

By: Senator(s) Thames, Minor, Jordan,
Furniss

To: Finance

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2586

1 AN ACT TO AMEND SECTIONS 25-11-103, 25-11-105, 25-11-109,
2 25-11-112, 25-11-113, 25-11-115, 25-11-120, 25-11-123, 25-11-127,
3 25-11-133, 25-11-139, 25-11-309, 25-13-5, 25-13-16, 25-13-17,
4 25-13-29, 25-13-33, 25-14-5, 25-14-7, 21-29-139, 21-29-245,
5 21-29-301, 21-29-317, 21-29-323 AND 25-41-3, MISSISSIPPI CODE OF
6 1972, TO REVISE THE DEFINITION OF THE TERM "AVERAGE COMPENSATION"
7 UNDER THE LAWS GOVERNING THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM
8 TO INCREASE THE MAXIMUM AMOUNT THAT MAY BE CONSIDERED AVERAGE
9 COMPENSATION; TO REVISE THE DEFINITION OF THE TERM "EARNED
10 COMPENSATION" UNDER THE LAWS GOVERNING THE PUBLIC EMPLOYEES'
11 RETIREMENT SYSTEM TO INCREASE THE MAXIMUM AMOUNT THAT MAY BE
12 EARNED ANNUALLY AND BE CONSIDERED EARNED COMPENSATION FOR PURPOSE
13 OF RETIREMENT, TO REVISE THE MANNER IN WHICH THE COMPENSATION OF
14 FEE PAID OFFICIALS IS TREATED FOR PURPOSES OF EARNED COMPENSATION,
15 AND TO PROVIDE THAT CERTAIN EXPENSE REIMBURSEMENTS ARE NOT
16 INCLUDED IN EARNED COMPENSATION; TO PROVIDE THAT FROM AND AFTER
17 JULY 1, 2002, INDIVIDUALS WHO ARE EMPLOYED BY A GOVERNMENTAL
18 ENTITY TO PERFORM PROFESSIONAL SERVICES ON LESS THAN A FULL-TIME
19 BASIS SHALL BECOME MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT
20 SYSTEM IF THEY ARE PAID REGULAR PERIODIC COMPENSATION WHICH IS
21 SUBJECT TO PAYROLL TAXES, THEY ARE PROVIDED ALL OTHER EMPLOYEE
22 BENEFITS AND THEY MEET MEMBERSHIP CRITERIA ESTABLISHED BY THE
23 BOARD OF TRUSTEES WHICH APPLY TO ALL OTHER MEMBERS; TO PROVIDE
24 THAT ACTIVE MEMBERS EMPLOYED ON LESS THAN A FULL-TIME BASIS SHALL
25 CONTINUE TO BE ACTIVE MEMBERS FOR AS LONG AS THEY CONTINUE TO BE
26 EMPLOYED IN SUCH POSITION; TO CONFORM TO FEDERAL LAW THE AMOUNT OF
27 TIME WITHIN WHICH PAYMENTS MUST BE MADE FOR EMPLOYEE CONTRIBUTIONS
28 FOR SERVICE INTERRUPTED BY QUALIFIED MILITARY SERVICE BY MEMBERS
29 OF ALL SYSTEMS ADMINISTERED BY THE BOARD OF TRUSTEES; TO AUTHORIZE
30 THE BOARD OF TRUSTEES OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM
31 TO CHANGE THE MANNER IN WHICH MEMBERS OF THE PUBLIC EMPLOYEES'
32 RETIREMENT SYSTEM RECEIVE THE COST OF LIVING ADJUSTMENT IF THE
33 CURRENT MANNER OF PAYMENT WILL CAUSE A FINANCIAL HARDSHIP TO THE
34 RETIRED MEMBER OR HIS BENEFICIARY; TO MAKE IT CLEAR THAT INACTIVE
35 MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM MAY NOT FILE A
36 CLAIM FOR A DISABILITY RETIREMENT ALLOWANCE LATER THAN SIX MONTHS
37 AFTER WITHDRAWAL FROM SERVICE; TO PROVIDE THAT IF A MEMBER RETURNS
38 TO COVERED EMPLOYMENT AFTER WITHDRAWAL FROM SERVICE OR TERMINATION
39 FROM SERVICE, THE MEMBER MAY NOT APPLY FOR A REGULAR NONDUTY
40 RELATED DISABILITY RETIREMENT ALLOWANCE UNTIL THE MEMBER HAS
41 REMAINED A CONTRIBUTING MEMBER OF THE PUBLIC EMPLOYEES' RETIREMENT
42 SYSTEM FOR A PERIOD OF SIX MONTHS; TO AUTHORIZE MEMBERS OF THE
43 PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO BECOME ELIGIBLE FOR
44 SERVICE RETIREMENT BENEFITS WHILE PURSUING A DISABILITY RETIREMENT
45 ALLOWANCE TO ELECT TO RECEIVE A SERVICE RETIREMENT ALLOWANCE
46 PENDING A DETERMINATION ON ELIGIBILITY FOR A DISABILITY RETIREMENT
47 ALLOWANCE AND TO PROVIDE THAT NO PERSON MAY APPLY FOR A DISABILITY
48 RETIREMENT ALLOWANCE AFTER SUCH PERSON BEGINS TO RECEIVE A SERVICE
49 RETIREMENT ALLOWANCE; TO PROVIDE THAT MEMBERS OF THE PUBLIC
50 EMPLOYEES' RETIREMENT SYSTEM WHO ARE PURSUING A DISABILITY
51 RETIREMENT ALLOWANCE AND SIMULTANEOUSLY OR SUBSEQUENTLY ELECT TO
52 BEGIN RECEIVING A RETIREMENT ALLOWANCE WHILE CONTINUING TO PURSUE



53 A DISABILITY RETIREMENT ALLOWANCE SHALL NOT BE ELIGIBLE TO SELECT
54 OPTION 4-C OR OPTION 6; TO REVISE THE MANNER IN WHICH THE
55 RETIREMENT ALLOWANCE IS CALCULATED IN THE EVENT A RETIRED MEMBER
56 MARRIES AND ELECTS TO RECEIVE A REDUCED BENEFIT; TO PROVIDE THAT
57 FROM AND AFTER JANUARY 1, 2003, IN THE EVENT OF THE ELECTION OF
58 OPTION 6 AFTER AGE 65, THE ACTUARIAL EQUIVALENT FACTOR BASED ON
59 THE RETIREE'S AGE AT THE TIME OF RETIREMENT SHALL BE USED TO
60 CALCULATE THE REDUCED MAXIMUM MONTHLY RETIREMENT ALLOWANCE; TO
61 PROVIDE THAT IN THE CASE OF DISABILITY APPEALS UNDER THE PUBLIC
62 EMPLOYEES' RETIREMENT SYSTEM, THE HEARING OFFICER SHALL HAVE THE
63 AUTHORITY TO DEFER A DECISION IN ORDER TO REQUEST A MEDICAL
64 EVALUATION OR TEST OR ADDITIONAL EXISTING MEDICAL RECORDS NOT
65 PREVIOUSLY FURNISHED BY THE CLAIMANT; TO PROVIDE THAT MEMBERS OF
66 THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM MAY CONTINUE IN MUNICIPAL
67 OR COUNTY OFFICE OR BE ELECTED TO A MUNICIPAL OR COUNTY OFFICE
68 WITHOUT WAIVING THE SALARY FOR SUCH OFFICE IF THE COMPENSATION
69 RECEIVED FOR THE OFFICE DOES NOT EXCEED 25% OF THE RETIREE'S
70 AVERAGE COMPENSATION; TO CLARIFY THE RESPONSIBILITY OF CHANCERY
71 AND CIRCUIT CLERKS TO MAKE CERTAIN EMPLOYER AND EMPLOYEE
72 CONTRIBUTIONS TO THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; TO
73 CONFORM THE MAXIMUM AMOUNT OF COMPENSATION THAT MAY BE CONSIDERED
74 FOR THE PURPOSE OF ALL PLANS ADMINISTERED BY THE BOARD OF TRUSTEES
75 TO FEDERAL LAW REQUIREMENTS; TO PROVIDE THAT MEMBERS OF ALL
76 SYSTEMS ADMINISTERED BY THE BOARD OF TRUSTEES OF THE PUBLIC
77 EMPLOYEES' RETIREMENT SYSTEM SHALL HAVE A PERIOD OF TWO YEARS FROM
78 THE EFFECTIVE DATE OF THEIR RETIREMENT WITHIN WHICH TO SUBMIT
79 DOCUMENTATION OF ANY ADDITIONAL SERVICE CREDIT; TO REMOVE THE
80 PROVISION THAT LIMITS THE AMOUNT THAT A MEMBER MAY RECEIVE FROM
81 THE SUPPLEMENTAL LEGISLATIVE RETIREMENT PLAN AND THE PUBLIC
82 EMPLOYEES' RETIREMENT SYSTEM; TO PROVIDE THAT THE MEDICAL BOARD IS
83 NOT REQUIRED TO CONDUCT A MEDICAL EXAMINATION OF APPLICANTS FOR
84 DISABILITY RETIREMENT UNDER THE HIGHWAY SAFETY PATROL RETIREMENT
85 SYSTEM; TO AUTHORIZE THE STATE AND ITS POLITICAL SUBDIVISIONS TO
86 MAKE CONTRIBUTIONS TO THE DEFERRED COMPENSATION PLAN ON BEHALF OF
87 PARTICIPATING MEMBERS; TO MAKE IT CLEAR THAT THE DEFERRED
88 COMPENSATION PROGRAM SHALL BE OPERATED IN ACCORDANCE WITH THE
89 GUIDELINES ESTABLISHED BY THE INTERNAL REVENUE SERVICE AS
90 REFLECTED IN THE PLAN DOCUMENT; TO REVISE THE DEFINITION OF THE
91 TERM "PUBLIC BODY" UNDER THE OPEN MEETING LAW TO EXCLUDE
92 PROCEEDINGS OF THE MEDICAL BOARD OF THE PUBLIC EMPLOYEES'
93 RETIREMENT SYSTEM; AND FOR RELATED PURPOSES.

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

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

97 25-11-103. The following words and phrases as used in
98 Articles 1 and 3, unless a different meaning is plainly required
99 by the context, shall have the following meanings:

100 (a) "Accumulated contributions" shall mean the sum of
101 all the amounts deducted from the compensation of a member and
102 credited to his individual account in the annuity savings account,
103 together with regular interest thereon as provided in Section
104 25-11-123.



105 (b) "Actuarial cost" shall mean the amount of funds
106 presently required to provide future benefits as determined by the
107 board based on applicable tables and formulas provided by the
108 actuary.

109 (c) "Actuarial equivalent" shall mean a benefit of
110 equal value to the accumulated contributions, annuity or benefit,
111 as the case may be, when computed upon the basis of such mortality
112 tables as shall be adopted by the board of trustees, and regular
113 interest.

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

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

119 (f) "Average compensation" shall mean the average of
120 the four (4) highest years of earned compensation reported for an
121 employee in a fiscal or calendar year period, or combination
122 thereof which do not overlap, or the last forty-eight (48)
123 consecutive months of earned compensation reported for an
124 employee. The four (4) years need not be successive or joined
125 years of service. In no case shall the average compensation so
126 determined be in excess of One Hundred Fifty Thousand Dollars
127 (\$150,000.00). In computing the average compensation, any amount
128 paid in a lump sum for personal leave shall be included in the
129 calculation to the extent that such amount does not exceed an
130 amount which is equal to thirty (30) days of earned compensation
131 and to the extent that it does not cause the employees' earned
132 compensation to exceed the maximum reportable amount specified in
133 Section 25-11-103(k); provided, however, that such thirty-day
134 limitation shall not prevent the inclusion in the calculation of
135 leave earned under federal regulations prior to July 1, 1976, and
136 frozen as of that date as referred to in Section 25-3-99. Only
137 the amount of lump sum pay for personal leave due and paid upon



138 the death of a member attributable for up to one hundred fifty
139 (150) days shall be used in the deceased member's average
140 compensation calculation in determining the beneficiary's
141 benefits. In computing the average compensation, no amounts shall
142 be used which are in excess of the amount on which contributions
143 were required and paid. If any member who is or has been granted
144 any increase in annual salary or compensation of more than eight
145 percent (8%) retires within twenty-four (24) months from the date
146 that such increase becomes effective, then the board shall exclude
147 that part of the increase in salary or compensation that exceeds
148 eight percent (8%) in calculating that member's average
149 compensation for retirement purposes. The board may enforce this
150 provision by rule or regulation. However, increases in
151 compensation in excess of eight percent (8%) per year granted
152 within twenty-four (24) months of the date of retirement may be
153 included in such calculation of average compensation if
154 satisfactory proof is presented to the board showing that the
155 increase in compensation was the result of an actual change in the
156 position held or services rendered, or that such compensation
157 increase was authorized by the State Personnel Board or was
158 increased as a result of statutory enactment, and the employer
159 furnishes an affidavit stating that such increase granted within
160 the last twenty-four (24) months was not contingent on a promise
161 or agreement of the employee to retire. Nothing in Section
162 25-3-31 shall affect the calculation of the average compensation
163 of any member for the purposes of this article. The average
164 compensation of any member who retires before July 1, 1992, shall
165 not exceed the annual salary of the Governor.

166 (g) "Beneficiary" shall mean any person entitled to
167 receive a retirement allowance, an annuity or other benefit as
168 provided by Articles 1 and 3. In the event of the death prior to
169 retirement of any member whose spouse and/or children are not
170 entitled to a retirement allowance on the basis that the member



171 has less than four (4) years of service credit and/or has not been
172 married for a minimum of one (1) year or the spouse has waived his
173 or her entitlement to a retirement allowance pursuant to Section
174 25-11-114, the lawful spouse of a member at the time of the death
175 of such member shall be the beneficiary of such member unless the
176 member has designated another beneficiary subsequent to the date
177 of marriage in writing, and filed such writing in the office of
178 the executive director of the board of trustees. No designation
179 or change of beneficiary shall be made in any other manner.

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

183 (i) "Creditable service" shall mean "prior service,"
184 "retroactive service" and all lawfully credited unused leave not
185 exceeding the accrual rates and limitations provided in Section
186 25-3-91 et seq., as of the date of withdrawal from service plus
187 "membership service" for which credit is allowable as provided in
188 Section 25-11-109. Except to limit creditable service reported to
189 the system for the purpose of computing an employee's retirement
190 allowance or annuity or benefits provided in this article, nothing
191 in this paragraph shall limit or otherwise restrict the power of
192 the governing authority of a municipality or other political
193 subdivision of the state to adopt such vacation and sick leave
194 policies as it deems necessary.

195 (j) "Child" means either a natural child of the member,
196 a child that has been made a child of the member by applicable
197 court action before the death of the member, or a child under the
198 permanent care of the member at the time of the latter's death,
199 which permanent care status shall be determined by evidence
200 satisfactory to the board.

