

Chapter No. _____

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HOUSE BILL NO. 1

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HOUSE BILL NO. 1

AN ACT TO AMEND SECTION 25-11-123, MISSISSIPPI CODE OF 1972, TO INCREASE FROM 7-1/4% OF EARNED COMPENSATION TO 9% OF EARNED COMPENSATION THE AMOUNT THAT IS DEDUCTED FROM THE SALARY OF EACH MEMBER OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND CREDITED TO THE MEMBER'S ANNUITY SAVINGS ACCOUNT; TO AMEND SECTION 25-11-109, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT MEMBERS OF THE SYSTEM WHO RETIRE ON OR AFTER JULY 1, 2010, SHALL RECEIVE CREDIT FOR ONE-HALF-DAY OF LEAVE FOR EACH FULL YEAR OF MEMBERSHIP SERVICE ACCRUED AFTER JUNE 30, 2010, WHICH LEAVE SHALL BE ADDED TO THE LAWFULLY CREDITED UNUSED LEAVE FOR WHICH CREDITABLE SERVICE IS CURRENTLY PROVIDED; TO AMEND SECTION 25-11-115, MISSISSIPPI CODE OF 1972, TO PROVIDE A NEW OPTION FOR MEMBERS OF THE SYSTEM FOR PAYMENT OF A MEMBER'S RETIREMENT ALLOWANCE, WHICH PROVIDES THAT UPON THE RETIRED MEMBER'S DEATH, THREE-FOURTHS OF THE MEMBER'S REDUCED RETIREMENT ALLOWANCE WILL BE CONTINUED THROUGHOUT THE LIFE OF THE PERSON DESIGNATED BY THE MEMBER AT THE TIME OF RETIREMENT; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 25-11-123, Mississippi Code of 1972, is amended as follows:

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

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

(1) Beginning July 1, 2010, the employer shall cause to be deducted from the salary of each member on each and every payroll of the employer for each and every payroll period nine

percent (9%) of earned compensation as defined in Section 25-11-103. Future contributions shall be fixed biennially by the board on the basis of the liabilities of the retirement system for the various allowances and benefits as shown by actuarial valuation; however, any member earning at a rate less than Sixteen Dollars and Sixty-seven Cents (\$16.67) per month, or Two Hundred Dollars (\$200.00) per year, shall contribute not less than One Dollar (\$1.00) per month, or Twelve Dollars (\$12.00) per year.

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

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

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

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

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

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

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

(4) The accrued liability contribution shall be discontinued as soon as the accumulated balance in the employer's accumulation account shall equal the present value, computed on the basis of the normal contribution rate then in force, or the

prospective normal contributions to be received on account of all persons who are at that time members.

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

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

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

(e) **Collection of contributions.** The employer shall cause to be deducted on each and every payroll of a member for each and every payroll period, beginning subsequent to January 31, 1953,

the contributions payable by the member as provided in Articles 1 and 3.

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

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

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

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

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

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

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

(6) The board shall provide by rules for the methods of collection of contributions of employers and members. The amounts determined due by an agency to the various funds as specified in Articles 1 and 3 are made obligations of the agency to the board and shall be paid as provided herein. Failure to deduct those contributions shall not relieve the employee and employer from liability thereof. Delinquent employee contributions and any accrued interest shall be the obligation of the employee and delinquent employer contributions and any accrued interest shall be the obligation of the employer. The employer may, in its discretion, elect to pay any or all of the interest on delinquent

employee contributions. From and after July 1, 1996, under rules and regulations established by the board, all employers are authorized and shall transfer all funds due to the Public Employees' Retirement System electronically and shall transmit any wage or other reports by computerized reporting systems.

This section shall stand repealed on July 1, 2012.

