

By: Senator(s) Robertson

To: Finance

SENATE BILL NO. 2689
(As Passed the Senate)

1 AN ACT TO AMEND SECTIONS 25-11-103, 25-11-105, 25-11-109,
2 25-11-111, 25-11-113, 25-11-114, 25-11-115 AND 25-11-117,
3 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT PERSONS WHO BECOME
4 MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM ON OR AFTER
5 JULY 1, 2006, MAY RETIRE AT AGE 60 IF THEY HAVE AT LEAST 10 YEARS
6 OF CREDITABLE SERVICE OR AT AGE 55 IF THEY HAVE AT LEAST 30 YEARS
7 OF CREDITABLE SERVICE; TO PROVIDE THAT PERSONS WHO BECOME MEMBERS
8 OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM ON OR AFTER JULY 1,
9 2006, MUST HAVE AT LEAST 10 YEARS OF SERVICE CREDIT BEFORE VARIOUS
10 BENEFITS ACCRUE AND BEFORE VARIOUS TYPES OF SERVICE MAY BE CLAIMED
11 AS CREDITABLE SERVICE; TO AMEND SECTION 25-13-11, MISSISSIPPI CODE
12 OF 1972, TO PROVIDE THAT MEMBERS OF THE HIGHWAY SAFETY PATROL
13 RETIREMENT SYSTEM WHO BECOME MEMBERS OF THE SYSTEM ON OR AFTER
14 JULY 1, 2006, SHALL NOT HAVE THE OPTION OF RETIRING UPON OR AFTER
15 THE ATTAINMENT OF 45 YEARS OF AGE WITH 20 YEARS OF CREDITABLE
16 SERVICE; AND FOR RELATED PURPOSES.

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

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

20 25-11-103. The following words and phrases as used in
21 Articles 1 and 3, unless a different meaning is plainly required
22 by the context, have the following meanings:

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

27 (b) "Actuarial cost" means the amount of funds
28 presently required to provide future benefits as determined by the
29 board based on applicable tables and formulas provided by the
30 actuary.

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

35 (d) "Actuarial tables" means such tables of mortality
36 and rates of interest as adopted by the board in accordance with
37 the recommendation of the actuary.

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

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

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

89 (g) "Beneficiary" means any person entitled to receive
90 a retirement allowance, an annuity or other benefit as provided by
91 Articles 1 and 3. The term "beneficiary" may also include an
92 organization, estate, trust or entity; however, a beneficiary
93 designated or entitled to receive monthly payments under an
94 optional settlement based on life contingency or pursuant to a
95 statutory monthly benefit may only be a natural person. In the
96 event of the death before retirement of any member who became a
97 member of the system before July 1, 2006, and whose spouse and/or
98 children are not entitled to a retirement allowance on the basis
99 that the member has less than four (4) years of service credit, or
100 who became a member of the system on or after July 1, 2006, and

101 whose spouse and/or children are not entitled to a retirement
102 allowance on the basis that the member has less than ten (10)
103 years of service credit, and/or has not been married for a minimum
104 of one (1) year or the spouse has waived his or her entitlement to
105 a retirement allowance under Section 25-11-114, the lawful spouse
106 of a member at the time of the death of the member shall be the
107 beneficiary of the member unless the member has designated another
108 beneficiary after the date of marriage in writing, and filed that
109 writing in the office of the executive director of the board of
110 trustees. No designation or change of beneficiary shall be made
111 in any other manner.

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

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

127 (j) "Child" means either a natural child of the member,
128 a child that has been made a child of the member by applicable
129 court action before the death of the member, or a child under the
130 permanent care of the member at the time of the latter's death,
131 which permanent care status shall be determined by evidence
132 satisfactory to the board.

133 (k) "Earned compensation" means the full amount earned
134 by an employee for a given pay period including any maintenance
135 furnished up to a maximum of One Hundred Fifty Thousand Dollars
136 (\$150,000.00) per year, and proportionately for less than one (1)
137 year of service. The value of that maintenance when not paid in
138 money shall be fixed by the employing state agency, and, in case
139 of doubt, by the board of trustees as defined in Section 25-11-15.
140 Earned compensation shall not include any nontaxable amounts paid
141 by the employer for health or life insurance premiums for an
142 employee. In any case, earned compensation shall be limited to
143 the regular periodic compensation paid, exclusive of litigation
144 fees, bond fees, and other similar extraordinary nonrecurring
145 payments. In addition, any member in a covered position, as
146 defined by Public Employees' Retirement System laws and
147 regulations, who is also employed by another covered agency or
148 political subdivision shall have the earnings of that additional
149 employment reported to the Public Employees' Retirement System
150 regardless of whether the additional employment is sufficient in
151 itself to be a covered position. In addition, computation of
152 earned compensation shall be governed by the following:

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

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

161 (iii) In the case of members of the State
162 Legislature, all remuneration or amounts paid, except mileage
163 allowance, shall apply.

164 (iv) The amount by which an eligible employee's
165 salary is reduced under a salary reduction agreement authorized

166 under Section 25-17-5 shall be included as earned compensation
167 under this paragraph, provided this inclusion does not conflict
168 with federal law, including federal regulations and federal
169 administrative interpretations under the federal law, pertaining
170 to the Federal Insurance Contributions Act or to Internal Revenue
171 Code Section 125 cafeteria plans.

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

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

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

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

186 (m) "Employer" means the State of Mississippi or any of
187 its departments, agencies or subdivisions from which any employee
188 receives his compensation.

189 (n) "Executive director" means the secretary to the
190 board of trustees, as provided in Section 25-11-15(9), and the
191 administrator of the Public Employees' Retirement System and all
192 systems under the management of the board of trustees. Wherever
193 the term "Executive Secretary of the Public Employees' Retirement
194 System" or "executive secretary" appears in this article or in any
195 other provision of law, it shall be construed to mean the
196 Executive Director of the Public Employees' Retirement System.

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

199 (p) "Medical board" means the board of physicians or
200 any governmental or nongovernmental disability determination
201 service designated by the board of trustees that is qualified to
202 make disability determinations as provided for in Section
203 25-11-119.

204 (q) "Member" means any person included in the
205 membership of the system as provided in Section 25-11-105.

206 (r) "Membership service" means service as an employee
207 rendered while a member of the retirement system.

208 (s) "Position" means any office or any employment in
209 the state service, or two (2) or more of them, the duties of which
210 call for services to be rendered by one (1) person, including
211 positions jointly employed by federal and state agencies
212 administering federal and state funds. The employer shall
213 determine upon initial employment and during the course of
214 employment of an employee who does not meet the criteria for
215 coverage in the Public Employees' Retirement System based on the
216 position held, whether the employee is or becomes eligible for
217 coverage in the Public Employees' Retirement System based upon any
218 other employment in a covered agency or political subdivision. If
219 or when the employee meets the eligibility criteria for coverage
220 in the other position, then the employer must withhold
221 contributions and report wages from the noncovered position in
222 accordance with the provisions for reporting of earned
223 compensation. Failure to deduct and report those contributions
224 shall not relieve the employee or employer of liability thereof.
225 The board shall adopt such rules and regulations as necessary to
226 implement and enforce this provision.

227 (t) "Prior service" means:

228 (i) For persons who became members of the system
229 before July 1, 2006, service rendered before February 1, 1953, for
230 which credit is allowable under Sections 25-11-105 and 25-11-109,
231 and which shall allow prior service for any person who is now or

232 becomes a member of the Public Employees' Retirement System and
233 who does contribute to the system for a minimum period of four (4)
234 years.

235 (ii) For persons who became members of the system
236 on or after July 1, 2006, service rendered before February 1,
237 1953, for which credit is allowable under Sections 25-11-105 and
238 25-11-109, and which shall allow prior service for any person who
239 is now or becomes a member of the Public Employees' Retirement
240 System and who does contribute to the system for a minimum period
241 of ten (10) years.

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

245 (v) "Retirement allowance" means an annuity for life as
246 provided in this article, payable each year in twelve (12) equal
247 monthly installments beginning as of the date fixed by the board.
248 The retirement allowance shall be calculated in accordance with
249 Section 25-11-111. However, any spouse who received a spouse
250 retirement benefit in accordance with Section 25-11-111(d) before
251 March 31, 1971, and those benefits were terminated because of
252 eligibility for a social security benefit, may again receive his
253 spouse retirement benefit from and after making application with
254 the board of trustees to reinstate the spouse retirement benefit.

255 (w) "Retroactive service" means service rendered after
256 February 1, 1953, for which credit is allowable under Section
257 25-11-105(b) and Section 25-11-105(k).

258 (x) "System" means the Public Employees' Retirement
259 System of Mississippi established and described in Section
260 25-11-101.

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

263 (z) "State service" means all offices and positions of
264 trust or employment in the employ of the state, or any political

265 subdivision or instrumentality of the state, that elect to
266 participate as provided by Section 25-11-105(f), including the
267 position of elected or fee officials of the counties and their
268 deputies and employees performing public services or any
269 department, independent agency, board or commission thereof, and
270 also includes all offices and positions of trust or employment in
271 the employ of joint state and federal agencies administering state
272 and federal funds and service rendered by employees of the public
273 schools. Effective July 1, 1973, all nonprofessional public
274 school employees, such as bus drivers, janitors, maids,
275 maintenance workers and cafeteria employees, shall have the option
276 to become members in accordance with Section 25-11-105(b), and
277 shall be eligible to receive credit for services before July 1,
278 1973, provided that the contributions and interest are paid by the
279 employee in accordance with that section; in addition, the county
280 or municipal separate school district may pay the employer
281 contribution and pro rata share of interest of the retroactive
282 service from available funds. From and after July 1, 1998,
283 retroactive service credit shall be purchased at the actuarial
284 cost in accordance with Section 25-11-105(b).

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

288 (bb) The masculine pronoun, wherever used, includes the
289 feminine pronoun.

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

292 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

293 The membership of this retirement system shall be composed as
294 follows:

295 (a) (i) All persons who become employees in the state
296 service after January 31, 1953, and whose wages are subject to
297 payroll taxes and are lawfully reported on IRS Form W-2, except

298 those specifically excluded, or as to whom election is provided in
299 Articles 1 and 3, shall become members of the retirement system as
300 a condition of their employment.

301 (ii) From and after July 1, 2002, any individual
302 who is employed by a governmental entity to perform professional
303 services shall become a member of the system if the individual is
304 paid regular periodic compensation for those services that is
305 subject to payroll taxes, is provided all other employee benefits
306 and meets the membership criteria established by the regulations
307 adopted by the board of trustees that apply to all other members
308 of the system; however, any active member employed in such a
309 position on July 1, 2002, will continue to be an active member for
310 as long as they are employed in any such position.