201 (k) "Earned compensation" shall mean the full amount
202 earned by an employee for a given pay period including any
203 maintenance furnished up to a maximum of One Hundred Fifty



204 Thousand Dollars (\$150,000.00) per year, and proportionately for
205 less than one (1) year of service. The value of such maintenance
206 when not paid in money shall be fixed by the employing state
207 agency, and, in case of doubt, by the board of trustees as defined
208 in Section 25-11-15. In any case, earned compensation shall be
209 limited to the regular periodic compensation paid, exclusive of
210 litigation fees, bond fees, and other similar extraordinary
211 nonrecurring payments. In addition, any member in a covered
212 position, as defined by Public Employees' Retirement System laws
213 and regulations, who is also employed by another covered agency or
214 political subdivision shall have the earnings of that additional
215 employment reported to the Public Employees' Retirement System
216 regardless of whether the additional employment is sufficient in
217 itself to be a covered position. In addition, computation of
218 earned compensation shall be governed by the following:

219 (i) In the case of constables, the net earnings
220 from their office after deduction of expenses shall apply, except
221 that in no case shall earned compensation be less than the total
222 direct payments made by the state or governmental subdivisions to
223 the official * * *.

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

227 (iii) Earned compensation shall not include per
228 diem compensation, expense allowances and reimbursements paid
229 pursuant to Sections 25-3-41 and 25-3-43; however, in the case of
230 members of the state Legislature, all remuneration or amounts
231 paid, except mileage allowance, shall apply.

232 (iv) The amount by which an eligible employee's
233 salary is reduced pursuant to a salary reduction agreement
234 authorized under Section 25-17-5 shall be included as earned
235 compensation under this paragraph, provided this inclusion does
236 not conflict with federal law, including federal regulations and



237 federal administrative interpretations thereunder, pertaining to
238 the Federal Insurance Contributions Act or to Internal Revenue
239 Code Section 125 cafeteria plans.

240 (v) Compensation in addition to an employee's base
241 salary that is paid to the employee pursuant to the vacation and
242 sick leave policies of a municipality or other political
243 subdivision of the state that employs him which exceeds the
244 maximums authorized by Section 25-3-91 et seq. shall be excluded
245 from the calculation of earned compensation under this article.

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

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

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

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

257 (n) "Executive director" shall mean the secretary to
258 the board of trustees, as provided in Section 25-11-15(9), and the
259 administrator of the Public Employees' Retirement System and all
260 systems under the management of the board of trustees. Wherever
261 the term "Executive Secretary of the Public Employees' Retirement
262 System" or "executive secretary" appears in this article or in any
263 other provision of law, it shall be construed to mean the
264 Executive Director of the Public Employees' Retirement System.

265 (o) "Fiscal year" shall mean the period beginning on
266 July 1 of any year and ending on June 30 of the next succeeding
267 year.

268 (p) "Medical board" shall mean the board of physicians
269 or any governmental or nongovernmental disability determination



270 service designated by the board of trustees that is qualified to
271 make disability determinations as provided for in Section
272 25-11-119.

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

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

277 (s) "Position" means any office or any employment in
278 the state service, or two (2) or more of them, the duties of which
279 call for services to be rendered by one (1) person, including
280 positions jointly employed by federal and state agencies
281 administering federal and state funds. The employer shall
282 determine upon initial employment and during the course of
283 employment of an employee who does not meet the criteria for
284 coverage in the Public Employees' Retirement System based on the
285 position held, whether the employee is or becomes eligible for
286 coverage in the Public Employees' Retirement System based upon any
287 other employment in a covered agency or political subdivision. If
288 or when the employee meets the eligibility criteria for coverage
289 in such other position, then the employer must withhold
290 contributions and report wages from the noncovered position in
291 accordance with the provisions for reporting of earned
292 compensation. Failure to deduct and report those contributions
293 shall not relieve the employee or employer of liability thereof.
294 The board shall adopt such rules and regulations as necessary to
295 implement and enforce this provision.

296 (t) "Prior service" shall mean service rendered before
297 February 1, 1953, for which credit is allowable under Sections
298 25-11-105 and 25-11-109, and which shall allow prior service for
299 any person who is now or becomes a member of the Public Employees'
300 Retirement System and who does contribute to the system for a
301 minimum period of four (4) years.



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

305 (v) "Retirement allowance" shall mean an annuity for
306 life as provided in this article, payable each year in twelve (12)
307 equal monthly installments beginning as of the date fixed by the
308 board. The retirement allowance shall be calculated in accordance
309 with Section 25-11-111. Provided, any spouse who received a
310 spouse retirement benefit in accordance with Section 25-11-111(d)
311 prior to March 31, 1971, and said benefits were terminated because
312 of eligibility for a social security benefit, may again receive
313 his spouse retirement benefit from and after making application
314 with the board of trustees to reinstate such spouse retirement
315 benefit.

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

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

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

324 (z) "State service" shall mean all offices and
325 positions of trust or employment in the employ of the state, or
326 any political subdivision or instrumentality thereof, which elect
327 to participate as provided by Section 25-11-105(f), including the
328 position of elected or fee officials of the counties and their
329 deputies and employees performing public services or any
330 department, independent agency, board or commission thereof, and
331 shall also include all offices and positions of trust or
332 employment in the employ of joint state and federal agencies
333 administering state and federal funds and service rendered by
334 employees of the public schools. Effective July 1, 1973, all



335 nonprofessional public school employees, such as bus drivers,
336 janitors, maids, maintenance workers and cafeteria employees,
337 shall have the option to become members in accordance with Section
338 25-11-105(b), and shall be eligible to receive credit for services
339 prior to July 1, 1973, provided the contributions and interest are
340 paid by the employee in accordance with said section; provided,
341 further, that the county or municipal separate school district may
342 pay the employer contribution and pro rata share of interest of
343 the retroactive service from available funds. From and after July
344 1, 1998, retroactive service credit shall be purchased at the
345 actuarial cost in accordance with Section 25-11-105(b).

346 (aa) "Withdrawal from service" or "termination from
347 service" shall mean complete severance of employment in the state
348 service of any member by resignation, dismissal or discharge.

349 (bb) The masculine pronoun, wherever used, shall
350 include the feminine pronoun.

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

353 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

354 The membership of this retirement system shall be composed as
355 follows:

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

362 (ii) From and after July 1, 2002, any individual
363 who is employed by a governmental entity to perform professional
364 services shall become a member of the system if such individual is
365 paid regular periodic compensation for such services which is
366 subject to payroll taxes, is provided all other employee benefits
367 and meets the membership criteria established by the regulations



368 adopted by the board of trustees which apply to all other members
369 of the system; however, any active member employed in such a
370 position on July 1, 2002, may continue as an active member for as
371 long as they continue to be employed in such position.

372 (b) All persons who shall become employees in the state
373 service after January 31, 1953, except those specifically excluded
374 or as to whom election is provided in Articles 1 and 3, unless
375 they shall file with the board prior to the lapse of sixty (60)
376 days of employment or sixty (60) days after the effective date of
377 the cited articles, whichever is later, on a form prescribed by
378 the board, a notice of election not to be covered by the
379 membership of the retirement system and a duly executed waiver of
380 all present and prospective benefits which would otherwise inure
381 to them on account of their participation in the system, shall
382 become members of the retirement system; provided, however, that
383 no credit for prior service will be granted to members until they
384 have contributed to Article 3 of the retirement system for a
385 minimum period of at least four (4) years. Such members shall
386 receive credit for services performed prior to January 1, 1953, in
387 employment now covered by Article 3, but no credit shall be
388 granted for retroactive services between January 1, 1953, and the
389 date of their entry into the retirement system unless the employee
390 pays into the retirement system both the employer's and the
391 employee's contributions on wages paid him during the period from
392 January 31, 1953, to the date of his becoming a contributing
393 member, together with interest at the rate determined by the board
394 of trustees. Members reentering after withdrawal from service
395 shall qualify for prior service under the provisions of Section
396 25-11-117. From and after July 1, 1998, upon eligibility as noted
397 above, the member may receive credit for such retroactive service
398 provided:



399 (1) The member shall furnish proof satisfactory to
400 the board of trustees of certification of such service from the
401 covered employer where the services were performed; and

402 (2) The member shall pay to the retirement system
403 on the date he or she is eligible for such credit or at any time
404 thereafter prior to the date of retirement the actuarial cost for
405 each year of such creditable service. The provisions of this
406 subparagraph (2) shall be subject to the limitations of Section
407 415 of the Internal Revenue Code and regulations promulgated
408 thereunder.

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

413 (c) All persons who shall become employees in the state
414 service after January 31, 1953, and who are eligible for
415 membership in any other retirement system shall become members of
416 this retirement system as a condition of their employment unless
417 they elect at the time of their employment to become a member of
418 such other system.

419 (d) All persons who are employees in the state service
420 on January 31, 1953, and who are members of any nonfunded
421 retirement system operated by the State of Mississippi, or any of
422 its departments or agencies, shall become members of this system
423 with prior service credit unless, before February 1, 1953, they
424 shall file a written notice with the board of trustees that they
425 do not elect to become members.

426 (e) All persons who are employees in the state service
427 on January 31, 1953, and who under existing laws are members of
428 any fund operated for the retirement of employees by the State of
429 Mississippi, or any of its departments or agencies, shall not be
430 entitled to membership in this retirement system unless, before
431 February 1, 1953, any such person shall indicate by a notice filed



432 with the board, on a form prescribed by the board, his individual
433 election and choice to participate in this system, but no such
434 person shall receive prior service credit unless he becomes a
435 member on or before February 1, 1953.

436 (f) Each political subdivision of the state and each
437 instrumentality of the state or a political subdivision, or both,
438 is hereby authorized to submit, for approval by the board of
439 trustees, a plan for extending the benefits of this article to
440 employees of any such political subdivision or instrumentality.
441 Each such plan or any amendment to the plan for extending benefits
442 thereof shall be approved by the board of trustees if it finds
443 that such plan, or such plan as amended, is in conformity with
444 such requirements as are provided in Articles 1 and 3; however,
445 upon approval of such plan or any such plan heretofore approved by
446 the board of trustees, the approved plan shall not be subject to
447 cancellation or termination by the political subdivision or
448 instrumentality, except that any community hospital serving a
449 municipality that joined the Public Employees' Retirement System
450 as of November 1, 1956, to offer social security coverage for its
451 employees and subsequently extended retirement annuity coverage to
452 its employees as of December 1, 1965, may, upon documentation of
453 extreme financial hardship, have future retirement annuity
454 coverage cancelled or terminated at the discretion of the board of
455 trustees. No such plan shall be approved unless:

456 (1) It provides that all services which constitute
457 employment as defined in Section 25-11-5 and are performed in the
458 employ of the political subdivision or instrumentality, by any
459 employees thereof, shall be covered by the plan; with the
460 exception of municipal employees who are already covered by
461 existing retirement plans; provided, however, those employees in
462 this class may elect to come under the provisions of this article;

463 (2) It specifies the source or sources from which
464 the funds necessary to make the payments required by paragraph (d)



465 of Section 25-11-123 and of paragraph (f) (5)B and C of this
466 section are expected to be derived and contains reasonable
467 assurance that such sources will be adequate for such purpose;

468 (3) It provides for such methods of administration
469 of the plan by the political subdivision or instrumentality as are
470 found by the board of trustees to be necessary for the proper and
471 efficient administration thereof;

472 (4) It provides that the political subdivision or
473 instrumentality will make such reports, in such form and
474 containing such information, as the board of trustees may from
475 time to time require;

476 (5) It authorizes the board of trustees to
477 terminate the plan in its entirety in the discretion of the board
478 if it finds that there has been a failure to comply substantially
479 with any provision contained in such plan, such termination to
480 take effect at the expiration of such notice and on such
481 conditions as may be provided by regulations of the board and as
482 may be consistent with applicable federal law.

483 A. The board of trustees shall not finally
484 refuse to approve a plan submitted under paragraph (f), and shall
485 not terminate an approved plan without reasonable notice and
486 opportunity for hearing to each political subdivision or
487 instrumentality affected thereby. The board's decision in any
488 such case shall be final, conclusive and binding unless an appeal
489 be taken by the political subdivision or instrumentality aggrieved
490 thereby to the Circuit Court of Hinds County, Mississippi, in
491 accordance with the provisions of law with respect to civil causes
492 by certiorari.

493 B. Each political subdivision or
494 instrumentality as to which a plan has been approved under this
495 section shall pay into the contribution fund, with respect to
496 wages (as defined in Section 25-11-5), at such time or times as
497 the board of trustees may by regulation prescribe, contributions



498 in the amounts and at the rates specified in the applicable
499 agreement entered into by the board.

500 C. Every political subdivision or
501 instrumentality required to make payments under paragraph (f)(5)B
502 hereof is authorized, in consideration of the employees' retention
503 in or entry upon employment after enactment of Articles 1 and 3,
504 to impose upon its employees, as to services which are covered by
505 an approved plan, a contribution with respect to wages (as defined
506 in Section 25-11-5) not exceeding the amount provided in Section
507 25-11-123(d) if such services constituted employment within the
508 meaning of Articles 1 and 3, and to deduct the amount of such
509 contribution from the wages as and when paid. Contributions so
510 collected shall be paid into the contribution fund as partial
511 discharge of the liability of such political subdivisions or
512 instrumentalities under paragraph (f)(5)B hereof. Failure to
513 deduct such contribution shall not relieve the employee or
514 employer of liability thereof.

515 D. Any state agency, school, political
516 subdivision, instrumentality or any employer that is required to
517 submit contribution payments or wage reports under any section of
518 this chapter shall be assessed interest on delinquent payments or
519 wage reports as determined by the board of trustees in accordance
520 with rules and regulations adopted by the board and such assessed
521 interest may be recovered by action in a court of competent
522 jurisdiction against such reporting agency liable therefor or may,
523 upon due certification of delinquency and at the request of the
524 board of trustees, be deducted from any other monies payable to
525 such reporting agency by any department or agency of the state.

526 E. Each political subdivision of the state
527 and each instrumentality of the state or a political subdivision
528 or subdivisions which submits a plan for approval of the board, as
529 provided in this section, shall reimburse the board for coverage
530 into the expense account, its pro rata share of the total expense



531 of administering Articles 1 and 3 as provided by regulations of
532 said board.

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

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

545 (i) In the event any member of this system should
546 change his employment to any agency of the state having an
547 actuarially funded retirement system, the board of trustees may
548 authorize the transfer of the member's creditable service and of
549 the present value of the member's employer's accumulation account
550 and of the present value of the member's accumulated membership
551 contributions to such other system, provided the employee agrees
552 to the transfer of his accumulated membership contributions and
553 provided such other system is authorized to receive and agrees to
554 make such transfer.

555 In the event any member of any other actuarially funded
556 system maintained by an agency of the state changes his employment
557 to an agency covered by this system, the board of trustees may
558 authorize the receipt of the transfer of the member's creditable
559 service and of the present value of the member's employer's
560 accumulation account and of the present value of the member's
561 accumulated membership contributions from such other system,
562 provided the employee agrees to the transfer of his accumulated



563 membership contributions to this system and provided the other
564 system is authorized and agrees to make such transfer.

565 (j) Wherever herein state employment is referred to, it
566 shall include joint employment by state and federal agencies of
567 all kinds.