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

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

(2) In the computation of creditable service under the provisions of this article, the total months of accumulative service during any fiscal year shall be calculated in accordance with the schedule as follows: ten (10) or more months of creditable service during any fiscal year shall constitute a year

of creditable service; seven (7) months to nine (9) months inclusive, three-quarters (3/4) of a year of creditable service; four (4) months to six (6) months inclusive, one-half-year of creditable service; one (1) month to three (3) months inclusive, one-quarter (1/4) of a year of creditable service. In no case shall credit be allowed for any period of absence without compensation except for disability while in receipt of a disability retirement allowance, nor shall less than fifteen (15) days of service in any month, or service less than the equivalent of one-half (1/2) of the normal working load for the position and less than one-half (1/2) of the normal compensation for the position in any month, constitute a month of creditable service, nor shall more than one (1) year of service be creditable for all services rendered in any one (1) fiscal year; however, for a school employee, substantial completion of the legal school term when and where the service was rendered shall constitute a year of service credit. Any state or local elected official shall be deemed a full-time employee for the purpose of creditable service. However, an appointed or elected official compensated on a per diem basis only shall not be allowed creditable service for terms of office.

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

In the computation of unused leave for creditable service authorized in Section 25-11-103, the following shall govern: twenty-one (21) days of unused leave shall constitute one (1) month of creditable service and in no case shall credit be allowed for any period of unused leave of less than fifteen (15) days. The number of months of unused leave shall determine the number of

quarters or years of creditable service in accordance with the above schedule for membership and prior service. In order for the member to receive creditable service for the number of days of unused leave, the system must receive certification from the governing authority.

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

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

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

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

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

(4) Upon verification of the statement of prior service, the board shall issue a prior service certificate certifying to each member the length of prior service for which credit shall have been allowed on the basis of his statement of service. So long as membership continues, a prior service certificate shall be final and conclusive for retirement purposes as to such service,

provided that any member may within five (5) years from the date of issuance or modification of such certificate request the board of trustees to modify or correct his prior service certificate. Any modification or correction authorized shall only apply prospectively.

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

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

(6) Any member who served on active duty in the Armed Forces of the United States, who served in the Commissioned Corps of the United States Public Health Service before 1972 or who served in maritime service during periods of hostility in World War II, shall be entitled to creditable service at no cost for his service on active duty in the Armed Forces, in the Commissioned Corps of the United States Public Health Service before 1972 or in such maritime service, provided he entered state service after his discharge from the Armed Forces or entered state service after he completed such maritime service. The maximum period for such creditable service for all military service as defined in this subsection (6) shall not exceed four (4) years unless positive proof can be furnished by such person that he was retained in the Armed Forces during World War II or in maritime service during World War II by causes beyond his control and without opportunity of discharge. The member shall furnish proof satisfactory to the board of trustees of certification of military service or maritime

service records showing dates of entrance into active duty service and the date of discharge. From and after July 1, 1993, no creditable service shall be granted for any military service or maritime service to a member who qualifies for a retirement allowance in another public retirement system administered by the Board of Trustees of the Public Employees' Retirement System based, in whole or in part, on such military or maritime service. In no case shall the member receive creditable service if the member received a dishonorable discharge from the Armed Forces of the United States.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) Any member of the Public Employees' Retirement System who became a member of the system before July 1, 2007, and has at least four (4) years of credited membership service, or who became a member of the system on or after July 1, 2007, and has at least eight (8) years of credited membership service, shall be entitled to receive a maximum of ten (10) years creditable service for:

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

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

(c) Any service rendered as an employee of any political subdivision of this state, or any instrumentality thereof, for which coverage of the employee's position was or is excluded; provided that the member pays into the retirement system the actuarial cost as determined by the actuary for each year, or portion thereof, of such service. Payment for such service may be made in increments of one-quarter-year of creditable service.

After a member has made full payment to the retirement system for all or any part of such service, the member shall receive creditable service for the period of such service for which full payment has been made to the retirement system.

SECTION 3. Section 25-11-115, Mississippi Code of 1972, is amended as follows:

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

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

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

Option 3. Upon the retired member's death, one-half (1/2) of his or her reduced retirement allowance shall be continued throughout the life of, and paid to, such person as the member has nominated by written designation duly acknowledged and filed with

the board of trustees at the time of his or her retirement, and the other one-half (1/2) of his or her reduced retirement allowance to some other designated beneficiary;

Option 4. Upon the retired member's death, three-fourths (3/4) of his or her reduced retirement allowance, or such other specified amount, shall be continued throughout the life of, and paid to, such person as the member has nominated by written designation duly acknowledged and filed with the board of trustees at the time of his or her retirement;