311 (b) All persons who become employees in the state
312 service after January 31, 1953, except those specifically excluded
313 or as to whom election is provided in Articles 1 and 3, unless
314 they file with the board before the lapse of sixty (60) days of
315 employment or sixty (60) days after the effective date of the
316 cited articles, whichever is later, on a form prescribed by the
317 board, a notice of election not to be covered by the membership of
318 the retirement system and a duly executed waiver of all present
319 and prospective benefits that would otherwise inure to them on
320 account of their participation in the system, shall become members
321 of the retirement system; however, no credit for prior service
322 will be granted to members who became members of the system before
323 July 1, 2006, until they have contributed to Article 3 of the
324 retirement system for a minimum period of at least four (4) years,
325 or to members who became members of the system on or after July 1,
326 2006, until they have contributed to Article 3 of the retirement
327 system for a minimum period of at least ten (10) years. Those
328 members shall receive credit for services performed before January
329 1, 1953, in employment now covered by Article 3, but no credit
330 shall be granted for retroactive services between January 1, 1953,

331 and the date of their entry into the retirement system, unless the
332 employee pays into the retirement system both the employer's and
333 the employee's contributions on wages paid him during the period
334 from January 31, 1953, to the date of his becoming a contributing
335 member, together with interest at the rate determined by the board
336 of trustees. Members reentering after withdrawal from service
337 shall qualify for prior service under the provisions of Section
338 25-11-117. From and after July 1, 1998, upon eligibility as noted
339 above, the member may receive credit for such retroactive service
340 provided:

341 (1) The member shall furnish proof satisfactory to
342 the board of trustees of certification of that service from the
343 covered employer where the services were performed; and

344 (2) The member shall pay to the retirement system
345 on the date he or she is eligible for that credit or at any time
346 thereafter before the date of retirement the actuarial cost for
347 each year of that creditable service. The provisions of this
348 subparagraph (2) shall be subject to the limitations of Section
349 415 of the Internal Revenue Code and regulations promulgated under
350 Section 415.

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

355 (c) All persons who become employees in the state
356 service after January 31, 1953, and who are eligible for
357 membership in any other retirement system shall become members of
358 this retirement system as a condition of their employment, unless
359 they elect at the time of their employment to become a member of
360 that other system.

361 (d) All persons who are employees in the state service
362 on January 31, 1953, and who are members of any nonfunded
363 retirement system operated by the State of Mississippi, or any of

364 its departments or agencies, shall become members of this system
365 with prior service credit unless, before February 1, 1953, they
366 file a written notice with the board of trustees that they do not
367 elect to become members.

368 (e) All persons who are employees in the state service
369 on January 31, 1953, and who under existing laws are members of
370 any fund operated for the retirement of employees by the State of
371 Mississippi, or any of its departments or agencies, shall not be
372 entitled to membership in this retirement system unless, before
373 February 1, 1953, any such person indicates by a notice filed with
374 the board, on a form prescribed by the board, his individual
375 election and choice to participate in this system, but no such
376 person shall receive prior service credit unless he becomes a
377 member on or before February 1, 1953.

378 (f) Each political subdivision of the state and each
379 instrumentality of the state or a political subdivision, or both,
380 is authorized to submit, for approval by the board of trustees, a
381 plan for extending the benefits of this article to employees of
382 any such political subdivision or instrumentality. Each such plan
383 or any amendment to the plan for extending benefits thereof shall
384 be approved by the board of trustees if it finds that the plan, or
385 the plan as amended, is in conformity with such requirements as
386 are provided in Articles 1 and 3; however, upon approval of the
387 plan or any such plan previously approved by the board of
388 trustees, the approved plan shall not be subject to cancellation
389 or termination by the political subdivision or instrumentality,
390 except that any community hospital serving a municipality that
391 joined the Public Employees' Retirement System as of November 1,
392 1956, to offer social security coverage for its employees and
393 subsequently extended retirement annuity coverage to its employees
394 as of December 1, 1965, may, upon documentation of extreme
395 financial hardship, have future retirement annuity coverage

396 cancelled or terminated at the discretion of the board of
397 trustees. No such plan shall be approved unless:

398 (1) It provides that all services that constitute
399 employment as defined in Section 25-11-5 and are performed in the
400 employ of the political subdivision or instrumentality, by any
401 employees thereof, shall be covered by the plan, with the
402 exception of municipal employees who are already covered by
403 existing retirement plans; however, those employees in this class
404 may elect to come under the provisions of this article;

405 (2) It specifies the source or sources from which
406 the funds necessary to make the payments required by paragraph (d)
407 of Section 25-11-123 and of paragraph (f)(5)B and C of this
408 section are expected to be derived and contains reasonable
409 assurance that those sources will be adequate for that purpose;

410 (3) It provides for such methods of administration
411 of the plan by the political subdivision or instrumentality as are
412 found by the board of trustees to be necessary for the proper and
413 efficient administration thereof;

414 (4) It provides that the political subdivision or
415 instrumentality will make such reports, in such form and
416 containing such information, as the board of trustees may from
417 time to time require;

418 (5) It authorizes the board of trustees to
419 terminate the plan in its entirety in the discretion of the board
420 if it finds that there has been a failure to comply substantially
421 with any provision contained in the plan, the termination to take
422 effect at the expiration of such notice and on such conditions as
423 may be provided by regulations of the board and as may be
424 consistent with applicable federal law.

425 A. The board of trustees shall not finally
426 refuse to approve a plan submitted under paragraph (f), and shall
427 not terminate an approved plan without reasonable notice and
428 opportunity for hearing to each political subdivision or

429 instrumentality affected by the board's decision. The board's
430 decision in any such case shall be final, conclusive and binding
431 unless an appeal is taken by the political subdivision or
432 instrumentality aggrieved by the decision to the Circuit Court of
433 Hinds County, Mississippi, in accordance with the provisions of
434 law with respect to civil causes by certiorari.

435 B. Each political subdivision or
436 instrumentality as to which a plan has been approved under this
437 section shall pay into the contribution fund, with respect to
438 wages (as defined in Section 25-11-5), at such time or times as
439 the board of trustees may by regulation prescribe, contributions
440 in the amounts and at the rates specified in the applicable
441 agreement entered into by the board.

442 C. Every political subdivision or
443 instrumentality required to make payments under paragraph (f)(5)B
444 of this section is authorized, in consideration of the employees'
445 retention in or entry upon employment after enactment of Articles
446 1 and 3, to impose upon its employees, as to services that are
447 covered by an approved plan, a contribution with respect to wages
448 (as defined in Section 25-11-5) not exceeding the amount provided
449 in Section 25-11-123(d) if those services constituted employment
450 within the meaning of Articles 1 and 3, and to deduct the amount
451 of the contribution from the wages as and when paid.

452 Contributions so collected shall be paid into the contribution
453 fund as partial discharge of the liability of the political
454 subdivisions or instrumentalities under paragraph (f)(5)B of this
455 section. Failure to deduct the contribution shall not relieve the
456 employee or employer of liability for the contribution.

457 D. Any state agency, school, political
458 subdivision, instrumentality or any employer that is required to
459 submit contribution payments or wage reports under any section of
460 this chapter shall be assessed interest on delinquent payments or
461 wage reports as determined by the board of trustees in accordance

462 with rules and regulations adopted by the board and delinquent
463 payments, assessed interest and any other amount certified by the
464 board as owed by an employer, may be recovered by action in a
465 court of competent jurisdiction against the reporting agency
466 liable therefor or may, upon due certification of delinquency and
467 at the request of the board of trustees, be deducted from any
468 other monies payable to the reporting agency by any department or
469 agency of the state.

470 E. Each political subdivision of the state
471 and each instrumentality of the state or a political subdivision
472 or subdivisions that submit a plan for approval of the board, as
473 provided in this section, shall reimburse the board for coverage
474 into the expense account, its pro rata share of the total expense
475 of administering Articles 1 and 3 as provided by regulations of
476 the board.

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

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

489 (i) If any member of this system changes his employment
490 to any agency of the state having an actuarially funded retirement
491 system, the board of trustees may authorize the transfer of the
492 member's creditable service and of the present value of the
493 member's employer's accumulation account and of the present value
494 of the member's accumulated membership contributions to that other

495 system, provided that the employee agrees to the transfer of his
496 accumulated membership contributions and provided that the other
497 system is authorized to receive and agrees to make the transfer.

498 If any member of any other actuarially funded system
499 maintained by an agency of the state changes his employment to an
500 agency covered by this system, the board of trustees may authorize
501 the receipt of the transfer of the member's creditable service and
502 of the present value of the member's employer's accumulation
503 account and of the present value of the member's accumulated
504 membership contributions from the other system, provided that the
505 employee agrees to the transfer of his accumulated membership
506 contributions to this system and provided that the other system is
507 authorized and agrees to make the transfer.

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

511 (k) Employees of a political subdivision or
512 instrumentality who were employed by the political subdivision or
513 instrumentality before an agreement between the entity and the
514 Public Employees' Retirement System to extend the benefits of this
515 article to its employees, and which agreement provides for the
516 establishment of retroactive service credit, and who have been
517 members of the retirement system who became members of the system
518 before July 1, 2006, and have remained contributors to the
519 retirement system for four (4) years, or who became members of the
520 system on or after July 1, 2006, and have remained contributors to
521 the retirement system for ten (10) years, may receive credit for
522 that retroactive service with the political subdivision or
523 instrumentality, provided that the employee and/or employer, as
524 provided under the terms of the modification of the joinder
525 agreement in allowing that coverage, pay into the retirement
526 system the employer's and employee's contributions on wages paid
527 the member during the previous employment, together with interest

528 or actuarial cost as determined by the board covering the period
529 from the date the service was rendered until the payment for the
530 credit for the service was made. Those wages shall be verified by
531 the Social Security Administration or employer payroll records.
532 Effective July 1, 1998, upon eligibility as noted above, a member
533 may receive credit for that retroactive service with the political
534 subdivision or instrumentality provided:

535 (1) The member shall furnish proof satisfactory to
536 the board of trustees of certification of those services from the
537 political subdivision or instrumentality where the services were
538 rendered or verification by the Social Security Administration;
539 and

540 (2) The member shall pay to the retirement system
541 on the date he or she is eligible for that credit or at any time
542 thereafter before the date of retirement the actuarial cost for
543 each year of that creditable service. The provisions of this
544 subparagraph (2) shall be subject to the limitations of Section
545 415 of the Internal Revenue Code and regulations promulgated under
546 Section 415.