568 (k) Employees of a political subdivision or
569 instrumentality who were employed by such political subdivision or
570 instrumentality prior to an agreement between such entity and the
571 Public Employees' Retirement System to extend the benefits of this
572 article to its employees, and which agreement provides for the
573 establishment of retroactive service credit, and who have been
574 members of the retirement system and have remained contributors to
575 the retirement system for four (4) years, may receive credit for
576 such retroactive service with such political subdivision or
577 instrumentality, provided the employee and/or employer, as
578 provided under the terms of the modification of the joinder
579 agreement in allowing such coverage, pay into the retirement
580 system the employer's and employee's contributions on wages paid
581 the member during such previous employment, together with interest
582 or actuarial cost as determined by the board covering the period
583 from the date the service was rendered until the payment for the
584 credit for such service was made. Such wages shall be verified by
585 the Social Security Administration or employer payroll records.
586 Effective July 1, 1998, upon eligibility as noted above, a member
587 may receive credit for such retroactive service with such
588 political subdivision or instrumentality provided:

589 (1) The member shall furnish proof satisfactory to
590 the board of trustees of certification of such services from the
591 political subdivision or instrumentality where the services were
592 rendered or verification by the Social Security Administration;
593 and

594 (2) The member shall pay to the retirement system
595 on the date he or she is eligible for such credit or at any time



596 thereafter prior to the date of retirement the actuarial cost for
597 each year of such creditable service. The provisions of this
598 subparagraph (2) shall be subject to the limitations of Section
599 415 of the Internal Revenue Code and regulations promulgated
600 thereunder.

601 Nothing contained in this paragraph (k) shall be construed to
602 limit the authority of the board to allow the correction of
603 reporting errors or omissions based on the payment of employee and
604 employer contributions plus applicable interest. Payment for such
605 time shall be made in increments of not less than one-quarter
606 (1/4) year of creditable service beginning with the most recent
607 service. Upon the payment of all or part of such required
608 contributions, plus interest or the actuarial cost as provided
609 above, the member shall receive credit for the period of
610 creditable service for which full payment has been made to the
611 retirement system.

612 (1) Through June 30, 1998, any state service eligible
613 for retroactive service credit, no part of which has ever been
614 reported, and requiring the payment of employee and employer
615 contributions plus interest, or, from and after July 1, 1998, any
616 state service eligible for retroactive service credit, no part of
617 which has ever been reported to the retirement system, and
618 requiring the payment of the actuarial cost for such creditable
619 service, may, at the member's option, be purchased in quarterly
620 increments as provided above at such time as its purchase is
621 otherwise allowed.

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

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

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



629 (a) Patient or inmate help in state charitable, penal
630 or correctional institutions;

631 (b) Students of any state educational institution
632 employed by any agency of the state for temporary, part-time or
633 intermittent work;

634 (c) Participants of Comprehensive Employment and
635 Training Act of 1973 (CETA) being Public Law 93-203, who enroll on
636 or after July 1, 1979.

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

641 **III. TERMINATION OF MEMBERSHIP**

642 Membership in this system shall cease by a member withdrawing
643 his accumulated contributions, or by a member withdrawing from
644 active service with a retirement allowance, or by a member's
645 death.

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

648 25-11-109. (1) Under such rules and regulations as the
649 board of trustees shall adopt, each person who becomes a member of
650 this retirement system, as provided in Section 25-11-105, on or
651 prior to July 1, 1953, or who becomes a member and contributes to
652 the system for a minimum period of four (4) years, shall receive
653 credit for all state service rendered before February 1, 1953. To
654 receive such credit, such member shall file a detailed statement
655 of all services as an employee rendered by him in the state
656 service before February 1, 1953. For any member who joined the
657 system after July 1, 1953, any creditable service for which the
658 member is not required to make contributions shall not be credited
659 to the member until the member has contributed to the system for a
660 minimum period of at least four (4) years.



661 (2) In the computation of membership service or prior
662 service under the provisions of this article, the total months of
663 accumulative service during any fiscal year shall be calculated in
664 accordance with the schedule as follows: ten (10) or more months
665 of creditable service during any fiscal year shall constitute a
666 year of creditable service; seven (7) months to nine (9) months
667 inclusive, three-quarters (3/4) of a year of creditable service;
668 four (4) months to six (6) months inclusive, one-half-year of
669 creditable service; one (1) month to three (3) months inclusive,
670 one-quarter (1/4) of a year of creditable service. In no case
671 shall credit be allowed for any period of absence without
672 compensation except for disability while in receipt of a
673 disability retirement allowance, nor shall less than fifteen (15)
674 days of service in any month, or service less than the equivalent
675 of one-half (1/2) of the normal working load for the position and
676 less than one-half (1/2) of the normal compensation for the
677 position in any month, constitute a month of creditable service,
678 nor shall more than one (1) year of service be creditable for all
679 services rendered in any one (1) fiscal year; provided that for a
680 school employee, substantial completion of the legal school term
681 when and where the service was rendered shall constitute a year of
682 service credit for both prior service and membership service. Any
683 state or local elected official shall be deemed a full-time
684 employee for the purpose of creditable service for prior service
685 or membership service. However, an appointed or elected official
686 compensated on a per diem basis only shall not be allowed
687 creditable service for terms of office.

688 In the computation of any retirement allowance or any annuity
689 or benefits provided in this article, any fractional period of
690 service of less than one (1) year shall be taken into account and
691 a proportionate amount of such retirement allowance, annuity or
692 benefit shall be granted for any such fractional period of
693 service.



694 In the computation of unused leave for creditable service
695 authorized in Section 25-11-103, the following shall govern:
696 twenty-one (21) days of unused leave shall constitute one (1)
697 month of creditable service and in no case shall credit be allowed
698 for any period of unused leave of less than fifteen (15) days.
699 The number of months of unused leave shall determine the number of
700 quarters or years of creditable service in accordance with the
701 above schedule for membership and prior service. In order for the
702 member to receive creditable service for the number of days of
703 unused leave, the system must receive certification from the
704 governing authority.

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

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

712 (b) For service on and after July 1, 1984, the member
713 shall receive credit for personal and major medical leave
714 beginning July 1, 1984, at the rates authorized in Sections
715 25-3-93 and 25-3-95, computed as a full-time employee.

716 (3) Subject to the above restrictions and to such other
717 rules and regulations as the board may adopt, the board shall
718 verify, as soon as practicable after the filing of such statements
719 of service, the services therein claimed.

720 (4) Upon verification of the statement of prior service, the
721 board shall issue a prior service certificate certifying to each
722 member the length of prior service for which credit shall have
723 been allowed on the basis of his statement of service. So long as
724 membership continues, a prior service certificate shall be final
725 and conclusive for retirement purposes as to such service,
726 provided that any member may within five (5) years from the date



727 of issuance or modification of such certificate request the board
728 of trustees to modify or correct his prior service certificate.
729 Any modification or correction authorized shall only apply
730 prospectively.

731 When membership ceases, such prior service certificates shall
732 become void. Should the employee again become a member, he shall
733 enter the system as an employee not entitled to prior service
734 credit except as provided in Sections 25-11-105(I), 25-11-113 and
735 25-11-117.

736 (5) Creditable service at retirement, on which the
737 retirement allowance of a member shall be based, shall consist of
738 the membership service rendered by him since he last became a
739 member, and also, if he has a prior service certificate which is
740 in full force and effect, the amount of the service certified on
741 his prior service certificate.

742 (6) * * * Any member who served on active duty in the Armed
743 Forces of the United States, or who served in maritime service
744 during periods of hostility in World War II, shall be entitled to
745 creditable service at no cost for his service on active duty in
746 the Armed Forces or in such maritime service, provided he entered
747 state service after his discharge from the Armed Forces or entered
748 state service after he completed such maritime service. The
749 maximum period for such creditable service for all military
750 service as defined in this subsection (6) shall not exceed four
751 (4) years unless positive proof can be furnished by such person
752 that he was retained in the Armed Forces during World War II or in
753 maritime service during World War II by causes beyond his control
754 and without opportunity of discharge. The member shall furnish
755 proof satisfactory to the board of trustees of certification of
756 military service or maritime service records showing dates of
757 entrance into active duty service and the date of discharge. From
758 and after July 1, 1993, no creditable service shall be granted for
759 any military service or maritime service to a member who qualifies



760 for a retirement allowance in another public retirement system
761 administered by the Board of Trustees of the Public Employees'
762 Retirement System based in whole or in part on such military or
763 maritime service. In no case shall the member receive creditable
764 service if the member received a dishonorable discharge from the
765 Armed Forces of the United States.

766 (7) (a) Any member of the Public Employees' Retirement
767 System whose membership service is interrupted as a result of
768 qualified military service within the meaning of Section 414(u)(5)
769 of the Internal Revenue Code, and who has received the maximum
770 service credit available under subsection (6) of this section,
771 shall receive creditable service for the period of qualified
772 military service that does not qualify as creditable service under
773 subsection (6) of this section upon reentering membership service
774 in an amount not to exceed five (5) years if:

775 (i) The member pays the contributions he would
776 have made to the retirement system if he had remained in
777 membership service for the period of qualified military service
778 based upon his salary at the time his membership service was
779 interrupted;

780 (ii) The member returns to membership service
781 within ninety (90) days of the end of his qualified military
782 service; and

783 (iii) The employer at the time the member's
784 service was interrupted and to which employment the member returns
785 pays the contributions it would have made into the retirement
786 system for such period based on the member's salary at the time
787 the service was interrupted.

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



793 (c) The member shall furnish proof satisfactory to the
794 board of trustees of certification of military service showing
795 dates of entrance into qualified service and the date of discharge
796 as well as proof that the member has returned to active employment
797 within the time specified.

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

808 (a) The member shall furnish proof satisfactory to the
809 board of trustees of certification of such services from the
810 state, public education system, political subdivision or
811 retirement system of the state where the services were performed
812 or the governing entity of the American overseas dependent school
813 where the services were performed; and

814 (b) The member is not receiving or will not be entitled
815 to receive from the public retirement system of the other state or
816 from any other retirement plan, including optional retirement
817 plans, sponsored by the employer, a retirement allowance including
818 such services; and

819 (c) The member shall pay to the retirement system on
820 the date he or she is eligible for credit for such out-of-state
821 service or at any time thereafter prior to date of retirement the
822 actuarial cost as determined by the actuary for each year of
823 out-of-state creditable service. The provisions of this
824 subsection are subject to the limitations of Section 415 of the
825 Internal Revenue Code and regulations promulgated thereunder.



826 (9) Any member of the Public Employees' Retirement System
827 who has at least four (4) years of membership service credit and
828 who receives, or has received, professional leave without
829 compensation for professional purposes directly related to the
830 employment in state service shall receive creditable service for
831 the period of professional leave without compensation provided:

832 (a) The professional leave is performed with a public
833 institution or public agency of this state, or another state or
834 federal agency;

835 (b) The employer approves the professional leave
836 showing the reason for granting the leave and makes a
837 determination that the professional leave will benefit the
838 employee and employer;

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

841 (d) The employee shall serve the employer on a
842 full-time basis for a period of time equivalent to the
843 professional leave period granted immediately following the
844 termination of the leave period;

845 (e) The contributing member shall pay to the retirement
846 system the actuarial cost as determined by the actuary for each
847 year of professional leave. The provisions of this subsection are
848 subject to the regulations of the Internal Revenue Code
849 limitations;

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

853 Any actively contributing member participating in the School
854 Administrator Sabbatical Program established in Section 37-9-77
855 shall qualify for continued participation under this subsection
856 (9).

857 (10) Any member of the Public Employees' Retirement System
858 who has at least four (4) years of credited membership service



859 shall be entitled to receive a maximum of ten (10) years
860 creditable service for:

861 (a) Any service rendered as an employee of any
862 political subdivision of this state, or any instrumentality
863 thereof, which does not participate in the Public Employees'
864 Retirement System; or

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

869 (c) Any service rendered as an employee of any
870 political subdivision of this state, or any instrumentality
871 thereof, for which coverage of the employee's position was or is
872 excluded; provided that the member pays into the retirement system
873 the actuarial cost as determined by the actuary for each year, or
874 portion thereof, of such service. Payment for such service may be
875 made in increments of one-quarter-year of creditable service.
876 After a member has made full payment to the retirement system for
877 all or any part of such service, the member shall receive
878 creditable service for the period of such service for which full
879 payment has been made to the retirement system.

880 **SECTION 4.** Section 25-11-112, Mississippi Code of 1972, is
881 amended as follows:

882 25-11-112. (1) Any member who is receiving a retirement
883 allowance for service or disability retirement, or any beneficiary
884 thereof, who has received a monthly benefit for at least one (1)
885 full fiscal year, shall be eligible to receive an additional
886 benefit, on December 1 or July 1 of the year as provided in
887 subsection (3) of this section, equal to the greater of the
888 amounts calculated under paragraph (a) or (b) below:

889 (a) An amount equal to four percent (4%) of the annual
890 retirement allowance multiplied by the number of full fiscal years
891 in retirement through June 30, 1998; or



892 (b) The sum of:

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

897 (ii) An additional amount equal to three percent
898 (3%) compounded by the number of full fiscal years in retirement
899 beginning with the fiscal year in which the member reaches age
900 fifty-five (55), multiplied by the amount of the annual retirement
901 allowance.

902 (2) The calculation of the beneficiary's additional benefit
903 under subsection (1)(b)(i) or (1)(b)(ii) of this section shall be
904 based on the member's age and full fiscal years in retirement as
905 if the member had lived.

906 (3) (a) The additional benefit provided for under this
907 section shall be paid in one (1) payment in December of each year
908 to those persons who are receiving a retirement allowance on
909 December 1 of that year, unless an election is made under this
910 subsection. However, if a retiree who is receiving a retirement
911 allowance that will terminate upon the retiree's death is
912 receiving the additional benefit in one (1) payment and dies on or
913 after July 1 but before December 1, the beneficiary designated on
914 the retirement application, if any, shall receive in a single
915 payment a fractional part of the additional benefit based on the
916 number of months in which a retirement allowance was received
917 during the fiscal year. Likewise, if a retiree is receiving a
918 retirement allowance that will terminate upon his or her death in
919 two (2) to six (6) monthly installments, any remaining payments of
920 the additional benefit will be paid in a lump sum to the
921 beneficiary designated on the application, or if none, pursuant to
922 Section 25-11-117.1(1). Any similar remaining payments of
923 additional benefits payable under this section to a deceased
924 beneficiary who was receiving a monthly benefit shall be payable



925 in accordance with the provisions of Section 25-11-117.1(2). If
926 the additional monthly benefit is being received in one (1)
927 payment, such additional benefit shall also be prorated based on
928 the number of months in which a retirement allowance was received
929 during the fiscal year when (i) the monthly benefit payable to a
930 beneficiary terminates due to the expiration of an option,
931 remarriage or cessation of dependent status or due to the
932 retiree's return to covered employment, and (ii) the monthly
933 benefit terminates on or after July 1 and before December 1. The
934 board may, in its discretion, allow a retired member or a
935 beneficiary thereof who is receiving the additional annual payment
936 in the manner provided for in this paragraph to change the manner
937 in which the additional annual payment is received to that
938 provided for in paragraph (b) of this subsection if the retired
939 member or beneficiary submits satisfactory documentation that the
940 continued receipt of the additional annual payment as provided for
941 in this paragraph will cause a financial hardship to the retired
942 member or beneficiary.

943 (b) Retired members or beneficiaries thereof who on
944 July 1, 1999, or July 1 of any fiscal year thereafter, are
945 receiving a retirement allowance, may elect by an irrevocable
946 agreement in writing filed in the Office of the Public Employees'
947 Retirement System no less than thirty (30) days before July 1 of
948 the appropriate year, to begin receiving the additional benefit
949 provided for under this section in twelve (12) equal monthly
950 installments beginning July 1, 1999, or July 1 of any fiscal year
951 thereafter. This irrevocable agreement shall be binding on the
952 member and subsequent beneficiaries. Payment of those monthly
953 installments shall not extend beyond the month in which a
954 retirement allowance is due and payable. The board may, in its
955 discretion, allow a retired member or a beneficiary thereof who is
956 receiving the additional annual payment in the manner provided for
957 in this paragraph to change the manner in which the additional



958 annual payment is received to that provided for in paragraph (a)
959 of this subsection if the retired member or beneficiary submits
960 satisfactory documentation that the continued receipt of the
961 additional annual payment as provided for in this paragraph will
962 cause a financial hardship to the retired member or beneficiary.

