued liability contribution shall be  
1089 discontinued as soon as the accumulated balance in the employer's



1090 accumulation account shall equal the present value, computed on  
1091 the basis of the normal contribution rate then in force, or the  
1092 prospective normal contributions to be received on account of all  
1093 persons who are at that time members.

1094 (5) All allowances and benefits in lieu thereof, with  
1095 the exception of those payable on account of members who receive  
1096 no prior service credit, payable from contributions of the  
1097 employer, shall be paid from the employer's accumulation account.

1098 (6) Upon the retirement of a member, an amount equal to  
1099 his retirement allowance shall be transferred from the employer's  
1100 accumulation account to the annuity reserve.

1101 (7) For any person who has made the election provided  
1102 for under Section 1 of this act, the employer's contributions  
1103 provided for under this subsection shall be paid into the deferred  
1104 compensation program as provided in Section 1 of this act, instead  
1105 of into the employer's accumulation account.

1106 (d) **Expense account.** The expense account shall be the  
1107 account to which the expenses of the administration of the system  
1108 shall be charged, exclusive of amounts payable as retirement  
1109 allowances and as other benefits provided herein. The Legislature  
1110 shall make annual appropriations in amounts sufficient to  
1111 administer the system, which shall be credited to this account.  
1112 There shall be transferred to the State Treasury from this  
1113 account, not less than once per month, an amount sufficient for  
1114 payment of the estimated expenses of the system for the succeeding  
1115 thirty (30) days. Any interest earned on the expense account  
1116 shall accrue to the benefit of the system. Provided, however,  
1117 that notwithstanding the provisions of Sections 25-11-15(10) and  
1118 25-11-105(f)(5)E, all expenses of the administration of the system  
1119 shall be paid from the interest earnings, provided the interest  
1120 earnings are in excess of the actuarial interest assumption as  
1121 determined by the board, and provided the present cost of the  
1122 administrative expense fee of two percent (2%) of the



1123 contributions reported by the political subdivisions and  
1124 instrumentalities shall be reduced to one percent (1%) from and  
1125 after July 1, 1983, through June 30, 1984, and shall be eliminated  
1126 thereafter.

1127       (e) **Collection of contributions.** The employer shall cause  
1128 to be deducted on each and every payroll of a member for each and  
1129 every payroll period, beginning subsequent to January 31, 1953,  
1130 the contributions payable by such member as provided in Articles 1  
1131 and 3.

1132       The employer shall make deductions from salaries of employees  
1133 as provided in Articles 1 and 3 and shall transmit monthly, or at  
1134 such time as the board of trustees shall designate, the amount  
1135 specified to be deducted to the Executive Director of the Public  
1136 Employees' Retirement System. The executive director, after  
1137 making a record of all such receipts, shall deposit such amounts  
1138 as provided by law.

1139       (f) Upon the basis of each actuarial valuation provided  
1140 herein, the board of trustees shall biennially determine the  
1141 normal contribution rate and the accrued liability contribution  
1142 rate as provided in this section. The sum of these two (2) rates  
1143 shall be known as the "employer's contribution rate." Beginning  
1144 on earned compensation effective January 1, 1990, the rate  
1145 computed as provided in this section shall be nine and  
1146 three-fourths percent (9-3/4%). The percentage rate of such  
1147 contributions shall be fixed biennially by the board on the basis  
1148 of the liabilities of the retirement system for the various  
1149 allowances and benefits as shown by actuarial valuation. \* \* \*

1150       The amount payable by the employer on account of normal and  
1151 accrued liability contributions shall be determined by applying  
1152 the employer's contribution rate to the amount of compensation  
1153 earned by employees who are members of the system. Monthly, or at  
1154 such time as the board of trustees shall designate, each  
1155 department or agency shall compute the amount of the employer's



1156 contribution payable, with respect to the salaries of its  
1157 employees who are members of the system, and shall cause that  
1158 amount to be paid to the board of trustees from the personal  
1159 service allotment of the amount appropriated for the operation of  
1160 the department or agency, or from funds otherwise available to the  
1161 agency, for the payment of salaries to its employees.

1162 For any person who has made the election provided for under  
1163 Section 1 of this act, the employer's contributions provided for  
1164 under this subsection shall be paid into the deferred compensation  
1165 program as provided in Section 1 of this act.

1166 Once each year, under procedures established by the system,  
1167 each employer shall submit to the Public Employees' Retirement  
1168 System a copy of their report to Social Security of all employees'  
1169 earnings.

1170 The board shall provide by rules for the methods of  
1171 collection of contributions of employers and members. The amounts  
1172 determined due by an agency to the various funds as specified in  
1173 Articles 1 and 3 are made obligations of the agency to the board  
1174 and shall be paid as provided herein. Failure to deduct such  
1175 contributions shall not relieve the employee and employer from  
1176 liability thereof. Delinquent employee contributions and any  
1177 accrued interest shall be the obligation of the employee and  
1178 delinquent employer contributions and any accrued interest shall  
1179 be the obligation of the employer. The employer may, in its  
1180 discretion, elect to pay any or all of the interest on delinquent  
1181 employee contributions. From and after July 1, 1996, under rules  
1182 and regulations established by the board, all employers are  
1183 authorized and shall transfer all funds due to the Public  
1184 Employees' Retirement System electronically and shall transmit any  
1185 wage or other reports by computerized reporting systems.