547 Nothing contained in this paragraph (k) shall be construed to
548 limit the authority of the board to allow the correction of
549 reporting errors or omissions based on the payment of employee and
550 employer contributions plus applicable interest. Payment for that
551 time shall be made in increments of not less than one-quarter
552 (1/4) year of creditable service beginning with the most recent
553 service. Upon the payment of all or part of the required
554 contributions, plus interest or the actuarial cost as provided
555 above, the member shall receive credit for the period of
556 creditable service for which full payment has been made to the
557 retirement system.

558 (1) Through June 30, 1998, any state service eligible
559 for retroactive service credit, no part of which has ever been
560 reported, and requiring the payment of employee and employer

561 contributions plus interest, or, from and after July 1, 1998, any
562 state service eligible for retroactive service credit, no part of
563 which has ever been reported to the retirement system, and
564 requiring the payment of the actuarial cost for that creditable
565 service, may, at the member's option, be purchased in quarterly
566 increments as provided above at the time that its purchase is
567 otherwise allowed.

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

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

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

575 (a) Patient or inmate help in state charitable, penal
576 or correctional institutions;

577 (b) Students of any state educational institution
578 employed by any agency of the state for temporary, part-time or
579 intermittent work;

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

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

587 **III. TERMINATION OF MEMBERSHIP**

588 Membership in this system shall cease by a member withdrawing
589 his accumulated contributions, or by a member withdrawing from
590 active service with a retirement allowance, or by a member's
591 death.

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

594 25-11-109. (1) Under such rules and regulations as the
595 board of trustees shall adopt, each person who becomes a member of
596 this retirement system, as provided in Section 25-11-105, on or
597 prior to July 1, 1953, or who became a member of the system before
598 July 1, 2006, and contributes to the system for a minimum period
599 of four (4) years, or who became a member of the system on or
600 after July 1, 2006, and contributes to the system for a minimum
601 period of ten (10) years, shall receive credit for all state
602 service rendered before February 1, 1953. To receive such credit,
603 such member shall file a detailed statement of all services as an
604 employee rendered by him in the state service before February 1,
605 1953. For any member who joined the system after July 1, 1953,
606 and before July 1, 2006, any creditable service for which the
607 member is not required to make contributions shall not be credited
608 to the member until the member has contributed to the system for a
609 minimum period of at least four (4) years. For any member who
610 joined the system on or after July 1, 2006, any creditable service
611 for which the member is not required to make contributions shall
612 not be credited to the member until the member has contributed to
613 the system for a minimum period of at least ten (10) years.

614 (2) In the computation of membership service or prior
615 service under the provisions of this article, the total months of
616 accumulative service during any fiscal year shall be calculated in
617 accordance with the schedule as follows: ten (10) or more months
618 of creditable service during any fiscal year shall constitute a
619 year of creditable service; seven (7) months to nine (9) months
620 inclusive, three-quarters (3/4) of a year of creditable service;
621 four (4) months to six (6) months inclusive, one-half-year of
622 creditable service; one (1) month to three (3) months inclusive,
623 one-quarter (1/4) of a year of creditable service. In no case
624 shall credit be allowed for any period of absence without
625 compensation except for disability while in receipt of a
626 disability retirement allowance, nor shall less than fifteen (15)

627 days of service in any month, or service less than the equivalent
628 of one-half (1/2) of the normal working load for the position and
629 less than one-half (1/2) of the normal compensation for the
630 position in any month, constitute a month of creditable service,
631 nor shall more than one (1) year of service be creditable for all
632 services rendered in any one (1) fiscal year; however, for a
633 school employee, substantial completion of the legal school term
634 when and where the service was rendered shall constitute a year of
635 service credit for both prior service and membership service. Any
636 state or local elected official shall be deemed a full-time
637 employee for the purpose of creditable service for prior service
638 or membership service. However, an appointed or elected official
639 compensated on a per diem basis only shall not be allowed
640 creditable service for terms of office.

641 In the computation of any retirement allowance or any annuity
642 or benefits provided in this article, any fractional period of
643 service of less than one (1) year shall be taken into account and
644 a proportionate amount of such retirement allowance, annuity or
645 benefit shall be granted for any such fractional period of
646 service.

647 In the computation of unused leave for creditable service
648 authorized in Section 25-11-103, the following shall govern:
649 twenty-one (21) days of unused leave shall constitute one (1)
650 month of creditable service and in no case shall credit be allowed
651 for any period of unused leave of less than fifteen (15) days.
652 The number of months of unused leave shall determine the number of
653 quarters or years of creditable service in accordance with the
654 above schedule for membership and prior service. In order for the
655 member to receive creditable service for the number of days of
656 unused leave, the system must receive certification from the
657 governing authority.

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

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

665 (b) For service on and after July 1, 1984, the member
666 shall receive credit for personal and major medical leave
667 beginning July 1, 1984, at the rates authorized in Sections
668 25-3-93 and 25-3-95, computed as a full-time employee.

669 (3) Subject to the above restrictions and to such other
670 rules and regulations as the board may adopt, the board shall
671 verify, as soon as practicable after the filing of such statements
672 of service, the services therein claimed.

673 (4) Upon verification of the statement of prior service, the
674 board shall issue a prior service certificate certifying to each
675 member the length of prior service for which credit shall have
676 been allowed on the basis of his statement of service. So long as
677 membership continues, a prior service certificate shall be final
678 and conclusive for retirement purposes as to such service,
679 provided that any member may within five (5) years from the date
680 of issuance or modification of such certificate request the board
681 of trustees to modify or correct his prior service certificate.
682 Any modification or correction authorized shall only apply
683 prospectively.

684 When membership ceases, such prior service certificates shall
685 become void. Should the employee again become a member, he shall
686 enter the system as an employee not entitled to prior service
687 credit except as provided in Sections 25-11-105(I), 25-11-113 and
688 25-11-117.

689 (5) Creditable service at retirement, on which the
690 retirement allowance of a member shall be based, shall consist of

691 the membership service rendered by him since he last became a
692 member, and also, if he has a prior service certificate which is
693 in full force and effect, the amount of the service certified on
694 his prior service certificate.

695 (6) Any member who served on active duty in the Armed Forces
696 of the United States, who served in the Commissioned Corps of the
697 United States Public Health Service prior to 1972 or who served in
698 maritime service during periods of hostility in World War II,
699 shall be entitled to creditable service at no cost for his service
700 on active duty in the Armed Forces, in the Commissioned Corps of
701 the United States Public Health Service prior to 1972 or in such
702 maritime service, provided he entered state service after his
703 discharge from the Armed Forces or entered state service after he
704 completed such maritime service. The maximum period for such
705 creditable service for all military service as defined in this
706 subsection (6) shall not exceed four (4) years unless positive
707 proof can be furnished by such person that he was retained in the
708 Armed Forces during World War II or in maritime service during
709 World War II by causes beyond his control and without opportunity
710 of discharge. The member shall furnish proof satisfactory to the
711 board of trustees of certification of military service or maritime
712 service records showing dates of entrance into active duty service
713 and the date of discharge. From and after July 1, 1993, no
714 creditable service shall be granted for any military service or
715 maritime service to a member who qualifies for a retirement
716 allowance in another public retirement system administered by the
717 Board of Trustees of the Public Employees' Retirement System based
718 in whole or in part on such military or maritime service. In no
719 case shall the member receive creditable service if the member
720 received a dishonorable discharge from the Armed Forces of the
721 United States.

722 (7) (a) Any member of the Public Employees' Retirement
723 System whose membership service is interrupted as a result of

724 qualified military service within the meaning of Section 414(u)(5)
725 of the Internal Revenue Code, and who has received the maximum
726 service credit available under subsection (6) of this section,
727 shall receive creditable service for the period of qualified
728 military service that does not qualify as creditable service under
729 subsection (6) of this section upon reentering membership service
730 in an amount not to exceed five (5) years if:

731 (i) The member pays the contributions he would
732 have made to the retirement system if he had remained in
733 membership service for the period of qualified military service
734 based upon his salary at the time his membership service was
735 interrupted;

736 (ii) The member returns to membership service
737 within ninety (90) days of the end of his qualified military
738 service; and

739 (iii) The employer at the time the member's
740 service was interrupted and to which employment the member returns
741 pays the contributions it would have made into the retirement
742 system for such period based on the member's salary at the time
743 the service was interrupted.

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

749 (c) The member shall furnish proof satisfactory to the
750 board of trustees of certification of military service showing
751 dates of entrance into qualified service and the date of discharge
752 as well as proof that the member has returned to active employment
753 within the time specified.

754 (8) Any member of the Public Employees' Retirement System
755 who became a member of the system before July 1, 2006 and who has
756 at least four (4) years of membership service credit, or who

757 became a member of the system on or after July 1, 2006 and who has
758 at least ten (10) years of membership service credit, shall be
759 entitled to receive a maximum of five (5) years creditable service
760 for service rendered in another state as a public employee of such
761 other state, or a political subdivision, public education system
762 or other governmental instrumentality thereof, or service rendered
763 as a teacher in American overseas dependent schools conducted by
764 the Armed Forces of the United States for children of citizens of
765 the United States residing in areas outside the continental United
766 States, provided that:

767 (a) The member shall furnish proof satisfactory to the
768 board of trustees of certification of such services from the
769 state, public education system, political subdivision or
770 retirement system of the state where the services were performed
771 or the governing entity of the American overseas dependent school
772 where the services were performed; and

773 (b) The member is not receiving or will not be entitled
774 to receive from the public retirement system of the other state or
775 from any other retirement plan, including optional retirement
776 plans, sponsored by the employer, a retirement allowance including
777 such services; and

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

785 (9) Any member of the Public Employees' Retirement System
786 who became a member of the system before July 1, 2006, and has at
787 least four (4) years of membership service credit, or who became a
788 member of the system on or after July 1, 2006, and has at least
789 ten (10) years of membership service credit, and who receives, or

790 has received, professional leave without compensation for
791 professional purposes directly related to the employment in state
792 service shall receive creditable service for the period of
793 professional leave without compensation provided:

794 (a) The professional leave is performed with a public
795 institution or public agency of this state, or another state or
796 federal agency;

797 (b) The employer approves the professional leave
798 showing the reason for granting the leave and makes a
799 determination that the professional leave will benefit the
800 employee and employer;

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

803 (d) The employee shall serve the employer on a
804 full-time basis for a period of time equivalent to the
805 professional leave period granted immediately following the
806 termination of the leave period;

807 (e) The contributing member shall pay to the retirement
808 system the actuarial cost as determined by the actuary for each
809 year of professional leave. The provisions of this subsection are
810 subject to the regulations of the Internal Revenue Code
811 limitations;

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

815 Any actively contributing member participating in the School
816 Administrator Sabbatical Program established in Section 37-9-77
817 shall qualify for continued participation under this subsection
818 (9).