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

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

967 $[(1.03)^n - 1] \times [\text{annual retirement allowance}]$,

968 where n is the number of full fiscal years in retirement beginning
969 with the fiscal year in which the member reaches age fifty-five
970 (55).

971 (6) Any retired member or beneficiary thereof who has
972 previously elected to receive the additional annual payment in
973 monthly installments may elect, upon application on a form
974 prescribed by the board of trustees, to have that payment made in
975 one (1) additional payment each year. This written election must
976 be filed in the Office of the Public Employees' Retirement System
977 before June 1, 2000, and shall be effective for the fiscal year
978 beginning July 1, 2000.

979 (7) In the event of death of a retired member or a
980 beneficiary thereof who is receiving the additional annual payment
981 in two (2) to six (6) monthly installments pursuant to an election
982 made before July 1, 1999, and who would otherwise be eligible to
983 receive the additional benefit provided for under this section in
984 one (1) payment in December of the current fiscal year, any
985 remaining amounts shall be paid in a lump sum to the designated
986 beneficiary.

987 (8) When a member retires after July 1 and has previously
988 received a retirement allowance for one or more full fiscal years,
989 such retired member shall be eligible immediately for the
990 additional benefit. The additional benefit shall be based on the



991 current retirement allowance and the number of full fiscal years
992 in retirement and shall be prorated and paid in monthly
993 installments based on the number of months a retirement allowance
994 is paid during the fiscal year.

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

997 25-11-113. (1) (a) Upon the application of a member or his
998 employer, any active member in state service who has at least four
999 (4) years of membership service credit may be retired by the board
1000 of trustees on the first of the month following the date of filing
1001 such application on a disability retirement allowance, but in no
1002 event shall the disability retirement allowance commence before
1003 termination of state service, provided that the medical board,
1004 after an evaluation of medical evidence which may or may not
1005 include an actual physical examination by the medical board, shall
1006 certify that the member is mentally or physically incapacitated
1007 for the further performance of duty, that such incapacity is
1008 likely to be permanent, and that the member should be retired;
1009 however, the board of trustees may accept a disability medical
1010 determination from the Social Security Administration in lieu of a
1011 certification from the medical board. For the purposes of
1012 disability determination, the medical board shall apply the
1013 following definition of disability: the inability to perform the
1014 usual duties of employment or the incapacity to perform such
1015 lesser duties, if any, as the employer, in its discretion, may
1016 assign without material reduction in compensation, or the
1017 incapacity to perform the duties of any employment covered by the
1018 Public Employees' Retirement System (Section 25-11-101 et seq.)
1019 that is actually offered and is within the same general
1020 territorial work area, without material reduction in compensation.
1021 The employer shall be required to furnish the job description and
1022 duties of the member. The employer shall further certify whether
1023 the employer has offered the member other duties and has complied



1024 with the applicable provisions of the Americans With Disabilities
1025 Act in affording reasonable accommodations which would allow the
1026 employee to continue employment.

1027 (b) An inactive member with four (4) or more years of
1028 membership service * * * may not file a claim for a disability
1029 retirement allowance later than six (6) months after the member's
1030 withdrawal from service. If a claim for a disability retirement
1031 allowance is filed by such member within six (6) months after
1032 withdrawal from service, the member must present satisfactory
1033 proof * * * to the board * * * that the disability was the direct
1034 cause of withdrawal from state service.

1035 (c) If a member returns to covered employment after
1036 withdrawal from service, such member may not apply for a regular
1037 nonduty related disability retirement allowance until the member
1038 has remained a contributing member for a period of not less than
1039 six (6) months.

1040 (d) Any member who is or becomes eligible for service
1041 retirement benefits under Section 25-11-111 while pursuing a
1042 disability retirement allowance under this section or Section
1043 25-11-114 may elect to receive a service retirement allowance
1044 pending a final determination on eligibility for a disability
1045 retirement allowance or withdrawal of the application for the
1046 disability retirement allowance. In such a case, an application
1047 for a disability retirement allowance must be on file with the
1048 system prior to the commencement of a service retirement
1049 allowance. If the application is approved, the option selected
1050 and beneficiary designated on the retirement application shall be
1051 used to determine the disability retirement allowance. If the
1052 application is not approved or if the application is withdrawn,
1053 the service retirement allowance shall continue to be paid in
1054 accordance with the option selected. No person may apply for a
1055 disability retirement allowance after such person begins to
1056 receive a service retirement allowance.



1057 (e) If the medical board certifies that the member is
1058 not mentally or physically incapacitated for the future
1059 performance of duty, the member may request, within sixty (60)
1060 days, a hearing before the hearing officer as provided in Section
1061 25-11-120. All hearings shall be held in accordance with rules
1062 and regulations adopted by the board * * * to govern such
1063 hearings. Such hearing may be closed upon the request of the
1064 member.

1065 (f) The medical board may request additional medical
1066 evidence and/or other physicians to conduct an evaluation of the
1067 member's condition. If the medical board requests additional
1068 medical evidence and the member refuses the request, the
1069 application shall be considered void.

1070 (2) Allowance on disability retirement.

1071 (a) Upon retirement for disability, an eligible member
1072 shall receive a retirement allowance if he has attained the age of
1073 sixty (60) years.

1074 (b) Except as provided in paragraph (c) of this
1075 subsection (2), an eligible member who is retired for disability
1076 and who has not attained sixty (60) years of age shall receive a
1077 disability benefit as computed in Section 25-11-111(d)(1) through
1078 (d)(4) which shall consist of:

1079 (i) A member's annuity which shall be the
1080 actuarial equivalent of his accumulated contributions at the time
1081 of retirement; and

1082 (ii) An employer's annuity equal to the amount
1083 that would have been payable as a retirement allowance for both
1084 membership service and prior service had the member continued in
1085 service to the age of sixty (60) years, which shall apply to the
1086 allowance for disability retirement paid to retirees receiving
1087 such allowance upon and after April 12, 1977. This employer's
1088 annuity shall be computed on the basis of the average "earned
1089 compensation" as defined in Section 25-11-103.



1090 (c) For persons who become members after June 30, 1992,
1091 and for active members on June 30, 1992, who elect benefits under
1092 this paragraph (c) instead of those provided under paragraph (b)
1093 of this subsection (2), the disability allowance shall consist of
1094 two (2) parts: a temporary allowance and a deferred allowance.

1095 The temporary allowance shall equal the greater of (i) forty
1096 percent (40%) of average compensation at the time of disability,
1097 plus ten percent (10%) of average compensation for each of the
1098 first two (2) dependent children, as defined in Sections 25-11-103
1099 and 25-11-114, or (ii) the accrued benefit based on actual
1100 service. It shall be payable for a period of time based on the
1101 member's age at disability, as follows:

1102	Age at Disability	Duration
1103	60 and earlier	to age 65
1104	61	to age 66
1105	62	to age 66
1106	63	to age 67
1107	64	to age 67
1108	65	to age 68
1109	66	to age 68
1110	67	to age 69
1111	68	to age 70
1112	69 and over	one year

1113 The deferred allowance shall commence when the temporary
1114 allowance ceases and shall be payable for life. The deferred
1115 allowance shall equal the greater of (i) the allowance that would
1116 have been payable had the member continued in service to the
1117 termination age of the temporary allowance, but no more than forty
1118 percent (40%) of average compensation, or (ii) the accrued benefit
1119 based on actual service at the time of disability. The deferred
1120 allowance as determined at the time of disability shall be
1121 adjusted in accordance with Section 25-11-112 for the period
1122 during which the temporary annuity is payable. In no case shall a



1123 member receive less than Ten Dollars (\$10.00) per month for each
1124 year of service and proportionately for each quarter year thereof
1125 reduced for the option selected.

1126 (d) The member may elect to receive the actuarial
1127 equivalent of the disability retirement allowance in a reduced
1128 allowance payable throughout life under any of the provisions of
1129 the options provided under Section 25-11-115.

1130 (e) Should a disability retiree who has not selected an
1131 option under Section 25-11-115 die before being repaid in
1132 disability benefits the sum of his total contributions, then his
1133 named beneficiary shall receive the difference in cash, which
1134 shall apply to all deceased disability retirees from and after
1135 January 1, 1953.

1136 (3) Reexamination of retirees retired on account of
1137 disability. Except as otherwise provided in this section, once
1138 each year during the first five (5) years following retirement of
1139 a member on a disability retirement allowance, and once in every
1140 period of three (3) years thereafter, the board of trustees may,
1141 and upon his application shall, require any disability retiree who
1142 has not yet attained the age of sixty (60) years or the
1143 termination age of the temporary allowance under paragraph (2)(c)
1144 of this section to undergo a medical examination, such examination
1145 to be made at the place of residence of said retiree or other
1146 place mutually agreed upon by a physician or physicians designated
1147 by the board. The board, however, in its discretion, may
1148 authorize the medical board to establish reexamination schedules
1149 appropriate to the medical condition of individual disability
1150 retirees. Should any disability retiree who has not yet attained
1151 the age of sixty (60) years or the termination age of the
1152 temporary allowance under paragraph (2)(c) of this section refuse
1153 to submit to any medical examination provided herein, his
1154 allowance may be discontinued until his withdrawal of such
1155 refusal; and should his refusal continue for one (1) year, all his



1156 rights to a disability benefit shall be revoked by the board of
1157 trustees.

1158 (4) If the medical board reports and certifies to the board
1159 of trustees, after a comparable job analysis or other similar
1160 study, that such disability retiree is engaged in, or is able to
1161 engage in, a gainful occupation paying more than the difference
1162 between his disability allowance, exclusive of cost of living
1163 adjustments, and the average compensation, and if the board of
1164 trustees concurs in such report, the disability benefit shall be
1165 reduced to an amount which, together with the amount earnable by
1166 him, shall equal the amount of his average compensation. If his
1167 earning capacity be later changed, the amount of the said benefit
1168 may be further modified, provided that the revised benefit shall
1169 not exceed the amount originally granted. A retiree receiving a
1170 disability benefit who is restored to active service at a salary
1171 less than the average compensation shall not become a member of
1172 the retirement system.

1173 (5) Should a disability retiree under the age of sixty (60)
1174 years or the termination age of the temporary allowance under
1175 paragraph (2)(c) of this section be restored to active service at
1176 a compensation not less than his average compensation, his
1177 disability benefit shall cease, he shall again become a member of
1178 the retirement system, and contributions shall be withheld and
1179 reported. Any such prior service certificate, on the basis of
1180 which his service was computed at the time of retirement, shall be
1181 restored to full force and effect. In addition, upon his
1182 subsequent retirement he shall be credited with all creditable
1183 service as a member, but the total retirement allowance paid to
1184 the retired member in his previous retirement shall be deducted
1185 from his retirement reserve and taken into consideration in
1186 recalculating the retirement allowance under a new option
1187 selected.



1188 (6) If following reexamination in accordance with the
1189 provisions contained in this section, the medical board determines
1190 that a retiree retired on account of disability is physically and
1191 mentally able to return to the employment from which he is
1192 retired, the board of trustees, upon certification of such
1193 findings from the medical board, shall, after a reasonable period
1194 of time, terminate the disability allowance, whether or not the
1195 retiree is reemployed or seeks such reemployment. In addition, if
1196 the board of trustees determines that the retiree is no longer
1197 sustaining a loss of income as established by documented evidence
1198 of the retiree's earned income, the eligibility for a disability
1199 allowance shall terminate and the allowance terminated within a
1200 reasonable period of time. In the event the retirement allowance
1201 is terminated under the provisions of this section, the retiree
1202 may subsequently qualify for a retirement allowance under Section
1203 25-11-111 based on actual years of service credit plus credit for
1204 the period during which a disability allowance was paid.

1205 (7) Any current member as of June 30, 1992, who retires on a
1206 disability retirement allowance after June 30, 1992, and who has
1207 not elected to receive benefits under paragraph (2)(c) of this
1208 section, shall relinquish all rights under the Age Discrimination
1209 in Employment Act of 1967, as amended, with regard to the benefits
1210 payable under this section.

1211 **SECTION 6.** Section 25-11-115, Mississippi Code of 1972, is
1212 amended as follows:

1213 25-11-115. (1) Upon application for superannuation or
1214 disability retirement, any member may elect to receive his benefit
1215 in a retirement allowance payable throughout life with no further
1216 payments to anyone at his death, except that in the event his
1217 total retirement payments under this article do not equal his
1218 total contributions under this article, his named beneficiary
1219 shall receive the difference in cash at his death. Or he may
1220 elect upon retirement, or upon becoming eligible for retirement,



1221 to receive the actuarial equivalent subject to the provisions of
1222 subsection (3) of this section of his retirement allowance in a
1223 reduced retirement allowance payable throughout life with the
1224 provision that:

1225 **Option 1.** If he dies before he has received in annuity
1226 payment the value of the member's annuity savings account as it
1227 was at the time of his retirement, the balance shall be paid to
1228 his legal representative or to such person as he shall nominate by
1229 written designation duly acknowledged and filed with the board; or

1230 **Option 2.** Upon his death, his reduced retirement allowance
1231 shall be continued throughout the life of, and paid to, such
1232 person as he has nominated by written designation duly
1233 acknowledged and filed with the board of trustees at the time of
1234 his retirement;

1235 **Option 3.** Upon his death, one-half (1/2) of his reduced
1236 retirement allowance shall be continued throughout the life of,
1237 and paid to, such person as he shall have nominated by written
1238 designation duly acknowledged and filed with the board of trustees
1239 at the time of his retirement, and the other one-half (1/2) of his
1240 reduced retirement allowance to some other designated beneficiary;

1241 **Option 4-A.** Upon his death, one-half (1/2) of his reduced
1242 retirement allowance, or such other specified amount, shall be
1243 continued throughout the life of, and paid to, such person as he
1244 shall have nominated by written designation duly acknowledged and
1245 filed with the board of trustees at the time of his retirement; or

1246 **Option 4-B.** A reduced retirement allowance shall be
1247 continued throughout the life of the retirant, but with the
1248 further guarantee of payments to the named beneficiary,
1249 beneficiaries or to the estate for a specified number of years
1250 certain. If the retired member or the last designated beneficiary
1251 receiving annuity payments dies prior to receiving all guaranteed
1252 payments due, the actuarial equivalent of the remaining payments
1253 shall be paid pursuant to Section 25-11-117.1(1);



1254 **Option 4-C.** Such retirement allowance otherwise payable may
1255 be converted into a retirement allowance of equivalent actuarial
1256 value in such an amount that, with the member's benefit under
1257 Title II of the federal Social Security Act, the member will
1258 receive, so far as possible, approximately the same amount
1259 annually before and after the earliest age at which the member
1260 becomes eligible to receive a social security benefit.

