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Chapter No. 309

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HOUSE BILL NO. 859

Originated in House Don Richardson Clerk

HOUSE BILL NO. 859

AN ACT TO AMEND SECTION 25-11-115, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY RETIRED MEMBER OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM (PERS) WHO IS RECEIVING A REDUCED RETIREMENT ALLOWANCE UNDER OPTION 4 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 4; TO PROVIDE THAT ANY RETIRED MEMBER OF PERS 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 4 TO PROVIDE CONTINUING LIFETIME BENEFITS TO HIS OR HER SPOUSE; TO PROVIDE THAT FOR MEMBERS WHO RETIRE ON OR AFTER JULY 1, 2012, THE ACTUARIAL EQUIVALENT FACTOR USED TO COMPUTE THE REDUCED RETIREMENT ALLOWANCE AT RETIREMENT OR UPON ANY SUBSEQUENT RECALCULATION OF THE BENEFIT SHALL BE THE FACTOR FOR THE AGE OF THE RETIREE AND HIS OR HER BENEFICIARY AT THE TIME OF RETIREMENT OR AT THE TIME AN ELECTION FOR RECALCULATION OF BENEFITS IS MADE; TO AMEND SECTION 25-13-16, MISSISSIPPI CODE OF 1972, TO PROVIDE A NEW OPTION 4 FOR MEMBERS OF THE MISSISSIPPI HIGHWAY SAFETY PATROL RETIREMENT SYSTEM (MHSPRS), 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; TO PROVIDE THAT ANY RETIRED MEMBER OF THE MHSPRS WHO IS RECEIVING A REDUCED RETIREMENT ALLOWANCE UNDER THIS NEW OPTION 4 WHOSE DESIGNATED BENEFICIARY PREDECEASES HIM, OR WHOSE MARRIAGE TO A SPOUSE WHO IS HIS DESIGNATED BENEFICIARY IS TERMINATED BY DIVORCE OR OTHER DISSOLUTION, MAY ELECT TO CANCEL HIS 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 THIS OPTION; TO PROVIDE THAT ANY RETIRED MEMBER OF THE MHSPRS WHO IS RECEIVING THE MAXIMUM RETIREMENT ALLOWANCE FOR LIFE, OR A RETIREMENT ALLOWANCE UNDER OPTION 1, AND WHO MARRIES AFTER HIS RETIREMENT MAY ELECT TO CANCEL HIS MAXIMUM RETIREMENT ALLOWANCE AND RECEIVE A REDUCED RETIREMENT ALLOWANCE UNDER OPTION 2, OPTION 4 OR OPTION 4-A TO PROVIDE CONTINUING LIFETIME BENEFITS TO HIS SPOUSE; AND FOR RELATED PURPOSES.

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

SECTION 1. 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 or beneficiaries for a specified number of years certain. If the retired member or the last designated beneficiary both die 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, but before July 1, 2011, 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. Any member who became a member of the system on or after July 1, 2011, and who has at least thirty-three (33) 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, Option 4 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, Option 4 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, Option 4 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) (a) Except as otherwise provided in this subsection, 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.

(b) For members who retire on or after July 1, 2012, the actuarial equivalent factor used to compute the reduced retirement allowance at retirement or upon any subsequent recalculation of the benefit shall be the factor for the age of the retiree and his or her beneficiary at the time of retirement or at the time an 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 2. Section 25-13-16, Mississippi Code of 1972, is amended as follows:

25-13-16. (1) Upon application for superannuation or disability retirement, any member who retires after July 1, 1990, may elect to receive his benefit pursuant to the provisions of Sections 25-13-11 and 25-13-13. Or he 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 retirement allowance in a reduced retirement allowance payable throughout life with the provision that:

Option 1. If he dies before he has received in annuity payment the value of the member's annuity savings account as it was at the time of his retirement, the balance shall be paid to

his legal representative or to such person as he shall nominate by written designation duly acknowledged and filed with the board; or