819 (10) Any member of the Public Employees' Retirement System
820 who became a member of the system before July 1, 2006, and has at
821 least four (4) years of credited membership service, or who became
822 a member of the system on or after July 1, 2006, and has at least

823 ten (10) years of credited membership service shall be entitled to
824 receive a maximum of ten (10) years creditable service for:

825 (a) Any service rendered as an employee of any
826 political subdivision of this state, or any instrumentality
827 thereof, which does not participate in the Public Employees'
828 Retirement System; or

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

833 (c) Any service rendered as an employee of any
834 political subdivision of this state, or any instrumentality
835 thereof, for which coverage of the employee's position was or is
836 excluded; provided that the member pays into the retirement system
837 the actuarial cost as determined by the actuary for each year, or
838 portion thereof, of such service. Payment for such service may be
839 made in increments of one-quarter-year of creditable service.
840 After a member has made full payment to the retirement system for
841 all or any part of such service, the member shall receive
842 creditable service for the period of such service for which full
843 payment has been made to the retirement system.

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

846 25-11-111. (a) (1) Any member who became a member of the
847 system before July 1, 2006, upon withdrawal from service upon or
848 after attainment of the age of sixty (60) years who shall have
849 completed at least four (4) years of creditable service, or any
850 member who became a member of the system before July 1, 2006, upon
851 withdrawal from service regardless of age who shall have completed
852 at least twenty-five (25) years of creditable service, shall be
853 entitled to receive a retirement allowance which shall begin on
854 the first of the month following the date the member's application

855 for the allowance is received by the board, but in no event before
856 withdrawal from service.

857 (2) Any member who became a member of the system on or
858 after July 1, 2006, upon withdrawal from service upon or after
859 attainment of the age of sixty (60) years who shall have completed
860 at least ten (10) years of creditable service, or any member who
861 became a member of the system on or after July 1, 2006, upon
862 withdrawal from service upon or after attaining the age of
863 fifty-five (55) years who shall have completed at least thirty
864 (30) years of creditable service, shall be entitled to receive a
865 retirement allowance which shall begin on the first of the month
866 following the date the member's application for the allowance is
867 received by the board, but in no event before withdrawal from
868 service.

869 (b) (1) Any member who became a member of the system before
870 July 1, 2006, whose withdrawal from service occurs prior to
871 attaining the age of sixty (60) years who shall have completed
872 four (4) or more years of creditable service and shall not have
873 received a refund of his accumulated contributions, shall be
874 entitled to receive a retirement allowance, beginning upon his
875 attaining the age of sixty (60) years, of the amount earned and
876 accrued at the date of withdrawal from service.

877 (2) Any member who became a member of the system on or
878 after July 1, 2006, whose withdrawal from service occurs prior to
879 attaining the age of sixty (60) years who shall have completed ten
880 (10) or more years of creditable service and shall not have
881 received a refund of his accumulated contributions, shall be
882 entitled to receive a retirement allowance, beginning upon his
883 attaining the age of sixty (60) years, of the amount earned and
884 accrued at the date of withdrawal from service.

885 (c) Any member in service who has qualified for retirement
886 benefits may select any optional method of settlement of
887 retirement benefits by notifying the Executive Director of the

888 Board of Trustees of the Public Employees' Retirement System in
889 writing, on a form prescribed by the board, of the option he has
890 selected and by naming the beneficiary of the option and
891 furnishing necessary proof of age. The option, once selected, may
892 be changed at any time prior to actual retirement or death, but
893 upon the death or retirement of the member, the optional
894 settlement shall be placed in effect upon proper notification to
895 the executive director.

896 (d) The annual amount of the retirement allowance shall
897 consist of:

898 (1) A member's annuity which shall be the actuarial
899 equivalent of the accumulated contributions of the member at the
900 time of retirement computed according to the actuarial table in
901 use by the system; and

902 (2) An employer's annuity which, together with the
903 member's annuity provided above, shall be equal to two percent
904 (2%) of the average compensation for each year of state service up
905 to and including twenty-five (25) years of membership service, and
906 two and one-half percent (2-1/2%) of the average compensation for
907 each year of state service exceeding twenty-five (25) years of
908 membership service; and * * *

909 * * *

910 (3) A prior service annuity equal to two percent (2%)
911 of the average compensation for each year of state service up to
912 and including twenty-five (25) years of prior service, and two and
913 one-half percent (2-1/2%) of the average compensation for each
914 year of state service exceeding twenty-five (25) years of prior
915 service for which the member is allowed credit. * * *

916 * * *

917 (4) Any retired member or beneficiary thereof who was
918 eligible to receive a retirement allowance before July 1, 1991,
919 and who is still receiving a retirement allowance on July 1, 1992,
920 shall receive an increase in the annual retirement allowance of

921 the retired member equal to one-eighth of one percent (1/8 of 1%)
922 of the average compensation for each year of state service in
923 excess of twenty-five (25) years of membership service up to and
924 including thirty (30) years. The maximum increase shall be
925 five-eighths of one percent (5/8 of 1%). In no case shall a
926 member who has been retired prior to July 1, 1987, receive less
927 than Ten Dollars (\$10.00) per month for each year of creditable
928 service and proportionately for each quarter year thereof.
929 Persons retired on or after July 1, 1987, shall receive at least
930 Ten Dollars (\$10.00) per month for each year of service and
931 proportionately for each quarter year thereof reduced for the
932 option selected. However, such Ten Dollars (\$10.00) minimum per
933 month for each year of creditable service shall not apply to a
934 retirement allowance computed under Section 25-11-114 based on a
935 percentage of the member's average compensation.

936 * * *

937 (e) No member, except members excluded by the Age
938 Discrimination in Employment Act Amendments of 1986 (Public Law
939 99-592), under either Article 1 or Article 3 in state service
940 shall be required to retire because of age.

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

944 (g) (1) A retiree or beneficiary may, on a form prescribed
945 by and filed with the retirement system, irrevocably waive all or
946 a portion of any benefits from the retirement system to which the
947 retiree or beneficiary is entitled. Such waiver shall be binding
948 on the heirs and assigns of any retiree or beneficiary and the
949 same must agree to forever hold harmless the Public Employees'
950 Retirement System of Mississippi from any claim to such waived
951 retirement benefits.

952 (2) Any waiver pursuant to this subsection shall apply
953 only to the person executing the waiver. A beneficiary shall be

954 entitled to benefits according to the option selected by the
955 member at the time of retirement. However, a beneficiary may, at
956 the option of the beneficiary, execute a waiver of benefits
957 pursuant to this subsection.

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

961 (4) The board of trustees may provide rules and
962 regulations for the administration of waivers under this
963 subsection.

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

966 25-11-113. (1) (a) Upon the application of a member or his
967 employer, any active member in state service who became a member
968 of the system before July 1, 2006, and who has at least four (4)
969 years of membership service credit, or any active member in state
970 service who became a member of the system on or after July 1,
971 2006, who has at least ten (10) years of membership service
972 credit, may be retired by the board of trustees on the first of
973 the month following the date of filing such application on a
974 disability retirement allowance, but in no event shall the
975 disability retirement allowance commence before termination of
976 state service, provided that the medical board, after an
977 evaluation of medical evidence that may or may not include an
978 actual physical examination by the medical board, shall certify
979 that the member is mentally or physically incapacitated for the
980 further performance of duty, that such incapacity is likely to be
981 permanent, and that the member should be retired; however, the
982 board of trustees may accept a disability medical determination
983 from the Social Security Administration in lieu of a certification
984 from the medical board. For the purposes of disability
985 determination, the medical board shall apply the following
986 definition of disability: the inability to perform the usual

987 duties of employment or the incapacity to perform such lesser
988 duties, if any, as the employer, in its discretion, may assign
989 without material reduction in compensation, or the incapacity to
990 perform the duties of any employment covered by the Public
991 Employees' Retirement System (Section 25-11-101 et seq.) that is
992 actually offered and is within the same general territorial work
993 area, without material reduction in compensation. The employer
994 shall be required to furnish the job description and duties of the
995 member. The employer shall further certify whether the employer
996 has offered the member other duties and has complied with the
997 applicable provisions of the Americans With Disabilities Act in
998 affording reasonable accommodations which would allow the employee
999 to continue employment.

1000 (b) Any inactive member who became a member of the
1001 system before July 1, 2006, with four (4) or more years of
1002 membership service credit, or any inactive member who became a
1003 member of the system on or after July 1, 2006, with ten (10) or
1004 more years of membership service credit, who has withdrawn from
1005 active state service, is not eligible for a disability retirement
1006 allowance unless the disability occurs within six (6) months of
1007 the termination of active service and unless satisfactory proof is
1008 presented to the board of trustees that the disability was the
1009 direct cause of withdrawal from state service.

1010 (c) Any member who is or becomes eligible for service
1011 retirement benefits under Section 25-11-111 while pursuing a
1012 disability retirement allowance under this section or Section
1013 25-11-114 may elect to receive a service retirement allowance
1014 pending a final determination on eligibility for a disability
1015 retirement allowance or withdrawal of the application for the
1016 disability retirement allowance. In such a case, an application
1017 for a disability retirement allowance must be on file with the
1018 system before the commencement of a service retirement allowance.
1019 If the application is approved, the option selected and

1020 beneficiary designated on the retirement application shall be used
1021 to determine the disability retirement allowance. If the
1022 application is not approved or if the application is withdrawn,
1023 the service retirement allowance shall continue to be paid in
1024 accordance with the option selected. No person may apply for a
1025 disability retirement allowance after the person begins to receive
1026 a service retirement allowance.

1027 (d) If the medical board certifies that the member is
1028 not mentally or physically incapacitated for the future
1029 performance of duty, the member may request, within sixty (60)
1030 days, a hearing before the hearing officer as provided in Section
1031 25-11-120. All hearings shall be held in accordance with rules
1032 and regulations adopted by the board to govern such hearings.
1033 Such hearing may be closed upon the request of the member.