1261 **Option 6.** Any member who has at least twenty-eight (28)
1262 years of creditable service at the time of retirement or who is at
1263 least sixty-three (63) years of age and eligible to retire, may
1264 select the maximum retirement benefit or an optional benefit as
1265 provided in this subsection together with a partial lump sum
1266 distribution. The amount of the lump sum distribution under this
1267 option shall be equal to the maximum monthly benefit multiplied by
1268 twelve (12), twenty-four (24) or thirty-six (36) as selected by
1269 the member. The maximum retirement benefit shall be actuarially
1270 reduced to reflect the amount of the lump sum distribution
1271 selected and further reduced for any other optional benefit
1272 selected. The annuity and lump sum distribution shall be computed
1273 to result in no actuarial loss to the system. The lump sum
1274 distribution shall be made as a single payment payable at the time
1275 the first monthly annuity payment is paid to the retiree. The
1276 amount of the lump sum distribution shall be deducted from the
1277 member's annuity savings account in computing what contributions
1278 remain at the death of the retiree and/or a beneficiary. The lump
1279 sum distribution option may be elected only once by a member upon
1280 initial retirement, and may not be elected by a retiree, by
1281 members applying for a disability retirement annuity, by survivors
1282 or by a member selecting Option 4-C.

1283 (2) No change in the option selected shall be permitted
1284 after the member's death or after the member has received his
1285 first retirement check except as provided in subsections (3) and
1286 (4) of this section and in Section 25-11-127. Members who are



1287 pursuing a disability retirement allowance and simultaneously or
1288 subsequently elect to begin to receive a service retirement
1289 allowance while continuing to pursue a disability retirement
1290 allowance, shall not be eligible to select Option 4-C or Option 6
1291 and such options may not be selected at a later time if the
1292 application for a disability retirement allowance is voided or
1293 denied. However, any retired member who is receiving a retirement
1294 allowance under Option 2 or Option 4-A upon July 1, 1992, and
1295 whose designated beneficiary predeceased him or whose marriage to
1296 a spouse who is his designated beneficiary is terminated by
1297 divorce or other dissolution, upon written notification to the
1298 retirement system of the death of the designated beneficiary or of
1299 the termination of his marriage to his designated beneficiary, the
1300 retirement allowance payable to the member after receipt of such
1301 notification by the retirement system shall be equal to the
1302 retirement allowance which would have been payable had the member
1303 not elected the option. In addition, any retired member who is
1304 receiving the maximum retirement allowance for life, a retirement
1305 allowance under Option 1 or who is receiving a retirement
1306 allowance under Option 2 or Option 4-A on July 1, 1992, may elect
1307 to provide survivor benefits under Option 2 or Option 4-A to a
1308 spouse who was not previously the member's beneficiary and whom
1309 the member married before July 1, 1992.

1310 (3) Any retired member who is receiving a reduced retirement
1311 allowance under Option 2 or Option 4-A whose designated
1312 beneficiary predeceases him, or whose marriage to a spouse who is
1313 his designated beneficiary is terminated by divorce or other
1314 dissolution, may elect to cancel his reduced retirement allowance
1315 and receive the maximum retirement allowance for life in an amount
1316 equal to the amount that would have been payable if the member had
1317 not elected Option 2 or Option 4-A. Such election must be made in
1318 writing to the office of the executive director of the system on a
1319 form prescribed by the board. Any such election shall be



1320 effective the first of the month following the date the election
1321 is received by the system.

1322 (4) Any retired member who is receiving the maximum
1323 retirement allowance for life, or a retirement allowance under
1324 Option 1, and who marries after his retirement may elect to cancel
1325 his maximum retirement allowance and receive a reduced retirement
1326 allowance under Option 2 or Option 4-A to provide continuing
1327 lifetime benefits to his spouse. Such election must be made in
1328 writing to the office of the executive director of the system on a
1329 form prescribed by the board not earlier than the date of the
1330 marriage. Any such election shall be effective the first of the
1331 month following the date the election is received by the
1332 system. * * *

1333 (5) In the event the election of an optional benefit is made
1334 after the member has attained the age of sixty-five (65) years,
1335 the actuarial equivalent factor shall be used to compute the
1336 reduced retirement allowance as if the election had been made on
1337 his sixty-fifth birthday; however, from and after January 1, 2003,
1338 in the event of the election of Option 6 after the member has
1339 attained the age of sixty-five (65) years, the actuarial
1340 equivalent factor based on such retiree's age at the time of
1341 retirement shall be used to compute the reduced maximum monthly
1342 retirement allowance. However, if a retiree marries or remarries
1343 after retirement and elects either Option 2 or Option 4-A as
1344 provided in subsection (2) or (4) of this section, the actuarial
1345 equivalent factor used to compute the reduced retirement allowance
1346 shall be the factor for the age of the retiree and his or her
1347 beneficiary at the time such election for recalculation of
1348 benefits is made.

1349 (6) Notwithstanding any provision of Section 25-11-1 et
1350 seq., no payments may be made for a retirement allowance on a
1351 monthly basis for a period of time in excess of that allowed by
1352 federal law.



1353 (7) If a retirant and his eligible beneficiary, if any, both
1354 die before they have received in annuity payments a total amount
1355 equal to the accumulated contributions standing to the retirant's
1356 credit in the annuity savings account at the time of his
1357 retirement, the difference between the accumulated contributions
1358 and the total amount of annuities received by them shall be paid
1359 to such persons as the retirant has nominated by written
1360 designation duly executed and filed in the office of the executive
1361 director. If no designated person survives the retirant and his
1362 beneficiary, the difference, if any, shall be paid pursuant to
1363 Section 25-11-117.1(1).

1364 (8) Any retired member who retired on Option 2(5) or 4-A(5)
1365 prior to July 1, 1992, who is still receiving a retirement
1366 allowance on July 1, 1994, shall receive an increase in the annual
1367 retirement allowance effective July 1, 1994, equal to the amount
1368 they would have received under Option 2 or Option 4-A without a
1369 reduction for Option 5 based on the ages at retirement of the
1370 retiree and beneficiary and option factors in effect on July 1,
1371 1992. Such increase shall be prospective only.

1372 **SECTION 7.** Section 25-11-120, Mississippi Code of 1972, is
1373 amended as follows:

1374 25-11-120. (1) Any individual aggrieved by an
1375 administrative determination, including a determination of the
1376 medical board, relating to the eligibility for or payment of
1377 benefits, or the calculation of creditable service or other
1378 similar matters relating to the Public Employees' Retirement
1379 System or any other retirement system or program administered by
1380 the board, may request a hearing before a hearing officer
1381 designated by the board. Such hearings shall be conducted in
1382 accordance with rules and regulations adopted by the board and
1383 formal rules of evidence shall not apply. The hearing officer is
1384 authorized to administer oaths, hear testimony of witnesses and
1385 receive documentary and other evidence. In case of disability



1386 appeals, the hearing officer shall have the authority to defer a
1387 decision in order to request a medical evaluation or test or
1388 additional existing medical records not previously furnished by
1389 the claimant. After the hearing and the receipt of any additional
1390 medical evidence requested by the hearing officer, the hearing
1391 officer shall certify the record to the board, which shall include
1392 the hearing officer's proposed statement of facts, conclusions of
1393 law and recommendation. The record may include a taped recording
1394 of the proceedings of the hearing in lieu of a transcribed copy of
1395 the proceedings. The board shall receive the record and make its
1396 determination based solely on matters contained therein.

1397 (2) Any individual aggrieved by the determination of the
1398 board may appeal to the Circuit Court of the First Judicial
1399 District of Hinds County, Mississippi, in accordance with the
1400 Uniform Circuit Court Rules governing appeals to the circuit court
1401 in civil cases. Such appeal shall be made solely on the record
1402 before the board and this procedure shall be the exclusive method
1403 of appealing determinations of the board.

1404 (3) The board is authorized to appoint a committee of the
1405 board to serve as hearing officer or to employ or contract with
1406 qualified personnel to perform the duties of hearing officer and
1407 court reporter as may be necessary for conducting, recording and
1408 transcribing such hearings. The board may assess and collect fees
1409 to offset costs related to such hearings. Those fees shall be
1410 deposited to the credit of the Public Employees' Retirement
1411 System.

1412 **SECTION 8.** Section 25-11-123, Mississippi Code of 1972, is
1413 amended as follows:

1414 25-11-123. All of the assets of the system shall be credited
1415 according to the purpose for which they are held to one (1) of
1416 four (4) reserves; namely, the annuity savings account, the
1417 annuity reserve, the employer's accumulation account, and the
1418 expense account.



1419 (a) **Annuity savings account.** In the annuity savings account
1420 shall be accumulated the contributions made by members to provide
1421 for their annuities, including interest thereon which shall be
1422 posted monthly. Credits to and charges against the annuity
1423 savings account shall be made as follows:

1424 (1) Beginning July 1, 1991, the employer shall cause to
1425 be deducted from the salary of each member on each and every
1426 payroll of such employer for each and every payroll period seven
1427 and one-fourth percent (7-1/4%) of earned compensation as defined
1428 in Section 25-11-103. Future contributions shall be fixed
1429 biennially by the board on the basis of the liabilities of the
1430 retirement system for the various allowances and benefits as shown
1431 by actuarial valuation; provided, however, that any member earning
1432 at a rate less than Sixteen Dollars and Sixty-seven Cents (\$16.67)
1433 per month, or Two Hundred Dollars (\$200.00) per year, shall
1434 contribute not less than One Dollar (\$1.00) per month, or Twelve
1435 Dollars (\$12.00) per year.

1436 (2) The deductions provided herein shall be made
1437 notwithstanding that the minimum compensation provided by law for
1438 any member shall be reduced thereby. Every member shall be deemed
1439 to consent and agree to the deductions made and provided for
1440 herein and shall receipt for his full salary or compensation, and
1441 payment of salary or compensation less the deduction shall be a
1442 full and complete discharge and a quittance of all claims and
1443 demands whatsoever for the services rendered by such person during
1444 the period covered by such payment, except as to the benefits
1445 provided under Articles 1 and 3. The board shall provide by rules
1446 for the methods of collection of contributions from members and
1447 the employer. The board shall have full authority to require the
1448 production of evidence necessary to verify the correctness of
1449 amounts contributed.

1450 (b) **Annuity reserve.** The annuity reserve shall be the
1451 account representing the actuarial value of all annuities in



1452 force, and to it shall be charged all annuities and all benefits
1453 in lieu of annuities, payable as provided in this article. If a
1454 beneficiary retired on account of disability is restored to active
1455 service with a compensation not less than his average final
1456 compensation at the time of his last retirement, the remainder of
1457 his contributions shall be transferred from the annuity reserve to
1458 the annuity savings account and credited to his individual account
1459 therein, and the balance of his annuity reserve shall be
1460 transferred to the employer's accumulation account.

1461 (c) **Employer's accumulation account.** The employer's
1462 accumulation account shall represent the accumulation of all
1463 reserves for the payment of all retirement allowances and other
1464 benefits payable from contributions made by the employer, and
1465 against this account shall be charged all retirement allowances
1466 and other benefits on account of members. Credits to and charges
1467 against the employer's accumulation account shall be made as
1468 follows:

1469 (1) On account of each member there shall be paid
1470 monthly into the employer's accumulation account by the employers
1471 for the preceding fiscal year an amount equal to a certain
1472 percentage of the total earned compensation, as defined in Section
1473 25-11-103, of each member. The percentage rate of such
1474 contributions shall be fixed biennially by the board on the basis
1475 of the liabilities of the retirement system for the various
1476 allowances and benefits as shown by actuarial valuation. Beginning
1477 January 1, 1990, the rate shall be fixed at nine and three-fourths
1478 percent (9-3/4%). Political subdivisions joining Article 3 of the
1479 Public Employees' Retirement System after July 1, 1968, may adjust
1480 the employer's contributions by agreement with the Board of
1481 Trustees of the Public Employees' Retirement System to provide
1482 service credits for any period prior to execution of the agreement
1483 based upon an actuarial determination of employer's contribution
1484 rates.



1485 (2) On the basis of regular interest and of such
1486 mortality and other tables as shall be adopted by the board of
1487 trustees, the actuary engaged by the board to make each valuation
1488 required by this article during the period over which the accrued
1489 liability contribution is payable, immediately after making such
1490 valuation, shall determine the uniform and constant percentage of
1491 the earnable compensation of each member which, if contributed by
1492 the employer on the basis of compensation of such member
1493 throughout his entire period of membership service, would be
1494 sufficient to provide for the payment of any retirement allowance
1495 payable on his account for such service. The percentage rate so
1496 determined shall be known as the "normal contribution rate."
1497 After the accrued liability contribution has ceased to be payable,
1498 the normal contribution rate shall be the percentage rate of the
1499 salary of all members obtained by deducting from the total
1500 liabilities on account of membership service the amount in the
1501 employer's accumulation account, and dividing the remainder by one
1502 percent (1%) of the present value of the prospective future
1503 salaries of all members as computed on the basis of the mortality
1504 and service tables adopted by the board of trustees and regular
1505 interest. The normal rate of contributions shall be determined by
1506 the actuary after each valuation.

1507 (3) The total amount payable in each year to the
1508 employer's accumulation account shall not be less than the sum of
1509 the percentage rate known as the "normal contribution" rate and
1510 the "accrued liability contribution" rate of the total
1511 compensation earnable by all members during the preceding year,
1512 provided that the payment by the employer shall be sufficient,
1513 when combined with the amounts in the account, to provide the
1514 allowances and other benefits chargeable to this account during
1515 the year then current.

1516 (4) The accrued liability contribution shall be
1517 discontinued as soon as the accumulated balance in the employer's



1518 accumulation account shall equal the present value, computed on
1519 the basis of the normal contribution rate then in force, or the
1520 prospective normal contributions to be received on account of all
1521 persons who are at that time members.

1522 (5) All allowances and benefits in lieu thereof, with
1523 the exception of those payable on account of members who receive
1524 no prior service credit, payable from contributions of the
1525 employer, shall be paid from the employer's accumulation account.

1526 (6) Upon the retirement of a member, an amount equal to
1527 his retirement allowance shall be transferred from the employer's
1528 accumulation account to the annuity reserve.

1529 (d) **Expense account.** The expense account shall be the
1530 account to which the expenses of the administration of the system
1531 shall be charged, exclusive of amounts payable as retirement
1532 allowances and as other benefits provided herein. The Legislature
1533 shall make annual appropriations in amounts sufficient to
1534 administer the system, which shall be credited to this account.
1535 There shall be transferred to the State Treasury from this
1536 account, not less than once per month, an amount sufficient for
1537 payment of the estimated expenses of the system for the succeeding
1538 thirty (30) days. Any interest earned on the expense account
1539 shall accrue to the benefit of the system. Provided, however,
1540 that notwithstanding the provisions of Sections 25-11-15(10) and
1541 25-11-105(f)(5)E, all expenses of the administration of the system
1542 shall be paid from the interest earnings, provided the interest
1543 earnings are in excess of the actuarial interest assumption as
1544 determined by the board, and provided the present cost of the
1545 administrative expense fee of two percent (2%) of the
1546 contributions reported by the political subdivisions and
1547 instrumentalities shall be reduced to one percent (1%) from and
1548 after July 1, 1983, through June 30, 1984, and shall be eliminated
1549 thereafter.



1550 (e) **Collection of contributions.** The employer shall cause
1551 to be deducted on each and every payroll of a member for each and
1552 every payroll period, beginning subsequent to January 31, 1953,
1553 the contributions payable by such member as provided in Articles 1
1554 and 3.

1555 The employer shall make deductions from salaries of employees
1556 as provided in Articles 1 and 3 and shall transmit monthly, or at
1557 such time as the board of trustees shall designate, the amount
1558 specified to be deducted to the Executive Director of the Public
1559 Employees' Retirement System. The executive director, after
1560 making a record of all such receipts, shall deposit such amounts
1561 as provided by law.