1186 **SECTION 8.** Section 25-11-127, Mississippi Code of 1972, is  
1187 amended as follows:



1188           25-11-127. (1) No person who is being paid a retirement  
1189 allowance or a pension after retirement under this article shall  
1190 be employed or paid for any service by the State of Mississippi,  
1191 except as provided in this section. This section shall not apply  
1192 to any pensioner who has been elected to public office after  
1193 retirement, nor to any person employed because of special  
1194 knowledge or experience. This section shall not be construed to  
1195 mean that any person employed or elected under the above  
1196 exceptions shall become a member under Article 3 of the retirement  
1197 system, nor shall any retiree of this retirement system who is  
1198 reemployed or is reelected to office after retirement continue to  
1199 draw retirement benefits while so reemployed.

1200           (2) Any person who has been retired under the provisions of  
1201 Articles 1 and 3 and who is later reemployed in service covered by  
1202 this article shall cease to receive benefits under this article  
1203 and shall again become a contributing member of the retirement  
1204 system. When the person retires again, if the reemployment  
1205 exceeds six (6) months, the person shall have his or her benefit  
1206 recomputed, including service after again becoming a member,  
1207 provided that the total retirement allowance paid to the retired  
1208 member in his or her previous retirement shall be deducted from  
1209 the member's retirement reserve and taken into consideration in  
1210 recalculating the retirement allowance under a new option  
1211 selected.

1212           (3) Nothing contained in this section shall be construed as  
1213 prohibiting any county or city not a member of the Public  
1214 Employees' Retirement System from employing persons up to the age  
1215 of seventy-three (73). In addition, through June 30, 1988,  
1216 nothing contained in this section shall be construed as  
1217 prohibiting any governmental unit that is a member from employing  
1218 persons up to the age of seventy-three (73) who are not eligible  
1219 for membership at the time of employment under Article 3.



1220 (4) The board of trustees of the retirement system shall  
1221 have the right to prescribe rules and regulations for carrying out  
1222 the provisions of this section.

1223 (5) The provisions of this section shall not be construed to  
1224 prohibit any retiree, regardless of age, from being employed and  
1225 drawing a retirement allowance either:

1226 (a) For a period of time not to exceed one-half (1/2)  
1227 of the normal working days for the position in any fiscal year  
1228 during which the retiree will receive no more than one-half (1/2)  
1229 of the salary in effect for the position at the time of  
1230 employment, or

1231 (b) For a period of time in any fiscal year sufficient  
1232 in length to permit a retiree to earn not in excess of twenty-five  
1233 percent (25%) of retiree's average compensation.

1234 To determine the normal working days for a position under  
1235 paragraph (a) of this subsection, the employer shall determine the  
1236 required number of working days for the position on a full-time  
1237 basis and the equivalent number of hours representing the  
1238 full-time position. The retiree then may work up to one-half  
1239 (1/2) of the required number of working days or up to one-half  
1240 (1/2) of the equivalent number of hours and receive up to one-half  
1241 (1/2) of the salary for the position. In the case of employment  
1242 with multiple employers, the limitation shall equal one-half (1/2)  
1243 of the number of days or hours for a single full-time position.

1244 Notice shall be given in writing to the executive director of  
1245 the system, setting forth the facts upon which the employment is  
1246 being made, and the notice shall be given within five (5) days  
1247 from the date of employment and also from the date of termination  
1248 of the employment.

1249 (6) Any member who has attained seventy (70) years of age  
1250 and who has forty (40) or more years of creditable service may  
1251 continue in office or employment or be reemployed or elected,  
1252 provided that the person files annually, in writing, in the office



1253 of the employer and the office of the executive director of the  
1254 system before those services, a waiver of all salary or  
1255 compensation and elects to receive in lieu of that salary or  
1256 compensation a retirement allowance as provided in this section,  
1257 in which event no salary or compensation shall thereafter be due  
1258 or payable for those services. However, any such officer or  
1259 employee may receive, in addition to the retirement allowance, any  
1260 per diem, office expense allowance, mileage or travel expense  
1261 authorized by any statute of the State of Mississippi.

1262 (7) Any member may continue in municipal or county office or  
1263 employment or be reemployed or elected in a municipality or  
1264 county, provided that the person files annually, in writing, in  
1265 the office of the employer and the office of the executive  
1266 director of the system before those services, a waiver of all  
1267 salary or compensation and elects to receive in lieu of that  
1268 salary or compensation a retirement allowance as provided in this  
1269 section, in which event no salary or compensation shall thereafter  
1270 be due or payable for those services. However, any such officer  
1271 or employee may receive, in addition to the retirement allowance,  
1272 any per diem, office expense allowance, mileage or travel expense  
1273 authorized by any statute of the State of Mississippi.

1274 (8) This section does not apply to any person who has made  
1275 the election provided for under Section 1 of this act.

1276 **SECTION 9.** Section 25-14-11, Mississippi Code of 1972, is  
1277 amended as follows:

1278 25-14-11. The deferred compensation program established by  
1279 this chapter shall exist and serve in addition to other  
1280 retirement, pension, or benefit systems established by the State  
1281 of Mississippi, state agencies, counties, municipalities, or other  
1282 political subdivisions. The deferred compensation program  
1283 established by this chapter shall not supersede, make inoperative,  
1284 or reduce any benefits provided by the Public Employees'  
1285 Retirement System of Mississippi, by the Teachers' Retirement



1286 System of Mississippi, by programs established under the general  
1287 municipal employees' retirement act, or by any other retirement,  
1288 pension, or benefit program established by law. However, for any  
1289 person who has made the election provided for under Section 1 of  
1290 this act, the benefits that the person receives under the deferred  
1291 compensation program are in lieu of the benefits that the person  
1292 would otherwise receive from the Public Employees' Retirement  
1293 System.

1294         **SECTION 10.** This act shall take effect and be in force from  
1295 and after July 1, 2002.