1034 (e) The medical board may request additional medical
1035 evidence and/or other physicians to conduct an evaluation of the
1036 member's condition. If the medical board requests additional
1037 medical evidence and the member refuses the request, the
1038 application shall be considered void.

1039 (2) Allowance on disability retirement.

1040 (a) Upon retirement for disability, an eligible member
1041 shall receive a retirement allowance if he has attained the age of
1042 sixty (60) years.

1043 (b) Except as provided in paragraph (c) of this
1044 subsection (2), an eligible member who is retired for disability
1045 and who has not attained sixty (60) years of age shall receive a
1046 disability benefit as computed in Section 25-11-111(d)(1) through
1047 (d)(4) which shall consist of:

1048 (i) A member's annuity which shall be the
1049 actuarial equivalent of his accumulated contributions at the time
1050 of retirement; and

1051 (ii) An employer's annuity equal to the amount
1052 that would have been payable as a retirement allowance for both

1053 membership service and prior service had the member continued in
1054 service to the age of sixty (60) years, which shall apply to the
1055 allowance for disability retirement paid to retirees receiving
1056 such allowance upon and after April 12, 1977. This employer's
1057 annuity shall be computed on the basis of the average "earned
1058 compensation" as defined in Section 25-11-103.

1059 (c) For persons who become members after June 30, 1992,
1060 and for active members on June 30, 1992, who elect benefits under
1061 this paragraph (c) instead of those provided under paragraph (b)
1062 of this subsection (2), the disability allowance shall consist of
1063 two (2) parts: a temporary allowance and a deferred allowance.

1064 The temporary allowance shall equal the greater of (i) forty
1065 percent (40%) of average compensation at the time of disability,
1066 plus ten percent (10%) of average compensation for each of the
1067 first two (2) dependent children, as defined in Sections 25-11-103
1068 and 25-11-114, or (ii) the accrued benefit based on actual
1069 service. It shall be payable for a period of time based on the
1070 member's age at disability, as follows:

1071	Age at Disability	Duration
1072	60 and earlier	to age 65
1073	61	to age 66
1074	62	to age 66
1075	63	to age 67
1076	64	to age 67
1077	65	to age 68
1078	66	to age 68
1079	67	to age 69
1080	68	to age 70
1081	69 and over	one year

1082 The deferred allowance shall commence when the temporary
1083 allowance ceases and shall be payable for life. The deferred
1084 allowance shall equal the greater of (i) the allowance that would
1085 have been payable had the member continued in service to the

1086 termination age of the temporary allowance, but no more than forty
1087 percent (40%) of average compensation, or (ii) the accrued benefit
1088 based on actual service at the time of disability. The deferred
1089 allowance as determined at the time of disability shall be
1090 adjusted in accordance with Section 25-11-112 for the period
1091 during which the temporary annuity is payable. In no case shall a
1092 member receive less than Ten Dollars (\$10.00) per month for each
1093 year of service and proportionately for each quarter year thereof
1094 reduced for the option selected.

1095 (d) The member may elect to receive the actuarial
1096 equivalent of the disability retirement allowance in a reduced
1097 allowance payable throughout life under any of the provisions of
1098 the options provided under Section 25-11-115.

1099 (e) Should a disability retiree who has not selected an
1100 option under Section 25-11-115 die before being repaid in
1101 disability benefits the sum of his total contributions, then his
1102 named beneficiary shall receive the difference in cash, which
1103 shall apply to all deceased disability retirees from and after
1104 January 1, 1953.

1105 (3) Reexamination of retirees retired on account of
1106 disability. Except as otherwise provided in this section, once
1107 each year during the first five (5) years following retirement of
1108 a member on a disability retirement allowance, and once in every
1109 period of three (3) years thereafter, the board of trustees may,
1110 and upon his application shall, require any disability retiree who
1111 has not yet attained the age of sixty (60) years or the
1112 termination age of the temporary allowance under paragraph (2)(c)
1113 of this section to undergo a medical examination, such examination
1114 to be made at the place of residence of the retiree or other place
1115 mutually agreed upon by a physician or physicians designated by
1116 the board. The board, however, in its discretion, may authorize
1117 the medical board to establish reexamination schedules appropriate
1118 to the medical condition of individual disability retirees.

1119 Should any disability retiree who has not yet attained the age of
1120 sixty (60) years or the termination age of the temporary allowance
1121 under paragraph (2)(c) of this section refuse to submit to any
1122 medical examination provided herein, his allowance may be
1123 discontinued until his withdrawal of such refusal; and should his
1124 refusal continue for one (1) year, all his rights to a disability
1125 benefit shall be revoked by the board of trustees.

1126 (4) If the medical board reports and certifies to the board
1127 of trustees, after a comparable job analysis or other similar
1128 study, that such disability retiree is engaged in, or is able to
1129 engage in, a gainful occupation paying more than the difference
1130 between his disability allowance, exclusive of cost of living
1131 adjustments, and the average compensation, and if the board of
1132 trustees concurs in such report, the disability benefit shall be
1133 reduced to an amount which, together with the amount earnable by
1134 him, shall equal the amount of his average compensation. If his
1135 earning capacity be later changed, the amount of the benefit may
1136 be further modified, provided that the revised benefit shall not
1137 exceed the amount originally granted. A retiree receiving a
1138 disability benefit who is restored to active service at a salary
1139 less than the average compensation shall not become a member of
1140 the retirement system.

1141 (5) Should a disability retiree under the age of sixty (60)
1142 years or the termination age of the temporary allowance under
1143 paragraph (2)(c) of this section be restored to active service at
1144 a compensation not less than his average compensation, his
1145 disability benefit shall cease, he shall again become a member of
1146 the retirement system, and contributions shall be withheld and
1147 reported. Any such prior service certificate, on the basis of
1148 which his service was computed at the time of retirement, shall be
1149 restored to full force and effect. In addition, upon his
1150 subsequent retirement he shall be credited with all creditable
1151 service as a member, but the total retirement allowance paid to

1152 the retired member in his previous retirement shall be deducted
1153 from his retirement reserve and taken into consideration in
1154 recalculating the retirement allowance under a new option
1155 selected.

1156 (6) If following reexamination in accordance with the
1157 provisions contained in this section, the medical board determines
1158 that a retiree retired on account of disability is physically and
1159 mentally able to return to the employment from which he is
1160 retired, the board of trustees, upon certification of such
1161 findings from the medical board, shall, after a reasonable period
1162 of time, terminate the disability allowance, whether or not the
1163 retiree is reemployed or seeks such reemployment. In addition, if
1164 the board of trustees determines that the retiree is no longer
1165 sustaining a loss of income as established by documented evidence
1166 of the retiree's earned income, the eligibility for a disability
1167 allowance shall terminate and the allowance terminated within a
1168 reasonable period of time. In the event the retirement allowance
1169 is terminated under the provisions of this section, the retiree
1170 may subsequently qualify for a retirement allowance under Section
1171 25-11-111 based on actual years of service credit plus credit for
1172 the period during which a disability allowance was paid.

1173 (7) Any current member as of June 30, 1992, who retires on a
1174 disability retirement allowance after June 30, 1992, and who has
1175 not elected to receive benefits under paragraph (2)(c) of this
1176 section, shall relinquish all rights under the Age Discrimination
1177 in Employment Act of 1967, as amended, with regard to the benefits
1178 payable under this section.

1179 **SECTION 6.** Section 25-11-114, Mississippi Code of 1972, is
1180 amended as follows:

1181 25-11-114. (1) The applicable benefits provided in
1182 subsections (2) and (3) of this section shall be paid to eligible
1183 beneficiaries of any member who became a member of the system
1184 before July 1, 2006, and has completed four (4) or more years of

1185 creditable service, or who became a member of the system on or
1186 after July 1, 2006, and has completed ten (10) or more years of
1187 creditable service, and who dies before retirement and who has not
1188 filed a Pre-Retirement Optional Retirement Form as provided in
1189 Section 25-11-111.

1190 (2) (a) The member's surviving spouse who has been married
1191 to the member for not less than one (1) year immediately preceding
1192 his death shall receive an annuity computed in accordance with
1193 paragraph (d) of this subsection (2) as if the member:

1194 (i) Had retired on the date of his death with
1195 entitlement to an annuity provided for in Section 25-11-111,
1196 notwithstanding that he might not have attained age sixty (60), if
1197 he became a member of the system before July 1, 2006,
1198 notwithstanding that he might not have acquired twenty-five (25)
1199 years of creditable service, or if he became a member of the
1200 system on or after July 1, 2006, notwithstanding that he might not
1201 have attained the age of fifty-five (55) years and acquired thirty
1202 (30) years of creditable service;

1203 (ii) Had nominated his spouse as beneficiary; and

1204 (b) If, at the time of the member's death, there are no
1205 dependent children, and the surviving spouse, who otherwise would
1206 receive the annuity under this subsection (2), has filed with the
1207 system a signed written waiver of his or her rights to the annuity
1208 and that waiver was in effect at the time of the member's death, a
1209 lump sum distribution of the deceased member's accumulated
1210 contributions shall be refunded in accordance with Section
1211 25-11-117.

1212 (c) The spouse annuity shall begin on the first day of
1213 the month following the date of the member's death, but in case of
1214 late filing, retroactive payments will be made for a period of not
1215 more than one (1) year.

1216 (d) The spouse annuity shall be payable for life and
1217 shall be the greater of twenty percent (20%) of the deceased

1218 member's average compensation as defined in Section 25-11-103 at
1219 the time of death or Fifty Dollars (\$50.00) monthly. Surviving
1220 spouses of deceased members who previously received spouse
1221 retirement benefits under this paragraph (d) from and after July
1222 1, 1992, and whose benefits were terminated before July 1, 2004,
1223 because of remarriage, may again receive the retirement benefits
1224 authorized under this paragraph (d) by making application with the
1225 board to reinstate those benefits. Any reinstatement of the
1226 benefits shall be prospective only and shall begin after the first
1227 of the month following the date of the application for
1228 reinstatement, but no earlier than July 1, 2004.

1229 (e) However, the spouse may elect by an irrevocable
1230 agreement on a form prescribed by the board of trustees to receive
1231 a monthly allowance as computed under either paragraph (d) or this
1232 paragraph. The irrevocable agreement shall constitute a waiver by
1233 the spouse to any current and future monthly allowance under the
1234 paragraph not elected, and the waiver shall be a complete and full
1235 discharge of all obligations of the retirement system under that
1236 paragraph.