1562 (f) (1) Upon the basis of each actuarial valuation provided
1563 herein, the board of trustees shall biennially determine the
1564 normal contribution rate and the accrued liability contribution
1565 rate as provided in this section. The sum of these two (2) rates
1566 shall be known as the "employer's contribution rate." Beginning
1567 on earned compensation effective January 1, 1990, the rate
1568 computed as provided in this section shall be nine and
1569 three-fourths percent (9-3/4%). The percentage rate of such
1570 contributions shall be fixed biennially by the board on the basis
1571 of the liabilities of the retirement system for the various
1572 allowances and benefits as shown by actuarial valuation.
1573 Notwithstanding any other provision of law, the county board of
1574 education, the governing authorities of separate, consolidated, or
1575 municipal school districts, and all other such boards set up by
1576 law which handle and disburse school funds, shall pay from local
1577 tax sources one and one-half percent (1-1/2%) of the total
1578 employer's contribution rate of nine and three-fourths percent
1579 (9-3/4%).

1580 (2) The amount payable by the employer on account of
1581 normal and accrued liability contributions shall be determined by
1582 applying the employer's contribution rate to the amount of



1583 compensation earned by employees who are members of the system.
1584 Monthly, or at such time as the board of trustees shall designate,
1585 each department or agency shall compute the amount of the
1586 employer's contribution payable, with respect to the salaries of
1587 its employees who are members of the system, and shall cause that
1588 amount to be paid to the board of trustees from the personal
1589 service allotment of the amount appropriated for the operation of
1590 the department or agency, or from funds otherwise available to the
1591 agency, for the payment of salaries to its employees.

1592 (3) Constables shall pay employer and employee
1593 contributions on their net fee income as well as the employee
1594 contributions on all direct treasury or county payroll income.
1595 The county shall be responsible for the employer contribution on
1596 all direct treasury or county payroll income of constables.

1597 (4) Chancery and circuit clerks shall be responsible
1598 for both the employer and employee share of contributions on the
1599 proportionate share of net income attributable to fees, as well as
1600 the employee share of net income attributable to direct treasury
1601 or county payroll income, and the employing county shall be
1602 responsible for the employer contributions on the net income
1603 attributable to direct treasury or county payroll income.

1604 (5) Once each year, under procedures established by the
1605 system, each employer shall submit to the Public Employees'
1606 Retirement System a copy of their report to Social Security of all
1607 employees' earnings.

1608 (6) The board shall provide by rules for the methods of
1609 collection of contributions of employers and members. The amounts
1610 determined due by an agency to the various funds as specified in
1611 Articles 1 and 3 are made obligations of the agency to the board
1612 and shall be paid as provided herein. Failure to deduct such
1613 contributions shall not relieve the employee and employer from
1614 liability thereof. Delinquent employee contributions and any
1615 accrued interest shall be the obligation of the employee and



1616 delinquent employer contributions and any accrued interest shall
1617 be the obligation of the employer. The employer may, in its
1618 discretion, elect to pay any or all of the interest on delinquent
1619 employee contributions. From and after July 1, 1996, under rules
1620 and regulations established by the board, all employers are
1621 authorized and shall transfer all funds due to the Public
1622 Employees' Retirement System electronically and shall transmit any
1623 wage or other reports by computerized reporting systems.

1624 **SECTION 9.** Section 25-11-127, Mississippi Code of 1972, is
1625 amended as follows:

1626 25-11-127. (1) (a) No person who is being paid a
1627 retirement allowance or a pension after retirement under this
1628 article shall be employed or paid for any service by the State of
1629 Mississippi, except as provided in this section. * * *

1630 (b) No retiree of this retirement system who is
1631 reemployed or is reelected to office after retirement shall
1632 continue to draw retirement benefits while so reemployed, except
1633 as provided in this section.

1634 (c) No person employed or elected under the exceptions
1635 provided for in this section shall become a member under Article 3
1636 of the retirement system.

1637 (2) Any person who has been retired under the provisions of
1638 Article * * * 3 and who is later reemployed in service covered by
1639 this article shall cease to receive benefits under this article
1640 and shall again become a contributing member of the retirement
1641 system. When the person retires again, if the reemployment
1642 exceeds six (6) months, the person shall have his or her benefit
1643 recomputed, including service after again becoming a member,
1644 provided that the total retirement allowance paid to the retired
1645 member in his or her previous retirement shall be deducted from
1646 the member's retirement reserve and taken into consideration in
1647 recalculating the retirement allowance under a new option
1648 selected.



1649 * * *

1650 (3) The board * * * shall have the right to prescribe rules
1651 and regulations for carrying out the provisions of this section.

1652 (4) The provisions of this section shall not be construed to
1653 prohibit any retiree, regardless of age, from being employed and
1654 drawing a retirement allowance either:

1655 (a) For a period of time not to exceed one-half (1/2)
1656 of the normal working days for the position in any fiscal year
1657 during which the retiree will receive no more than one-half (1/2)
1658 of the salary in effect for the position at the time of
1659 employment, or

1660 (b) For a period of time in any fiscal year sufficient
1661 in length to permit a retiree to earn not in excess of twenty-five
1662 percent (25%) of retiree's average compensation.

1663 To determine the normal working days for a position under
1664 paragraph (a) of this subsection, the employer shall determine the
1665 required number of working days for the position on a full-time
1666 basis and the equivalent number of hours representing the
1667 full-time position. The retiree then may work up to one-half
1668 (1/2) of the required number of working days or up to one-half
1669 (1/2) of the equivalent number of hours and receive up to one-half
1670 (1/2) of the salary for the position. In the case of employment
1671 with multiple employers, the limitation shall equal one-half (1/2)
1672 of the number of days or hours for a single full-time position.

1673 Notice shall be given in writing to the executive
1674 director * * *, setting forth the facts upon which the employment
1675 is being made, and the notice shall be given within five (5) days
1676 from the date of employment and also from the date of termination
1677 of the employment.

1678 * * *

1679 (5) Any member may continue in municipal or county elected
1680 office * * * or be * * * elected to a municipal or county office,
1681 provided that the person:



1682 (a) Files annually, in writing, in the office of the
1683 employer and the office of the executive director of the system
1684 before such person takes office or as soon as possible after
1685 retirement, a waiver of all salary or compensation and elects to
1686 receive in lieu of that salary or compensation a retirement
1687 allowance as provided in this section, in which event no salary or
1688 compensation shall thereafter be due or payable for those
1689 services; however, any such officer or employee may receive, in
1690 addition to the retirement allowance, * * * office expense
1691 allowance, mileage or travel expense authorized by any statute of
1692 the State of Mississippi; or

1693 (b) Receives compensation for such elective office in
1694 an amount not to exceed twenty-five percent (25%) of such
1695 retiree's average compensation.

1696 **SECTION 10.** Section 25-11-133, Mississippi Code of 1972, is
1697 amended as follows:

1698 25-11-133. (1) The maintenance of actuarial reserves for
1699 the various allowances and benefits under Articles 1 and 3, and
1700 the payment of all annuities, retirement allowances, refunds and
1701 other benefits granted hereunder are hereby made obligations of
1702 the employer's accumulation accounts. All income, interest and
1703 dividends derived from deposits and investments authorized by said
1704 articles shall be used for the payment of the obligations of the
1705 system.

1706 (2) In the event of the termination of the Public Employees'
1707 Retirement System established pursuant to the provisions of
1708 Section 25-11-101 et seq., all members of the system as of the
1709 date of termination of the system shall be deemed to have a vested
1710 right to benefits to the extent and in the same manner that rights
1711 would be vested under the statute existing as of the date of
1712 termination of the system, except that any member who, because of
1713 a termination of the system has not fulfilled the requirements for
1714 length of service, shall nonetheless be entitled to compensation



1715 as of the date that such member would otherwise be eligible, with
1716 such compensation to be computed on the basis of time actually a
1717 member of the service and compensation actually earned during the
1718 time a member, in the manner now provided by statute.

1719 In the event of a deficit in the availability of funds for
1720 payment due under the provisions of the Public Employees'
1721 Retirement System, an appropriation shall hereinafter be made
1722 sufficient for the payment thereof as an obligation of the state.

1723 (3) Notwithstanding any provisions of this section or this
1724 title to the contrary, the maximum annual retirement allowance
1725 attributable to the employer contributions payable by the system
1726 to a member shall be subject to the limitations set forth in
1727 Section 415 of the Internal Revenue Code and any regulations
1728 issued thereunder as applicable to governmental plans as such term
1729 is defined under Section 414(d) of the Internal Revenue Code.

1730 (4) Notwithstanding any other provision of this plan, all
1731 distributions from this plan shall conform to the regulations
1732 issued under Section 401(a)(9) of the Internal Revenue Code,
1733 applicable to governmental plans, as defined in Section 414(d) of
1734 the Internal Revenue Code, including the incidental death benefit
1735 provisions of Section 401(a)(9)(G) of the Internal Revenue Code.
1736 Further, such regulations shall override any plan provision that
1737 is inconsistent with Section 401(a)(9) of the Internal Revenue
1738 Code.

1739 (5) The actuarial assumptions used to convert a retirement
1740 allowance from the normal form of payment to an optional form of
1741 payment shall be an appendix to Article 3 and subject to approval
1742 by the board of trustees based upon certification by the actuary.

1743 (6) Notwithstanding any other provision of this plan, the
1744 maximum compensation that can be considered for all plan purposes
1745 shall not be greater than that allowed under Section 401(a)(17) of
1746 the Internal Revenue Code.



1747 **SECTION 11.** Section 25-11-139, Mississippi Code of 1972, is
1748 amended as follows:

1749 25-11-139. (1) Any retirement allowance or other annuity or
1750 benefit provided by Articles 1 and 3 shall be paid in equal
1751 monthly installments for life and shall not be increased,
1752 decreased, revoked or repealed, except for error upon detection,
1753 regardless of the length of time between the reporting error or
1754 the time payment started and the time the board became aware of
1755 the error, or except where specifically otherwise provided by said
1756 articles. This responsibility is, and has been, the duty of the
1757 board since the creation of the retirement system.

1758 (2) Each member shall have a period of two (2) years from
1759 the effective date of his retirement within which to submit
1760 documentation of any additional service credit, including prior
1761 service, military service or unused leave. Any increase in
1762 benefits resulting from the submission of such documentation shall
1763 be paid from the first of the month following receipt of such
1764 documentation and shall not be retroactive to the effective date
1765 of retirement.

1766 (3) Pursuant to Section 25-11-111, Mississippi Code of 1972,
1767 it is and has been the sole responsibility of the member or
1768 beneficiary thereof to apply for benefits and no benefits shall be
1769 paid for any period prior to the first of the month following the
1770 receipt of such application for such benefits, but in no event
1771 prior to termination of employment, except as authorized in
1772 Section 25-11-114.

1773 **SECTION 12.** Section 25-11-309, Mississippi Code of 1972, is
1774 amended as follows:

1775 25-11-309. The retirement allowance from the Supplemental
1776 Legislative Retirement Plan shall consist of fifty percent (50%)
1777 of an amount equal to the retirement allowance determined by
1778 creditable service as an elected Senator or Representative of the
1779 State Legislature or as President of the Senate payable by the



1780 Public Employees' Retirement System in accordance with Section
1781 25-11-101 et seq. * * *

1782 The percentage of the retirement allowance as provided in
1783 this section shall be transferred from the annuity savings account
1784 of the member and the employer accumulation account in the
1785 Supplemental Legislative Retirement Plan to the retirement account
1786 of the member in the Public Employees' Retirement System as
1787 provided.

1788 **SECTION 13.** Section 25-13-5, Mississippi Code of 1972, is
1789 amended as follows:

1790 25-13-5. (1) Creditable service on which a member's service
1791 or disability retirement benefit is based shall consist of "prior
1792 service" and membership service. Prior service shall mean service
1793 performed for the Highway Safety Patrol as defined in Section
1794 25-13-3 before the chapter becomes effective and service performed
1795 as a sworn agent for the Mississippi Bureau of Narcotics prior to
1796 the effective date of this act. No prior service credits shall be
1797 granted any person who re-enters the employment of the Highway
1798 Safety Patrol after the effective date of this chapter, except
1799 that any former sworn officer of the Highway Safety Patrol who
1800 returns to the Highway Safety Patrol in any capacity, and who has
1801 had not less than two (2) years of prior service as a sworn
1802 officer of the Highway Safety Patrol, and who was disabled by
1803 wounds or accident in line of duty, may become a member of the
1804 Highway Safety Patrol Retirement System with full credit for any
1805 previous service as set forth in Section 25-13-3 with the Highway
1806 Safety Patrol. Membership service shall mean all services for
1807 which credit may be allowed under this chapter subsequent to July
1808 1, 1958, and all lawfully credited unused leave as of the date of
1809 withdrawal from service, as certified by the appointing authority.

1810 (2) Each member shall have a period of two (2) years from
1811 the effective date of his retirement within which to submit
1812 documentation of any additional service credit, including prior



1813 service, military service or unused leave. Any increase in
1814 benefits resulting from the submission of such documentation shall
1815 be paid from the first of the month following receipt of such
1816 documentation and shall not be retroactive to the effective date
1817 of retirement.

1818 **SECTION 14.** Section 25-13-16, Mississippi Code of 1972, is
1819 amended as follows:

1820 25-13-16. (1) Upon application for superannuation or
1821 disability retirement, any member who retires after July 1, 1990,
1822 may elect to receive his benefit pursuant to the provisions of
1823 Sections 25-13-11 and 25-13-13. Or he may elect upon retirement,
1824 or upon becoming eligible for retirement, to receive the actuarial
1825 equivalent, subject to the provisions of subsection (3) of this
1826 section, of his retirement allowance in a reduced retirement
1827 allowance payable throughout life with the provision that:

1828 **Option 1.** If he dies before he has received in annuity
1829 payment the value of the member's annuity savings account as it
1830 was at the time of his retirement, the balance shall be paid to
1831 his legal representative or to such person as he shall nominate by
1832 written designation duly acknowledged and filed with the board; or

1833 **Option 2.** Upon his death, his reduced retirement allowance
1834 shall be continued throughout the life of, and paid to, such
1835 person as he has nominated by written designation duly
1836 acknowledged and filed with the board of trustees at the time of
1837 his retirement;

1838 **Option 3.** Upon his death, one-half (1/2) of his reduced
1839 retirement allowance shall be continued throughout the life of,
1840 and paid to, such person as he shall have nominated by written
1841 designation duly acknowledged and filed with the board of trustees
1842 at the time of his retirement, and the other one-half (1/2) of his
1843 reduced retirement allowance to some other designated beneficiary;

1844 **Option 4-A.** Upon his death, one-half (1/2) of his reduced
1845 retirement allowance, or such other specified amount, shall be



1846 continued throughout the life of, and paid to, such person as he
1847 shall have nominated by written designation duly acknowledged and
1848 filed with the board of trustees at the time of his retirement; or

1849 **Option 4-B.** A reduced retirement allowance shall be
1850 continued throughout the life of the retirant, but with the
1851 further guarantee of payments to the named beneficiary,
1852 beneficiaries or to the estate for a specified number of years
1853 certain. If the retired member or the last designated beneficiary
1854 receiving annuity payments dies prior to receiving all guaranteed
1855 payments due, the actuarial equivalent of the remaining payments
1856 shall be paid pursuant to Section 25-13-21.1(1).