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

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

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

subsection together with a partial lump-sum distribution. The amount of the lump-sum distribution under this option shall be equal to the maximum monthly benefit multiplied by twelve (12), twenty-four (24) or thirty-six (36) as selected by the member. The maximum retirement benefit shall be actuarially reduced to reflect the amount of the lump-sum distribution selected and further reduced for any other optional benefit selected. The annuity and lump-sum distribution shall be computed to result in no actuarial loss to the system. The lump-sum distribution shall be made as a single payment payable at the time the first monthly annuity payment is paid to the retiree. The amount of the lump-sum distribution shall be deducted from the member's annuity savings account in computing what contributions remain at the death of the retiree and/or a beneficiary. The lump-sum distribution option may be elected only once by a member upon initial retirement, and may not be elected by a retiree, by members applying for a disability retirement annuity, or by survivors.

(2) No change in the option selected shall be permitted after the member's death or after the member has received his or her first retirement check except as provided in subsections (3) and (4) of this section and in Section 25-11-127. Members who are pursuing a disability retirement allowance and simultaneously or later elect to begin to receive a service retirement allowance while continuing to pursue a disability retirement allowance, shall not be eligible to select Option 6 and that option may not be selected at a later time if the application for a disability retirement allowance is voided or denied. However, any retired member who is receiving a retirement allowance under Option 2 or Option 4-A upon July 1, 1992, and whose designated beneficiary predeceased him or her or whose marriage to a spouse who is his or her designated beneficiary is terminated by divorce or other dissolution, upon written notification to the retirement system of

the death of the designated beneficiary or of the termination of the retired member's marriage to the designated beneficiary, the retirement allowance payable to the member after receipt of that notification by the retirement system shall be equal to the retirement allowance that would have been payable if the member had not elected the option. In addition, any retired member who is receiving the maximum retirement allowance for life, a retirement allowance under Option 1 or who is receiving a retirement allowance under Option 2 or Option 4-A on July 1, 1992, may elect to provide survivor benefits under Option 2 or Option 4-A to a spouse who was not previously the member's beneficiary and whom the member married before July 1, 1992.

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

(4) Any retired member who is receiving the maximum retirement allowance for life, or a retirement allowance under Option 1, and who marries after his or her retirement may elect to cancel the maximum retirement allowance and receive a reduced retirement allowance under Option 2 or Option 4-A to provide continuing lifetime benefits to his or her spouse. That election

must be made in writing to the office of the executive director of the system on a form prescribed by the board not earlier than the date of the marriage. Any such election shall be effective the first of the month following the date the election is received by the system.

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

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

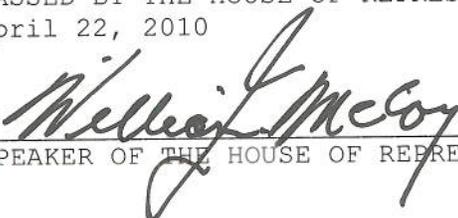
(7) If a retirant and his or her eligible beneficiary, if any, both die before they have received in annuity payments a total amount equal to the accumulated contributions standing to the retirant's credit in the annuity savings account at the time of his or her retirement, the difference between the accumulated contributions and the total amount of annuities received by them shall be paid to such persons as the retirant has nominated by written designation duly executed and filed in the office of the executive director. If no designated person survives the retirant

and his or her beneficiary, the difference, if any, shall be paid under Section 25-11-117.1(1).

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

SECTION 4. This act shall take effect and be in force from and after July 1, 2010; however, Section 3 of this act shall take effect and be in force from and after January 1, 2011.

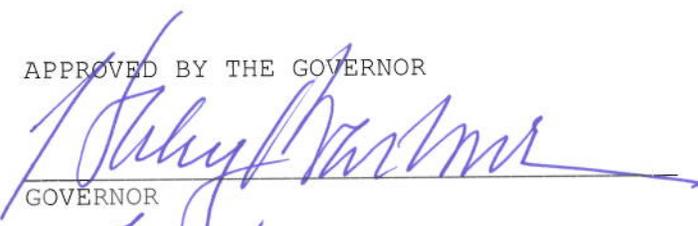
PASSED BY THE HOUSE OF REPRESENTATIVES
April 22, 2010


SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
April 23, 2010


PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR


GOVERNOR
5/22/10 3:10 p