1237 Any member who has completed the requisite minimum number of
1238 years of membership service to qualify for a retirement allowance
1239 at age sixty (60) and who dies before retirement and leaves a
1240 spouse who has been married to the member for not less than one
1241 (1) year immediately preceding his death and has not exercised any
1242 other option shall be deemed to have exercised Option 2 under
1243 Section 25-11-115 for the benefit of his spouse, which spouse
1244 shall be paid Option 2 settlement benefits under this article
1245 beginning on the first of the month following the date of death,
1246 but in case of late filing, retroactive payments will be made for
1247 a period of not more than one (1) year. The method of calculating
1248 the retirement benefits shall be on the same basis as provided in
1249 Section 25-11-111(d). However, if the member dies before being
1250 qualified for full unreduced benefits, then the benefits shall be

1251 reduced by three percent (3%) per year for the lesser of either
1252 the years of service or age required for full unreduced benefits
1253 in Section 25-11-111(d).

1254 (3) (a) Subject to the maximum limitation provided in this
1255 paragraph, the member's dependent children each shall receive an
1256 annuity of the greater of ten percent (10%) of the member's
1257 average compensation as defined in Section 25-11-103 at the time
1258 of the death of the member or Fifty Dollars (\$50.00) monthly;
1259 however, if there are more than three (3) dependent children, each
1260 dependent child shall receive an equal share of a total annuity
1261 equal to thirty percent (30%) of the member's average
1262 compensation, provided that the total annuity shall not be less
1263 than One Hundred Fifty Dollars (\$150.00) per month for all
1264 children.

1265 (b) A child shall be considered to be a dependent child
1266 until marriage, or the attainment of age nineteen (19), whichever
1267 comes first; however, this age limitation shall be extended beyond
1268 age nineteen (19), but in no event beyond the attainment of age
1269 twenty-three (23), as long as the child is a student regularly
1270 pursuing a full-time course of resident study or training in an
1271 accredited high school, trade school, technical or vocational
1272 institute, junior or community college, college, university or
1273 comparable recognized educational institution duly licensed by a
1274 state. A student child whose birthday falls during the school
1275 year (September 1 through June 30) is considered not to reach age
1276 twenty-three (23) until the July 1 following the actual
1277 twenty-third birthday. A full-time course of resident study or
1278 training means a day or evening noncorrespondence course that
1279 includes school attendance at the rate of at least thirty-six (36)
1280 weeks per academic year or other applicable period with a subject
1281 load sufficient, if successfully completed, to attain the
1282 educational or training objective within the period generally
1283 accepted as minimum for completion, by a full-time day student, of

1284 the academic or training program concerned. Any child who is
1285 physically or mentally incompetent, as adjudged by either a
1286 Mississippi court of competent jurisdiction or by the board, shall
1287 receive benefits for as long as the incompetency exists.

1288 (c) If there are more than three (3) dependent
1289 children, upon a child's ceasing to be a dependent child, his
1290 annuity shall terminate and there shall be a redetermination of
1291 the amounts payable to any remaining dependent children.

1292 (d) Annuities payable under this subsection (3) shall
1293 begin the first day of the month following the date of the
1294 member's death or in case of late filing, retroactive payments
1295 will be made for a period of not more than one (1) year. Those
1296 benefits may be paid to a surviving parent or the lawful custodian
1297 of a dependent child for the use and benefit of the child without
1298 the necessity of appointment as guardian.

1299 (4) (a) Death benefits in the line of duty. Regardless of
1300 the number of years of the member's creditable service, the spouse
1301 and/or the dependent children of an active member who is killed in
1302 the line of performance of duty or dies as a direct result of an
1303 accident occurring in the line of performance of duty shall
1304 qualify, on approval of the board, for a retirement allowance on
1305 the first of the month following the date of death, but in the
1306 case of late filing, retroactive payments will be made for a
1307 period of not more than one (1) year. The spouse shall receive a
1308 retirement allowance for life equal to one-half (1/2) of the
1309 average compensation as defined in Section 25-11-103. In addition
1310 to the retirement allowance for the spouse, or if there is no
1311 surviving spouse, the member's dependent child shall receive a
1312 retirement allowance in the amount of one-fourth (1/4) of the
1313 member's average compensation as defined in Section 25-11-103;
1314 however, if there are two (2) or more dependent children, each
1315 dependent child shall receive an equal share of a total annuity
1316 equal to one-half (1/2) of the member's average compensation. If

1317 there are more than two (2) dependent children, upon a child's
1318 ceasing to be a dependent child, his annuity shall terminate and
1319 there shall be a redetermination of the amounts payable to any
1320 remaining dependent children. Those benefits shall cease to be
1321 paid for the support and maintenance of each child upon the child
1322 attaining the age of nineteen (19) years; however, the spouse
1323 shall continue to be eligible for the aforesaid retirement
1324 allowance. Those benefits may be paid to a surviving parent or
1325 lawful custodian of the children for the use and benefit of the
1326 children without the necessity of appointment as guardian. Any
1327 spouse who received spouse retirement benefits under this
1328 paragraph (a) from and after April 4, 1984, and whose benefits
1329 were terminated before July 1, 2004, because of remarriage, may
1330 again receive the retirement benefits authorized under this
1331 paragraph (a) by making application with the board to reinstate
1332 those benefits. Any reinstatement of the benefits shall be
1333 prospective only and shall begin after the first of the month
1334 following the date of the application for reinstatement, but not
1335 earlier than July 1, 2004.

1336 (b) A child shall be considered to be a dependent child
1337 until marriage, or the attainment of age nineteen (19), whichever
1338 comes first; however, this age limitation shall be extended beyond
1339 age nineteen (19), but in no event beyond the attainment of age
1340 twenty-three (23), as long as the child is a student regularly
1341 pursuing a full-time course of resident study or training in an
1342 accredited high school, trade school, technical or vocational
1343 institute, junior or community college, college, university or
1344 comparable recognized educational institution duly licensed by a
1345 state. A student child whose birthday falls during the school
1346 year (September 1 through June 30) is considered not to reach age
1347 twenty-three (23) until the July 1 following the actual
1348 twenty-third birthday. A full-time course of resident study or
1349 training means a day or evening noncorrespondence course that

1350 includes school attendance at the rate of at least thirty-six (36)
1351 weeks per academic year or other applicable period with a subject
1352 load sufficient, if successfully completed, to attain the
1353 educational or training objective within the period generally
1354 accepted as minimum for completion, by a full-time day student, of
1355 the academic or training program concerned. Any child who is
1356 physically or mentally incompetent, as adjudged by either a
1357 Mississippi court of competent jurisdiction or by the board, shall
1358 receive benefits for as long as the incompetency exists.

1359 (5) If all the annuities provided for in this section
1360 payable on account of the death of a member terminate before there
1361 has been paid an aggregate amount equal to the member's
1362 accumulated contributions standing to the member's credit in the
1363 annuity savings account at the time of the member's death, the
1364 difference between the accumulated contributions and the aggregate
1365 amount of annuity payments shall be paid to the person that the
1366 member has nominated by written designation duly executed and
1367 filed with the board. If there is no designated beneficiary
1368 surviving at termination of benefits, the difference shall be
1369 payable pursuant to Section 25-11-117.1(1).

1370 (6) Regardless of the number of years of creditable service
1371 upon the application of a member or employer, any active member
1372 who becomes disabled as a direct result of an accident or
1373 traumatic event resulting in a physical injury occurring in the
1374 line of performance of duty, provided that the medical board or
1375 other designated governmental agency after a medical examination
1376 certifies that the member is mentally or physically incapacitated
1377 for the further performance of duty and the incapacity is likely
1378 to be permanent, may be retired by the board of trustees on the
1379 first of the month following the date of filing the application
1380 but in no event shall the retirement allowance begin before the
1381 termination of state service. The retirement allowance shall
1382 equal the allowance on disability retirement as provided in

1383 Section 25-11-113 but shall not be less than fifty percent (50%)
1384 of average compensation.

1385 Permanent and total disability resulting from a
1386 cardiovascular, pulmonary or musculo-skeletal condition that was
1387 not a direct result of a traumatic event occurring in the
1388 performance of duty shall be deemed an ordinary disability. A
1389 mental disability based exclusively on employment duties occurring
1390 on an ongoing basis shall be deemed an ordinary disability.

1391 (7) If the deceased or disabled member became a member of
1392 the system before July 1, 2006, and has less than four (4) years
1393 of creditable service, or became a member of the system on or
1394 after July 1, 2006, and has less than ten (10) years of creditable
1395 service, the average compensation as defined in Section 25-11-103
1396 shall be the average of all annual earned compensation in state
1397 service for the purposes of benefits provided in this section.

1398 (8) In case of death or total and permanent disability under
1399 subsection (4) or subsection (6) of this section and before the
1400 board shall consider any application for a retirement allowance,
1401 the employer must certify to the board that the member's death or
1402 disability was a direct result of an accident or a traumatic event
1403 occurring during and as a result of the performance of the regular
1404 and assigned duties of the employee and that the death or
1405 disability was not the result of the willful negligence of the
1406 employee.

1407 (9) The application for the retirement allowance must be
1408 filed within one (1) year after death of an active member who is
1409 killed in the line of performance of duty or dies as a direct
1410 result of an accident occurring in the line of performance of duty
1411 or traumatic event; but the board of trustees may consider an
1412 application for disability filed after the one-year period if it
1413 can be factually demonstrated to the satisfaction of the board of
1414 trustees that the disability is due to the accident and that the
1415 filing was not accomplished within the one-year period due to a

1416 delayed manifestation of the disability or to circumstances beyond
1417 the control of the member. However, in case of late filing,
1418 retroactive payments will be made for a period of not more than
1419 one (1) year only.

1420 (10) Notwithstanding any other section of this article and
1421 in lieu of any payments to a designated beneficiary for a refund
1422 of contributions under Section 25-11-117, the spouse and/or
1423 children shall be eligible for the benefits payable under this
1424 section, and the spouse may elect, for both the spouse and/or
1425 children, to receive benefits in accordance with either
1426 subsections (2) and (3) or subsection (4) of this section;
1427 otherwise, the contributions to the credit of the deceased member
1428 shall be refunded in accordance with Section 25-11-117.

1429 (11) If the member has previously received benefits from the
1430 system to which he was not entitled and has not repaid in full all
1431 amounts payable by him to the system, the annuity amounts
1432 otherwise provided by this section shall be withheld and used to
1433 effect repayment until the total of the withholdings repays in
1434 full all amounts payable by him to the system.