1857 **Option 4-C.** Such retirement allowance otherwise payable may
1858 be converted into a retirement allowance of equivalent actuarial
1859 value in such an amount that, with the member's benefit under
1860 Title II of the federal Social Security Act, the member will
1861 receive, so far as possible, approximately the same amount
1862 annually before and after the earliest age at which the member
1863 becomes eligible to receive a social security benefit.

1864 **Option 6.** Any member who is eligible to retire with an
1865 unreduced benefit may select the maximum retirement benefit or an
1866 optional benefit as provided in this subsection together with a
1867 partial lump sum distribution. The amount of the lump sum
1868 distribution under this option shall be equal to the maximum
1869 monthly benefit multiplied by twelve (12), twenty-four (24) or
1870 thirty-six (36) as selected by the member. The maximum retirement
1871 benefit shall be actuarially reduced to reflect the amount of the
1872 lump sum distribution selected and further reduced for any other
1873 optional benefit selected. The annuity and lump sum distribution
1874 shall be computed to result in no actuarial loss to the system.
1875 The lump sum distribution shall be made as a single payment
1876 payable at the time the first monthly annuity payment is paid to
1877 the retiree. The amount of the lump sum distribution shall be
1878 deducted from the member's annuity savings account in computing



1879 what contributions remain at the death of the retiree and/or a
1880 beneficiary. The lump sum distribution option may be elected only
1881 once by a member upon initial retirement, and may not be elected
1882 by a retiree, by members applying for a disability retirement
1883 annuity, by survivors or by a member selecting Option 4-C.

1884 (2) No change in the option selected shall be permitted
1885 after the member's death or after the member has received his
1886 first retirement check, except as provided in subsections (3) and
1887 (4) of this section. However, any retired member who is receiving
1888 a retirement allowance under Option 2 or Option 4-A upon July 1,
1889 1999, and whose designated beneficiary predeceased him or whose
1890 marriage to a spouse who is his designated beneficiary is
1891 terminated by divorce or other dissolution, upon written
1892 notification to the retirement system of the death of the
1893 designated beneficiary or of the termination of his marriage to
1894 his designated beneficiary, the retirement allowance payable to
1895 the member after receipt of such notification by the retirement
1896 system shall be equal to the retirement allowance that would have
1897 been payable if the member had not elected the option. In
1898 addition, any retired member who is receiving the maximum
1899 retirement allowance for life, a retirement allowance under Option
1900 1 or who is receiving a retirement allowance under Option 2 or
1901 Option 4-A on July 1, 1999, may elect to provide survivor benefits
1902 under Option 2 or Option 4-A to a spouse who was not previously
1903 the member's beneficiary and who the member married before July 1,
1904 1999. Should a member retired on disability be returned to active
1905 service, the option previously selected shall be null and void.
1906 Upon subsequent retirement a new option may be selected.

1907 (3) Any retired member who is receiving a reduced retirement
1908 allowance under Option 2 or Option 4-A whose designated
1909 beneficiary predeceases him, or whose marriage to a spouse who is
1910 his designated beneficiary is terminated by divorce or other
1911 dissolution, may elect to cancel his reduced retirement allowance



1912 and receive the maximum retirement allowance for life in an amount
1913 equal to the amount that would have been payable if the member had
1914 not elected Option 2 or Option 4-A. Such election must be made in
1915 writing to the office of the executive director of the system on a
1916 form prescribed by the board. Any such election shall be
1917 effective the first of the month following the date the election
1918 is received by the system.

1919 (4) Any retired member who is receiving the maximum
1920 retirement allowance for life, or a retirement allowance under
1921 Option 1, and who marries after his retirement may elect to cancel
1922 his maximum retirement allowance and receive a reduced retirement
1923 allowance under Option 2 or Option 4-A to provide continuing
1924 lifetime benefits to his spouse. Such election must be made in
1925 writing to the office of the executive director of the system on a
1926 form prescribed by the board not earlier than the date of the
1927 marriage. Any such election shall be effective the first of the
1928 month following the date the election is received by the
1929 system. * * * However, if a retiree marries or remarries after
1930 retirement and elects either Option 2 or Option 4-A as provided in
1931 subsection (2) or (4) of this section, the actuarial equivalent
1932 factor used to compute the reduced retirement allowance shall be
1933 the factor for the age of the retiree and his or her beneficiary
1934 at the time such election for recalculation of benefits is made.

1935 (5) Any member in service who has qualified for retirement
1936 benefits may select any optional method of settlement of
1937 retirement benefits by notifying the Executive Director of the
1938 Board of Trustees of the Public Employees' Retirement System in
1939 writing, on a form prescribed by the board, of the option he has
1940 selected and by naming the beneficiary of such option and
1941 furnishing necessary proof of age. Such option, once selected,
1942 may be changed at any time prior to actual retirement or death,
1943 but upon the death or retirement of the member, the optional



1944 settlement shall be placed in effect upon proper notification to
1945 the executive director.

1946 (6) Notwithstanding any provision of Section 25-13-1 et
1947 seq., no payments may be made for a retirement allowance on a
1948 monthly basis for a period of time in excess of that allowed by
1949 federal law.

1950 (7) If a retirant and his eligible beneficiary, if any, both
1951 die before they have received in annuity payments a total amount
1952 equal to the accumulated contributions standing to the retirant's
1953 credit in the annuity savings account at the time of his
1954 retirement, the difference between the accumulated contributions
1955 and the total amount of annuities received by them shall be paid
1956 to such persons as the retirant has nominated by written
1957 designation duly executed and filed in the office of the executive
1958 director. If no designated person survives the retirant and his
1959 beneficiary, the difference, if any, shall be paid pursuant to
1960 Section 25-13-21.1(1).

1961 (8) Any retired member who retired on Option 2(5) or 4-A(5)
1962 before July 1, 1999, who is still receiving a retirement allowance
1963 as of July 1, 1999, shall receive an increase in the annual
1964 retirement allowance effective July 1, 1999, equal to the amount
1965 they would have received under Option 2 or Option 4-A without a
1966 reduction for Option 5 based on the ages at retirement of the
1967 retiree and beneficiary and option factors in effect on July 1,
1968 1999. Such increase shall be prospective only.

1969 (9) For purposes of this section:

1970 (a) "Beneficiary" means any person designated to
1971 receive a retirement allowance, an annuity or other benefit as
1972 provided by this chapter. Such designation shall be in writing
1973 filed in the Office of the Executive Director of the Board of
1974 Trustees of the Public Employees' Retirement System, and no
1975 designation or change of beneficiary shall be made in any other
1976 manner; however, notwithstanding any provision of this chapter to



1977 the contrary, the lawful spouse of a member at the time of the
1978 death of a member shall be the beneficiary of such member unless
1979 the member has designated another beneficiary subsequent to the
1980 date of marriage.

1981 (b) "Actuarial equivalent" shall mean a benefit of
1982 equal value to the accumulated contributions, annuity or benefit,
1983 as the case may be, when computed upon the basis of such mortality
1984 tables as shall be adopted by the board of trustees, and regular
1985 interest.

1986 (c) "Actuarial tables" shall mean such tables of
1987 mortality and rates of interest as shall be adopted by the board
1988 in accordance with the recommendation of the actuary.

1989 **SECTION 15.** Section 25-13-17, Mississippi Code of 1972, is
1990 amended as follows:

1991 25-13-17. (1) All persons who are covered under the terms
1992 of this chapter on the date on which this retirement system is
1993 established and who become members of the retirement system shall
1994 cease to be members under the provisions of Sections 25-11-101
1995 through 25-11-139 upon the effective date of this chapter, and
1996 shall become members of this retirement system with full credit
1997 for all prior service with the Highway Safety Patrol.

1998 (2) In computing the period of service of a member of the
1999 Highway Safety Patrol, * * * any member who served on active duty
2000 in the Armed Forces of the United States, or who served in
2001 maritime service during periods of hostility in World War II,
2002 shall be entitled to creditable service at no cost for his service
2003 on active duty in the Armed Forces or in such maritime service,
2004 provided he entered state service after his discharge from the
2005 Armed Forces or entered state service after he completed such
2006 maritime service. The maximum period for such creditable service
2007 for all military service as defined in this subsection (2) shall
2008 not exceed four (4) years unless positive proof can be furnished
2009 by such person that he was retained in the Armed Forces during



2010 World War II or in maritime service during World War II, by causes
2011 beyond his control and without opportunity of discharge. The
2012 member shall furnish proof satisfactory to the Board of Trustees
2013 of the Public Employees' Retirement System of certification of
2014 military service or maritime service records showing dates of
2015 entrance into active duty service and the date of discharge. No
2016 creditable service shall be granted for any military service or
2017 maritime service to a member who qualifies for a retirement
2018 allowance in another public retirement system administered by the
2019 Board of Trustees of the Public Employees' Retirement System based
2020 in whole or in part on such military or maritime service. In no
2021 case shall the member receive creditable service if the member
2022 received a dishonorable discharge from the Armed Forces of the
2023 United States.

2024 The credit for military service granted in this subsection
2025 shall apply to all persons who have retired from the Highway
2026 Patrol and who qualify for credit as outlined above, whether they
2027 retired before or after July 1, 2000; but this provision shall not
2028 operate to require any back payments of retirement.

2029 (3) (a) Any member of the Mississippi Highway Safety Patrol
2030 Retirement System whose membership service is interrupted as a
2031 result of qualified military service within the meaning of Section
2032 414(u)(5) of the Internal Revenue Code, and who has received the
2033 maximum service credit available under subsection (2) of this
2034 section, shall receive creditable service for the period of
2035 qualified military service that does not qualify as creditable
2036 service under subsection (2) of this section upon reentering
2037 membership service in an amount not to exceed five (5) years if:

2038 (i) The member pays the contributions he would
2039 have made to the retirement system if he had remained in
2040 membership service for the period of qualified military service
2041 based upon his salary at the time his membership service was
2042 interrupted;



2043 (ii) The member returns to membership service
2044 within ninety (90) days of the end of his qualified military
2045 service; and

2046 (iii) The employer at the time the member's
2047 service was interrupted and to which employment the member returns
2048 pays the contributions it would have made into the retirement
2049 system for such period based on the member's salary at the time
2050 the service was interrupted.

2051 (b) The payments required to be made in paragraph
2052 (a) (i) of this subsection may be made over a period beginning with
2053 the date of return to membership service and not exceeding three
2054 (3) times the member's qualified military service; provided,
2055 however, that in no event shall such period exceed five (5) years.

2056 (c) The member shall furnish proof satisfactory to the
2057 board of trustees of certification of military service showing
2058 dates of entrance into qualified service and the date of discharge
2059 as well as proof that the member has returned to active employment
2060 within the time specified.

2061 **SECTION 16.** Section 25-13-29, Mississippi Code of 1972, is
2062 amended as follows:

2063 25-13-29. At least once in each biennium the administrative
2064 board shall cause an actuarial valuation to be made by an actuary
2065 who shall certify to the assets and liabilities of the system and
2066 the amount of employer's contributions required for membership
2067 service and prior service. The cost of the survey shall be paid
2068 from any funds available to the Highway Safety Patrol.

2069 On account of each member there shall be paid quarterly into
2070 the "Disability and Relief Fund for Members of the Mississippi
2071 Highway Safety Patrol" by the Highway Safety Patrol from any funds
2072 available an amount equal to a certain percentage of the
2073 compensation of each member to be known as the "normal
2074 contributions," and an additional amount equal to a percentage of
2075 his compensation to be known as the "accrued liability



2076 contribution." The rate per centum of such contributions shall be
2077 fixed by the administrative board on the basis of the liabilities
2078 of the retirement system for the various allowances and benefits
2079 as shown by the actuarial valuation. * * *

2080 **SECTION 17.** Section 25-13-33, Mississippi Code of 1972, is
2081 amended as follows:

2082 25-13-33. (1) The maintenance of actuarial reserves for the
2083 various allowances and benefits under this chapter, and the
2084 payment of all annuities, retirement allowances, refunds and other
2085 benefits granted hereunder are hereby made obligation of the
2086 disability and relief fund. All income, interest and dividends
2087 derived from deposits and investments authorized by this chapter
2088 shall be used for the payment of the obligations of the system.

2089 (2) In the event of the termination of the Mississippi
2090 Highway Safety Patrol Retirement System, established pursuant to
2091 the provisions of Section 25-13-1 et seq., Mississippi Code of
2092 1972, all members of the system as of the date of termination of
2093 the system shall be deemed to have a vested right to benefits to
2094 the extent and in the same manner that rights would be vested
2095 under the statute existing as of the date of termination of the
2096 system; except that any member who, because of a termination of
2097 the system has not fulfilled the requirements for length of
2098 service, shall be entitled to compensation as of the date that
2099 such member would otherwise be eligible, with such compensation to
2100 be computed on the basis of time actually a member of the service
2101 and compensation actually earned during the time as a member, in
2102 the manner now provided by statute.

2103 In the event of a deficit in the availability of funds for
2104 payment due under the provisions of the Mississippi Highway Safety
2105 Patrol Retirement System, an appropriation shall hereinafter be
2106 made sufficient for the payment thereof as an obligation of the
2107 State of Mississippi.



2108 (3) Notwithstanding any provisions of this section or
2109 chapter to the contrary, the maximum annual retirement allowance
2110 attributable to the employer contributions payable by the system
2111 to a member shall be subject to the limitations set forth in
2112 Section 415 of the Internal Revenue Code and any regulations
2113 issued thereunder as applicable to governmental plans as such term
2114 is defined under Section 414(d) of the Internal Revenue Code.

2115 (4) Notwithstanding any other provision of this plan, all
2116 distributions from this plan shall conform to the regulations
2117 issued under Section 401(a)(9) of the Internal Revenue Code,
2118 applicable to governmental plans, as defined in Section 414(d) of
2119 the Internal Revenue Code, including the incidental death benefit
2120 provisions of Section 401(a)(9)(G) of the Internal Revenue Code.
2121 Further, such regulations shall override any plan provision that
2122 is inconsistent with Section 401(a)(9) of the Internal Revenue
2123 Code.

2124 (5) The actuarial assumptions used to convert a retirement
2125 allowance from the normal form of payment to an optional form of
2126 payment shall be an appendix to this chapter and subject to
2127 approval by the board of trustees based upon certification by the
2128 actuary.

2129 (6) Notwithstanding any other provision of this plan, the
2130 maximum compensation that can be considered for all plan purposes
2131 shall not be greater than that allowed under Section 401(a)(17) of
2132 the Internal Revenue Code.

2133 **SECTION 18.** Section 25-14-5, Mississippi Code of 1972, is
2134 amended as follows:

2135 25-14-5. The State of Mississippi, or any state agency,
2136 county, municipality or other political subdivision may, by
2137 contract, agree with any employee to defer, in whole or in part,
2138 any portion of that employee's income and/or may make
2139 contributions to the plan on behalf of participating members.
2140 Such funds may subsequently be used to purchase a fixed or



2141 variable life insurance or annuity contract for the purpose of
2142 protecting its obligation to the deferred compensation program for
2143 the employee from any life underwriter duly licensed by this state
2144 who represents an insurance company licensed to contract fixed and
2145 variable annuities and fixed or variable life insurance business
2146 in this state or to purchase any investments authorized for
2147 purchase by the Public Employees' Retirement System of Mississippi
2148 under Section 25-11-121; or to invest such monies in a fund or
2149 funds maintained by a corporate trustee; which fund or funds are
2150 used as an investment media for retirement, pension or profit
2151 sharing plans that are tax qualified for such purpose. Provided
2152 that in the administration of this plan, the Public Employees'
2153 Retirement System of Mississippi may adopt such regulations as are
2154 reasonable and necessary to assure the orderly functioning of the
2155 plan, but such regulations shall not unreasonably restrict all
2156 licensed life underwriters and insurance companies described
2157 herein from concurrently participating in providing contracts
2158 authorized hereunder. Anything in any other law to the contrary
2159 notwithstanding, the deferred portion of the employee's
2160 compensation, the plan and the monies in the plan created by said
2161 article, are exempt from any state, county or municipal ad valorem
2162 taxes, income taxes, premium taxes, privilege taxes, property
2163 taxes, sales and use taxes and any other taxes not so named, until
2164 the deferred compensation is paid to the employee or beneficiary
2165 and exempt from levy, garnishment, attachment or any other process
2166 whatsoever.