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

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

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

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

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 or beneficiaries for a specified number of years certain. If the retired member or the last designated beneficiary both die prior to receiving all guaranteed payments due, the actuarial equivalent of the remaining payments shall be paid pursuant to Section 25-13-21.1(1);

Option 4-C. Such retirement allowance otherwise payable may be converted into a retirement allowance of equivalent actuarial

value in such an amount that, with the member's benefit under Title II of the federal Social Security Act, the member will receive, so far as possible, approximately the same amount annually before and after the earliest age at which the member becomes eligible to receive a social security benefit. This option shall not be available to retirees whose retirement is effective on or after July 1, 2004;

Option 6. Any member who is eligible to retire with an unreduced benefit may select the maximum retirement benefit or an 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, by survivors or by a member selecting Option 4-C.

(2) No change in the option selected shall be permitted after the member's death or after the member has received his first retirement check, except as provided in subsections (3) and (4) of this section. However, any retired member who is receiving a retirement allowance under Option 2 or Option 4-A upon July 1, 1999, and whose designated beneficiary predeceased him or whose

marriage to a spouse who is his 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 his marriage to his designated beneficiary, the retirement allowance payable to the member after receipt of such 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, 1999, 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 who the member married before July 1, 1999. Should a member retired on disability be returned to active service, the option previously selected shall be null and void. Upon subsequent retirement a new option may be selected.

(3) Any retired member who is receiving a reduced retirement allowance under Option 2, Option 4 or Option 4-A whose designated beneficiary predeceases him, or whose marriage to a spouse who is his designated beneficiary is terminated by divorce or other dissolution, may elect to cancel his 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, Option 4 or Option 4-A. Such 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 retirement may elect to cancel his maximum retirement allowance and receive a reduced retirement allowance under Option 2, Option 4 or Option 4-A to provide continuing lifetime benefits to his spouse. Such 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. However, if a retiree marries or remarries after retirement and elects either Option 2, Option 4 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.

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

(6) Notwithstanding any provision of Section 25-13-1 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 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 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 beneficiary, the difference, if any, shall be paid pursuant to Section 25-13-21.1(1).

(8) Any retired member who retired on Option 2(5) or 4-A(5) before July 1, 1999, who is still receiving a retirement allowance as of July 1, 1999, shall receive an increase in the annual retirement allowance effective July 1, 1999, 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, 1999. Such increase shall be prospective only.

(9) For purposes of this section:

(a) "Beneficiary" means any person designated to receive a retirement allowance, an annuity or other benefit as provided by this chapter. Such designation shall be in writing filed in the Office of the Executive Director of the Board of Trustees of the Public Employees' Retirement System, and no designation or change of beneficiary shall be made in any other manner; however, notwithstanding any provision of this chapter to the contrary, the lawful spouse of a member at the time of the death of a member shall be the beneficiary of such member unless the member has designated another beneficiary subsequent to the date of marriage.

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

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

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

SECTION 3. This act shall take effect and be in force from and after July 1, 2011.

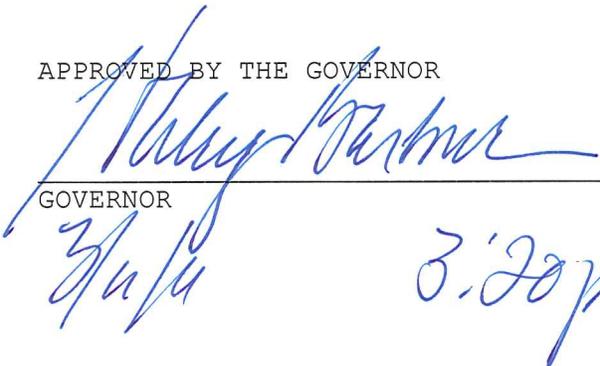
PASSED BY THE HOUSE OF REPRESENTATIVES
February 2, 2011


SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 3, 2011


PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR


GOVERNOR

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