1435 **SECTION 7.** Section 25-11-115, Mississippi Code of 1972, is
1436 amended as follows:

1437 25-11-115. (1) Upon application for superannuation or
1438 disability retirement, any member may elect to receive his benefit
1439 in a retirement allowance payable throughout life with no further
1440 payments to anyone at his death, except that in the event his
1441 total retirement payments under this article do not equal his
1442 total contributions under this article, his named beneficiary
1443 shall receive the difference in cash at his death. Or he may
1444 elect upon retirement, or upon becoming eligible for retirement,
1445 to receive the actuarial equivalent subject to the provisions of
1446 subsection (3) of this section of his retirement allowance in a
1447 reduced retirement allowance payable throughout life with the
1448 provision that:

1449 **Option 1.** If he dies before he has received in annuity
1450 payment the value of the member's annuity savings account as it
1451 was at the time of his retirement, the balance shall be paid to
1452 his legal representative or to such person as he shall nominate by
1453 written designation duly acknowledged and filed with the board; or

1454 **Option 2.** Upon his death, his reduced retirement allowance
1455 shall be continued throughout the life of, and paid to, such
1456 person as he has nominated by written designation duly
1457 acknowledged and filed with the board of trustees at the time of
1458 his retirement;

1459 **Option 3.** Upon his death, one-half (1/2) of his reduced
1460 retirement allowance shall be continued throughout the life of,
1461 and paid to, such person as he shall have nominated by written
1462 designation duly acknowledged and filed with the board of trustees
1463 at the time of his retirement, and the other one-half (1/2) of his
1464 reduced retirement allowance to some other designated beneficiary;

1465 **Option 4-A.** Upon his death, one-half (1/2) of his reduced
1466 retirement allowance, or such other specified amount, shall be
1467 continued throughout the life of, and paid to, such person as he
1468 shall have nominated by written designation duly acknowledged and
1469 filed with the board of trustees at the time of his retirement; or

1470 **Option 4-B.** A reduced retirement allowance shall be
1471 continued throughout the life of the retirant, but with the
1472 further guarantee of payments to the named beneficiary,
1473 beneficiaries or to the estate for a specified number of years
1474 certain. If the retired member or the last designated beneficiary
1475 receiving annuity payments dies prior to receiving all guaranteed
1476 payments due, the actuarial equivalent of the remaining payments
1477 shall be paid pursuant to Section 25-11-117.1(1);

1478 **Option 4-C.** Such retirement allowance otherwise payable may
1479 be converted into a retirement allowance of equivalent actuarial
1480 value in such an amount that, with the member's benefit under
1481 Title II of the federal Social Security Act, the member will

1482 receive, so far as possible, approximately the same amount
1483 annually before and after the earliest age at which the member
1484 becomes eligible to receive a social security benefit. This
1485 option shall not be available to retirees whose retirement is
1486 effective on or after July 1, 2004.

1487 **Option 6.** Any member who became a member of the system
1488 before July 1, 2006, and who has at least twenty-eight (28) years
1489 of creditable service at the time of retirement or who is at least
1490 sixty-three (63) years of age and eligible to retire, or any
1491 member who became a member of the system on or after July 1, 2006,
1492 and who has at least thirty-three (33) years of creditable service
1493 at the time of retirement or who is at least sixty-three (63)
1494 years of age and eligible to retire, may select the maximum
1495 retirement benefit or an optional benefit as provided in this
1496 subsection together with a partial lump-sum distribution. The
1497 amount of the lump-sum distribution under this option shall be
1498 equal to the maximum monthly benefit multiplied by twelve (12),
1499 twenty-four (24) or thirty-six (36) as selected by the member.
1500 The maximum retirement benefit shall be actuarially reduced to
1501 reflect the amount of the lump-sum distribution selected and
1502 further reduced for any other optional benefit selected. The
1503 annuity and lump-sum distribution shall be computed to result in
1504 no actuarial loss to the system. The lump-sum distribution shall
1505 be made as a single payment payable at the time the first monthly
1506 annuity payment is paid to the retiree. The amount of the
1507 lump-sum distribution shall be deducted from the member's annuity
1508 savings account in computing what contributions remain at the
1509 death of the retiree and/or a beneficiary. The lump-sum
1510 distribution option may be elected only once by a member upon
1511 initial retirement, and may not be elected by a retiree, by
1512 members applying for a disability retirement annuity, by survivors
1513 or by a member selecting Option 4-C.

1514 (2) No change in the option selected shall be permitted
1515 after the member's death or after the member has received his
1516 first retirement check except as provided in subsections (3) and
1517 (4) of this section and in Section 25-11-127. Members who are
1518 pursuing a disability retirement allowance and simultaneously or
1519 subsequently elect to begin to receive a service retirement
1520 allowance while continuing to pursue a disability retirement
1521 allowance, shall not be eligible to select Option 4-C or Option 6
1522 and those options may not be selected at a later time if the
1523 application for a disability retirement allowance is voided or
1524 denied. However, any retired member who is receiving a retirement
1525 allowance under Option 2 or Option 4-A upon July 1, 1992, and
1526 whose designated beneficiary predeceased him or whose marriage to
1527 a spouse who is his designated beneficiary is terminated by
1528 divorce or other dissolution, upon written notification to the
1529 retirement system of the death of the designated beneficiary or of
1530 the termination of his marriage to his designated beneficiary, the
1531 retirement allowance payable to the member after receipt of such
1532 notification by the retirement system shall be equal to the
1533 retirement allowance which would have been payable had the member
1534 not elected the option. In addition, any retired member who is
1535 receiving the maximum retirement allowance for life, a retirement
1536 allowance under Option 1 or who is receiving a retirement
1537 allowance under Option 2 or Option 4-A on July 1, 1992, may elect
1538 to provide survivor benefits under Option 2 or Option 4-A to a
1539 spouse who was not previously the member's beneficiary and whom
1540 the member married before July 1, 1992.

1541 (3) Any retired member who is receiving a reduced retirement
1542 allowance under Option 2 or Option 4-A whose designated
1543 beneficiary predeceases him, or whose marriage to a spouse who is
1544 his designated beneficiary is terminated by divorce or other
1545 dissolution, may elect to cancel his reduced retirement allowance
1546 and receive the maximum retirement allowance for life in an amount

1547 equal to the amount that would have been payable if the member had
1548 not elected Option 2 or Option 4-A. Such election must be made in
1549 writing to the office of the executive director of the system on a
1550 form prescribed by the board. Any such election shall be
1551 effective the first of the month following the date the election
1552 is received by the system.

1553 (4) Any retired member who is receiving the maximum
1554 retirement allowance for life, or a retirement allowance under
1555 Option 1, and who marries after his retirement may elect to cancel
1556 his maximum retirement allowance and receive a reduced retirement
1557 allowance under Option 2 or Option 4-A to provide continuing
1558 lifetime benefits to his spouse. Such election must be made in
1559 writing to the office of the executive director of the system on a
1560 form prescribed by the board not earlier than the date of the
1561 marriage. Any such election shall be effective the first of the
1562 month following the date the election is received by the system.

1563 (5) In the event the election of an optional benefit is made
1564 after the member has attained the age of sixty-five (65) years,
1565 the actuarial equivalent factor shall be used to compute the
1566 reduced retirement allowance as if the election had been made on
1567 his sixty-fifth birthday; however, from and after January 1, 2003,
1568 if there is an election of Option 6 after the member has attained
1569 the age of sixty-five (65) years, the actuarial equivalent factor
1570 based on the retiree's age at the time of retirement shall be used
1571 to compute the reduced maximum monthly retirement allowance.
1572 However, if a retiree marries or remarries after retirement and
1573 elects either Option 2 or Option 4-A as provided in subsection (2)
1574 or (4) of this section, the actuarial equivalent factor used to
1575 compute the reduced retirement allowance shall be the factor for
1576 the age of the retiree and his or her beneficiary at the time such
1577 election for recalculation of benefits is made.

1578 (6) Notwithstanding any provision of Section 25-11-1 et
1579 seq., no payments may be made for a retirement allowance on a

1580 monthly basis for a period of time in excess of that allowed by
1581 federal law.

1582 (7) If a retirant and his eligible beneficiary, if any, both
1583 die before they have received in annuity payments a total amount
1584 equal to the accumulated contributions standing to the retirant's
1585 credit in the annuity savings account at the time of his
1586 retirement, the difference between the accumulated contributions
1587 and the total amount of annuities received by them shall be paid
1588 to such persons as the retirant has nominated by written
1589 designation duly executed and filed in the office of the executive
1590 director. If no designated person survives the retirant and his
1591 beneficiary, the difference, if any, shall be paid pursuant to
1592 Section 25-11-117.1(1).

1593 (8) Any retired member who retired on Option 2(5) or 4-A(5)
1594 prior to July 1, 1992, who is still receiving a retirement
1595 allowance on July 1, 1994, shall receive an increase in the annual
1596 retirement allowance effective July 1, 1994, equal to the amount
1597 they would have received under Option 2 or Option 4-A without a
1598 reduction for Option 5 based on the ages at retirement of the
1599 retiree and beneficiary and option factors in effect on July 1,
1600 1992. Such increase shall be prospective only.

1601 **SECTION 8.** Section 25-11-117, Mississippi Code of 1972, is
1602 amended as follows:

1603 25-11-117. (1) A member may be paid a refund of the amount
1604 of accumulated contributions to the credit of the member in the
1605 annuity savings account, provided that the member has withdrawn
1606 from state service and has not returned to state service on the
1607 date the refund of the accumulated contributions would be paid.
1608 That refund of the contributions to the credit of the member in
1609 the annuity savings account shall be paid within ninety (90) days
1610 from receipt in the office of the retirement system of the
1611 properly completed form requesting the payment. In the event of
1612 death before retirement of any member whose spouse and/or children

1613 are not entitled to a retirement allowance, the accumulated
1614 contributions to the credit of the deceased member in the annuity
1615 savings account shall be paid to the designated beneficiary on
1616 file in writing in the office of the executive director of the
1617 board of trustees within ninety (90) days from receipt of a
1618 properly completed form requesting the payment. If there is no
1619 such designated beneficiary on file for the deceased member in the
1620 office of the system, upon the filing of a proper request with the
1621 board, the contributions to the credit of the deceased member in
1622 the annuity savings account shall be refunded pursuant to Section
1623 25-11-117.1(1). The payment of the refund shall discharge all
1624 obligations of the retirement system to the member on account of
1625 any creditable service rendered by the member prior to the receipt
1626 of the refund. By the acceptance of the refund, the member shall
1627 waive and relinquish all accrued rights in the system.