2167 **SECTION 19.** Section 25-14-7, Mississippi Code of 1972, is
2168 amended as follows:

2169 25-14-7. The administration of the deferred compensation
2170 program shall be under the direction of the Public Employees'
2171 Retirement System of Mississippi or the appropriate officer
2172 designated by a county, municipality, or other political
2173 subdivision. The deferred compensation program shall be operated



2174 in accordance with the guidelines established by the Internal
2175 Revenue Service as reflected in the plan document as may be
2176 modified from time to time by the board of trustees. Payroll
2177 reductions shall be made, in each instance, by the appropriate
2178 payroll officer. The administrator of a deferred compensation
2179 program may contract with a private corporation or institution for
2180 providing consolidated billing and other administrative services
2181 if deemed necessary by the administrator.

2182 The board of trustees may levy such charges and fees on
2183 participants' contributions as may reasonably be necessary to
2184 provide for the administrative expenses of operating the deferred
2185 compensation program, including, but not limited to, the services
2186 of auditors, consultants, money managers and third-party
2187 administrators.

2188 **SECTION 20.** Section 21-29-139, Mississippi Code of 1972, is
2189 amended as follows:

2190 21-29-139. If any member of said fire and/or police
2191 department who has been in paid fire and/or police department
2192 service for as long as twenty (20) years before making application
2193 hereinafter mentioned, the last ten (10) years of which shall have
2194 been continuous in the city in which the application is made,
2195 shall make written application for retirement and relief, the
2196 board of disability and relief shall, without medical examination
2197 of disability, retire him from active service in said fire and/or
2198 police department. Upon such retirement from active service, said
2199 board of disability and relief shall order the payment to such
2200 retired member monthly from said fund a sum equal to fifty percent
2201 (50%) of the average monthly base salary and longevity pay
2202 received as salary by such member in the six-month period next
2203 before the filing of such application in said fire and/or police
2204 department. Such payments shall thereafter be made to said
2205 retired member for life, such payment to be known as "retired
2206 relief."



2207 Any member of the fire and/or police department who has been
2208 in paid fire and/or police department service for longer than
2209 twenty (20) years in a municipality shall be entitled and shall
2210 receive additional retired relief payment for life in a sum equal
2211 to one and seven-tenths percent (1-7/10%) of the same average
2212 monthly base salary and longevity pay received by such member in
2213 the six-month period next preceding the filing of said
2214 application, for each full year of service in excess of twenty
2215 (20) years' service. However, no retired relief payment to any
2216 member shall exceed sixty-six and two-thirds percent (66-2/3%) of
2217 the average monthly base salary and longevity pay received by a
2218 member for the six-month period next preceding the filing of said
2219 application.

2220 The said board shall, when a member of the fire and/or police
2221 department reaches the age of sixty-five (65), retire him from
2222 active service in said fire and/or police department and order the
2223 payment of such funds as the member is entitled to hereunder.

2224 Periods of time in which a member may have been inactive on
2225 account of physical or mental disability shall not be excluded in
2226 computing the twenty-year period and the ten-year period
2227 hereinbefore mentioned. Periods of time within which a member may
2228 have been absent from his employment while in active service of
2229 the Army or Navy of the United States, United States Marine Corps
2230 or the United States Coast Guard between September 16, 1940, and
2231 July 25, 1947, or while as a civil employee engaged by the Army
2232 and Navy while serving outside the continental United States shall
2233 not be excluded in computing the twenty-year period and the
2234 ten-year period hereinbefore mentioned, provided that the
2235 discharge or release of such member from the armed forces was
2236 under conditions other than dishonorable. Any member who has been
2237 retired or is voluntarily retired hereunder, or who has received
2238 relief or disability benefits hereunder, shall be required to
2239 perform such duties as then may be required of him.



2240 Provided, however, in any city having a population of
2241 nineteen thousand (19,000) but less than twenty thousand (20,000),
2242 according to the 1970 census, the periods of time not exceeding
2243 four (4) years within which a member of the fire or police
2244 departments may have been absent from his employment while in
2245 active service in the Armed Forces of the United States, shall not
2246 be excluded in computing the twenty-year period and the ten-year
2247 period mentioned in this section.

2248 Each member shall have a period of two (2) years from the
2249 effective date of his retirement within which to submit
2250 documentation of any additional service credit, including prior
2251 service, military service or unused leave. Any increase in
2252 benefits resulting from the submission of such documentation shall
2253 be paid from the first of the month following receipt of such
2254 documentation and shall not be retroactive to the effective date
2255 of retirement.

2256 **SECTION 21.** Section 21-29-245, Mississippi Code of 1972, is
2257 amended as follows:

2258 21-29-245. If any member of said fire and/or police
2259 department who has been in paid fire and/or police department
2260 service for as long as twenty (20) years before making application
2261 hereinafter mentioned, the last ten (10) years of which shall have
2262 been continuous in the city in which the application is made,
2263 shall make written application for retirement and relief, the
2264 Board of Disability and Relief shall without medical examinations
2265 of disability, retire him from active service in said fire and/or
2266 police department. Upon such retirement from active service said
2267 Board of Disability and Relief * * * shall order the payment to
2268 such retired member monthly from said fund a sum equal to fifty
2269 percent (50%) of the average monthly base salary and longevity pay
2270 received as salary by such member in the six-month period next
2271 before the filing of such application in said fire and/or police
2272 department. Such payments shall thereafter be made to said



2273 retired member for life, such payments to be known as "retired
2274 relief."

2275 Any member of the fire and/or police department who has been
2276 in paid fire and/or police department service for longer than
2277 twenty (20) years shall be entitled to and shall receive
2278 additional retired relief payment for life in a sum equal to one
2279 and seven-tenths percent (1-1/7%) of the same monthly base salary
2280 and longevity pay received by such member in the six-month period
2281 next preceding the filing of said application for each full year
2282 of service in excess of twenty (20) years' service. However, such
2283 additional retired relief payment shall be paid only for each year
2284 served after July 1, 1966. No retired relief payment to any
2285 member shall exceed sixty-six and two-thirds percent (66-2/3%) of
2286 the average monthly base salary and longevity pay received by a
2287 member for the six-month period next preceding the filing of said
2288 application, except such other additional benefits as may be
2289 hereinafter provided.

2290 The Board of Disability and Relief shall, when a member of
2291 the fire and/or police department completes thirty-five (35) years
2292 of paid employment, or attains the age of sixty (60), whichever
2293 occurs first, retire him from active service in said fire and/or
2294 police department and order the payment of such funds as the
2295 member is entitled to under this article.

2296 Periods of time in which a member may have been inactive on
2297 account of physical or mental disability shall not be excluded in
2298 computing the twenty-year period and the ten-year period
2299 hereinabove mentioned. Neither shall there be excluded therefrom
2300 periods of time within which a member may have been absent from
2301 his employment while serving in the Armed Forces of the United
2302 States, or any civil employee engaged by the Armed Forces of the
2303 United States while serving outside the continental United States,
2304 in time of war during World War I, World War II, the Korean
2305 Conflict, Cuban Crisis, Berlin Crisis, Vietnam Conflict, or when



2306 involuntarily called on active duty, provided that the maximum
2307 period for such creditable service shall be four (4) years unless
2308 positive proof can be furnished by such person that he was
2309 retained in the Armed Forces by cause beyond his control, and
2310 without opportunity of discharge, and provided that the discharge
2311 or release of such member from the Armed Forces was under
2312 conditions other than dishonorable. Any member who has been
2313 retired or is voluntarily retired hereunder, or who has received
2314 relief or disability benefits hereunder, shall be required to
2315 report such duties as then may be required of them.

2316 Each member shall have a period of two (2) years from the
2317 effective date of his retirement within which to submit
2318 documentation of any additional service credit, including prior
2319 service, military service or unused leave. Any increase in
2320 benefits resulting from the submission of such documentation shall
2321 be paid from the first of the month following receipt of such
2322 documentation and shall not be retroactive to the effective date
2323 of retirement.

2324 **SECTION 22.** Section 21-29-301, Mississippi Code of 1972, is
2325 amended as follows:

2326 21-29-301. (1) Any member of the Municipal Retirement
2327 System whose membership service is interrupted as a result of
2328 qualified military service within the meaning of Section 414(u)(5)
2329 of the Internal Revenue Code, and who has received the maximum
2330 service credit available under Article 1, 3 or 5 of this chapter,
2331 shall receive creditable service for the period of qualified
2332 military service that does not qualify as creditable service under
2333 Article 1, 3 or 5 of this chapter upon reentering membership
2334 service in an amount not to exceed five (5) years if:

2335 (a) The member pays the contributions he would have
2336 made to the retirement system if he had remained in membership
2337 service for the period of qualified military service based upon
2338 his salary at the time his membership service was interrupted;



2339 (b) The member returns to membership service within
2340 ninety (90) days of the end of his qualified military service; and

2341 (c) The employer at the time the member's service was
2342 interrupted and to which employment the member returns pays the
2343 contribution it would have made into the retirement system for
2344 such period based on the member's salary at the time the service
2345 was interrupted.

2346 (2) The payments required to be made in subsection (1)(a) of
2347 this section may be made over a period beginning with the date of
2348 return to membership service and not exceeding three (3) times the
2349 member's qualified military service; provided, however, that in no
2350 event shall such period exceed five (5) years.

2351 (3) The member shall furnish proof satisfactory to the board
2352 of trustees of certification of military service showing dates of
2353 entrance into qualified service and the date of discharge as well
2354 as proof that the member has returned to active employment within
2355 the time specified.

2356 **SECTION 23.** Section 21-29-317, Mississippi Code of 1972, is
2357 amended as follows:

2358 21-29-317. (1) Notwithstanding any provisions of Articles
2359 1, 3 and 5 of this chapter to the contrary, the maximum annual
2360 retirement allowance attributable to the employer contributions
2361 payable by the system to a member under Article 1, 3 or 5 of this
2362 chapter shall be subject to the limitations set forth in Section
2363 415 of the Internal Revenue Code and any regulations issued
2364 thereunder as applicable to governmental plans as such term is
2365 defined under Section 414(d) of the Internal Revenue Code.

2366 (2) Notwithstanding any other provision of this plan, all
2367 distributions from this plan shall conform to the regulations
2368 issued under Section 401(a)(9) of the Internal Revenue Code,
2369 applicable to governmental plans, as defined in Section 414(d) of
2370 the Internal Revenue Code, including the incidental death benefit
2371 provisions of Section 401(a)(9)(G) of the Internal Revenue Code.



2372 Further, such regulations shall override any plan provision that
2373 is inconsistent with Section 401(a)(9) of the Internal Revenue
2374 Code.

2375 (3) The actuarial assumptions used to convert a retirement
2376 allowance from the normal form of payment to an optional form of
2377 payment shall be an appendix to Article 7 of this chapter and
2378 subject to approval by the board of directors based upon
2379 certification by the actuary.

2380 (4) Notwithstanding any other provision of this plan, the
2381 maximum compensation that can be considered for all plan purposes
2382 shall not be greater than that allowed under Section 401(a)(17) of
2383 the Internal Revenue Code.

2384 (5) In the event of the termination of one or more of the
2385 retirement plans established pursuant to Article 1, 3 or 5 of this
2386 chapter, all members of the plan or system as of the date of
2387 termination of the system shall be deemed to have a vested right
2388 to benefits to the extent and in the same manner that rights would
2389 be vested under the laws existing as of the date of termination of
2390 the system; provided, however, that any member, who because of a
2391 termination of the system has not fulfilled the requirements for
2392 length of service, shall be entitled to compensation as of the
2393 date that such member would otherwise be eligible, with such
2394 compensation to be computed on the basis of time actually a member
2395 of the service and compensation actually earned during the time a
2396 member, in the manner now provided by law.

2397 **SECTION 24.** Section 21-29-323, Mississippi Code of 1972, is
2398 amended as follows:

2399 21-29-323. Monthly benefits payable to a spouse in the event
2400 of the death of a member before retirement or a retiree after
2401 retirement shall be divided and paid to or for the benefit of any
2402 dependent children of the deceased member or retiree in an amount
2403 equal to ten percent (10%) of the annual benefit payable to one
2404 (1) dependent child, twenty percent (20%) for two (2) * * *



2405 dependent children, and thirty percent (30%) to three (3) or more
2406 dependent children. If there are more than three (3) dependent
2407 children, upon a child ceasing to be a dependent, his annuity
2408 shall terminate and there shall be a redetermination of the
2409 amounts payable to any remaining dependent children. Such
2410 benefits shall be paid to a surviving parent or lawful custodian
2411 of such children for the use and benefit of the children without
2412 the necessity of appointment of guardian. The remaining amount
2413 shall be paid to the spouse as otherwise provided.

2414 **SECTION 25.** Section 25-41-3, Mississippi Code of 1972, is
2415 amended as follows:

2416 25-41-3. For purposes of this chapter, the following words
2417 shall have the meaning ascribed herein, to wit:

2418 (a) "Public body" means: (i) any executive or
2419 administrative board, commission, authority, council, department,
2420 agency, bureau or any other policymaking entity, or committee
2421 thereof, of the State of Mississippi, or any political subdivision
2422 or municipal corporation of the state, whether such entity be
2423 created by statute or executive order, which is supported wholly
2424 or in part by public funds or expends public funds, and (ii) any
2425 standing, interim or special committee of the Mississippi
2426 Legislature. There shall be exempted from the provisions of this
2427 chapter the judiciary, including all jury deliberations, public
2428 and private hospital staffs, public and private hospital boards
2429 and committees thereof, law enforcement officials, the military,
2430 the State Probation and Parole Board, the Workers' Compensation
2431 Commission, legislative subcommittees and legislative conference
2432 committees, the arbitration council established in Section
2433 69-3-19, license revocation, suspension and disciplinary
2434 proceedings held by the Mississippi State Board of Dental
2435 Examiners and all proceedings of the medical board and disability
2436 appeals committee of the Public Employees' Retirement System.



2437 (b) "Meeting" means an assemblage of members of a
2438 public body at which official acts may be taken upon a matter over
2439 which the public body has supervision, control, jurisdiction or
2440 advisory power.

2441 **SECTION 26.** The amendments in Section 1 of this act
2442 contained in Section 25-11-103(k)(iii) shall be retroactive and
2443 apply when computing the earned compensation of all members;
2444 provided, however, that such amendments shall not apply when
2445 computing the earned compensation earned by justices of the
2446 Mississippi Supreme Court and judges of the Mississippi Court of
2447 Appeals from July 1, 1983, through June 30, 1999.

2448 **SECTION 27.** Section 17 of this act shall take effect and be
2449 in force from and after its passage. The remainder of this act
2450 shall take effect and be in force from and after July 1, 2002.