1628 (2) Under the Unemployment Compensation Amendments of 1992
1629 (Public Law 102-318 (UCA)), a member or the spouse of a member who
1630 is an eligible beneficiary entitled to a refund under this section
1631 may elect, on a form prescribed by the board under rules and
1632 regulations established by the board, to have an eligible rollover
1633 distribution of accumulated contributions payable under this
1634 section paid directly to an eligible retirement plan, as defined
1635 under applicable federal law, or an individual retirement account.
1636 If the member or the spouse of a member who is an eligible
1637 beneficiary makes that election and specifies the eligible
1638 retirement plan or individual retirement account to which the
1639 distribution is to be paid, the distribution will be made in the
1640 form of a direct trustee-to-trustee transfer to the specified
1641 eligible retirement plan. Flexible rollovers under this
1642 subsection shall not be considered assignments under Section
1643 25-11-129.

1644 (3) (a) If any person who became a member of the system
1645 before July 1, 2006, has received a refund reenters the state

1646 service and again becomes a member of the system, the member may
1647 repay all or part of the amounts previously received as a refund,
1648 together with regular interest covering the period from the date
1649 of refund to the date of repayment; however, the amounts that are
1650 repaid by the member and the creditable service related thereto
1651 shall not be used in any benefit calculation or determination
1652 until the member has remained a contributor to the system for a
1653 period of at least four (4) years after the member's reentry into
1654 state service. Repayment for that time shall be made in
1655 increments of not less than one-quarter (1/4) year of creditable
1656 service beginning with the most recent service for which refund
1657 has been made. Upon the repayment of all or part of that refund
1658 and interest, the member shall again receive credit for the period
1659 of creditable service for which full repayment has been made to
1660 the system.

1661 (b) If any person who became a member of the system on
1662 or after July 1, 2006, has received a refund reenters the state
1663 service and again becomes a member of the system, the member may
1664 repay all or part of the amounts previously received as a refund,
1665 together with regular interest covering the period from the date
1666 of refund to the date of repayment; however, the amounts that are
1667 repaid by the member and the creditable service related thereto
1668 shall not be used in any benefit calculation or determination
1669 until the member has remained a contributor to the system for a
1670 period of at least ten (10) years after the member's reentry into
1671 state service. Repayment for that time shall be made in
1672 increments of not less than one-quarter (1/4) year of creditable
1673 service beginning with the most recent service for which refund
1674 has been made. Upon the repayment of all or part of that refund
1675 and interest, the member shall again receive credit for the period
1676 of creditable service for which full repayment has been made to
1677 the system.

1678 (4) (a) In order to provide a source of income to members
1679 who have applied for disability benefits under Section 25-11-113
1680 or 25-11-114, the board may provide, at the employee's election, a
1681 temporary benefit to be paid from the member's accumulated
1682 contributions, if any, without forfeiting the right to pursue
1683 disability benefits, provided that the member has exhausted all
1684 personal and medical leave and has terminated his or her
1685 employment. The board may prescribe rules and regulations for
1686 carrying out the provisions of this subsection (4).

1687 (b) If a member who has elected to receive temporary
1688 benefits under this subsection later applies for a refund of his
1689 or her accumulated contributions, all amounts paid under this
1690 subsection shall be deducted from the accumulated contributions
1691 and the balance will be paid to the member. If a member who has
1692 elected to receive temporary benefits under this subsection is
1693 later approved for a disability retirement allowance, and a
1694 service retirement allowance or survivor benefits are paid on the
1695 account, the board shall adjust the benefits in such a manner that
1696 no more than the actuarial equivalent of the benefits to which the
1697 member or beneficiary was or is entitled shall be paid.

1698 (c) The board may study, develop and propose a
1699 disability benefit structure, including short and long term
1700 disability benefits, provided that it is the actuarial equivalent
1701 of the benefits currently provided in Section 25-11-113 or
1702 25-11-114.

1703 **SECTION 9.** For purposes of Sections 25-11-103, 25-11-105,
1704 25-11-109, 25-11-111, 25-11-113, 25-11-114, 25-11-115 and
1705 25-11-117, if a member of the system withdrew from state service
1706 and received a refund of the amount of the accumulated
1707 contributions to the credit of the member in the annuity savings
1708 account before July 1, 2006, and the person reenters state service
1709 and becomes a member of the system again on or after July 1, 2006,
1710 and repays all or part of the amount received as a refund and

1711 interest in order to receive creditable service for service
1712 rendered before July 1, 2006, the member shall be considered to
1713 have become a member of the system on or after July 1, 2006.

1714 **SECTION 10.** Section 25-13-11, Mississippi Code of 1972, is
1715 amended as follows:

1716 25-13-11. (1) Any member upon withdrawal from service, upon
1717 or after attainment of the age of fifty-five (55) years, who shall
1718 have completed at least five (5) years of creditable service; or
1719 any member who became a member before July 1, 2006, upon
1720 withdrawal from service upon or after attainment of the age of
1721 forty-five (45) years, who shall have completed at least twenty
1722 (20) years of creditable service; or any member upon withdrawal
1723 from service, regardless of age, who shall have completed at least
1724 twenty-five (25) years of creditable service, shall be entitled to
1725 receive a retirement allowance which shall be payable the first of
1726 the month following receipt of the member's application in the
1727 Office of the Executive Director of the Public Employees'
1728 Retirement System, but in no event before withdrawal from service.

1729 (2) Any member whose withdrawal from service occurs prior to
1730 attaining the age of fifty-five (55) years, who shall have
1731 completed more than five (5) years of creditable service and shall
1732 not have received a refund of the member's accumulated
1733 contributions, shall be entitled to receive a retirement allowance
1734 beginning upon his attaining the age of fifty-five (55) years of
1735 the amount earned and accrued at the date of withdrawal from
1736 service.

1737 (3) The annual amount of the retirement allowance shall
1738 consist of:

1739 (a) A member's annuity, which shall be the actuarial
1740 equivalent of the accumulated contributions of the member at the
1741 time of retirement, computed according to the actuarial table in
1742 use by the system.

1743 (b) An employer's annuity which, together with the
1744 member's annuity provided above, shall be equal to two and
1745 one-half percent (2-1/2%) of the average compensation, based on
1746 the four (4) highest consecutive years, for each year of
1747 membership service.

1748 (c) A prior service annuity equal to two and one-half
1749 percent (2-1/2%) of the average compensation, based on the four
1750 (4) highest consecutive years, for each year of prior service for
1751 which the member is allowed credit.

1752 (d) In the case of retirement of any member prior to
1753 attaining the age of fifty-five (55) years, the retirement
1754 allowance shall be computed in accordance with the formula
1755 hereinabove set forth in this section, except that the employer's
1756 annuity and prior service annuity above described shall be reduced
1757 three percent (3%) for each year of age below fifty-five (55)
1758 years, or three percent (3%) for each year of service below
1759 twenty-five (25) years of creditable service, whichever is lesser.

1760 (e) Upon retiring from service, a member shall be
1761 eligible to obtain retirement benefits, as computed above, for
1762 life, except that the aggregate amount of the employer's annuity
1763 and prior service annuity above described shall not exceed more
1764 than one hundred percent (100%) of the average compensation
1765 regardless of the years of service.

1766 (f) Any member in the service who shall have attained
1767 the age of sixty (60) years shall be retired forthwith. However,
1768 any member who has attained age sixty (60) may ask the
1769 Commissioner of Public Safety to allow him to continue in service
1770 with the Mississippi Highway Safety Patrol beyond age sixty (60).
1771 If the commissioner determines that the member's continuance in
1772 service would be advantageous to the Highway Safety Patrol because
1773 of his expert knowledge, experience or qualifications, the member
1774 shall be allowed to continue in service beyond age sixty (60) for
1775 a period of one (1) year. After the initial one-year continuance,

1776 the commissioner may authorize the member to continue in service
1777 for additional periods of one (1) year until the member attains
1778 age sixty-five (65), at which time retirement shall be mandatory.

1779 (g) Notwithstanding any provision of this chapter
1780 pertaining to the Mississippi Highway Safety Patrol Retirement
1781 System, no payments may be made for a retirement allowance on a
1782 monthly basis for a period of time in excess of that allowed by
1783 any applicable federal law.

1784 (h) In no case shall any retired member who has
1785 completed at least fifteen (15) years of creditable service
1786 receive less than Five Hundred Dollars (\$500.00) per month; in no
1787 case shall any retired member who has completed ten (10) or more
1788 years of creditable service, but less than fifteen (15) years of
1789 creditable service, receive less than Three Hundred Dollars
1790 (\$300.00) per month; and in no case shall any retired member who
1791 has completed less than ten (10) years of creditable service
1792 receive less than Two Hundred Fifty Dollars (\$250.00) per month.
1793 In no case shall a beneficiary who is receiving a retirement
1794 allowance receive less than Two Hundred Fifty Dollars (\$250.00)
1795 per month or Three Thousand Dollars (\$3,000.00) per year.

1796 (i) Any retired member who is receiving a retirement
1797 allowance on July 1, 1999, shall receive an ad hoc increase in the
1798 annual retirement allowance equal to Three Dollars and Fifty Cents
1799 (\$3.50) per month for each full fiscal year through June 30, 1999,
1800 that the member has actually drawn retirement payments from the
1801 date of retirement, or the date of last retirement if there is
1802 more than one (1) retirement date, plus an amount equal to One
1803 Dollar (\$1.00) per month for each full year of creditable service
1804 and proportionately for each quarter year of creditable service,
1805 as documented by the system and on which benefits are being paid.
1806 If there are multiple beneficiaries receiving a retirement
1807 allowance from a deceased member's account, the ad hoc increase
1808 shall be divided proportionately.

1809 (4) For purposes of this section, if a highway patrolman
1810 received a refund under Section 25-13-21 before July 1, 2006, and
1811 reenters the service of the Highway Safety Patrol and becomes a
1812 member of the system again on or after July 1, 2006, and repays
1813 all or part of the amount received as a refund and interest in
1814 order to receive creditable service for service rendered before
1815 July 1, 2006, the member shall be considered to have become a
1816 member of the system on or after July 1, 2006.

1817 **SECTION 11.** This act shall take effect and be in force from
1818 and after July 1, 2006.