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Proposed Chapter 63 **Temporary Benefit Available to Eligible Inactive PERS and SLRP Members Who Apply for Disability Retirement Benefits**

100 Purpose

The purpose of this regulation is to set forth the terms and conditions under which a temporary benefit in the form of a partial distribution of a member's accumulated contributions under Miss. Code Ann. § 25-11-117(4) (1972, as amended) can be paid to an inactive member of the Public Employees' Retirement System of Mississippi (PERS) and the Supplemental Legislative Retirement Plan (SLRP) to provide such member with a temporary source of income while awaiting a final determination of eligibility for disability retirement benefits.

101 Authority

Section 25-11-117(4) allows the Board of Trustees to establish rules and regulations for carrying out the provisions authorizing the payment of a temporary benefit to certain inactive PERS and SLRP members who have applied for disability retirement benefits and who are awaiting a final determination.

102 Eligibility Requirements for the Temporary Benefit

To qualify for a temporary benefit as provided in § 25-11-117(4), a PERS and/or SLRP member who has applied for disability retirement benefits **must** meet all of the following requirements:

1. Must have exhausted all unused personal (vacation) and major medical (sick) leave from the last employer;
2. Must have terminated from employment;
3. Must not be eligible for service retirement benefits;
4. Must have a contribution balance in his or her accumulation account; and
5. Must have completed the required disability retirement application forms as defined in Board Regulation 35, Section 101.2.

103 Application for the Temporary Benefit

An eligible inactive member must make application for the temporary benefit on a form prescribed by the Board.

104 Amount of the Temporary Benefit

The temporary benefit in the form of a partial distribution of an eligible member's accumulated contribution account will be paid in equal monthly installments for a limited time. The total temporary benefit payable will equal no more than 50% of the member's accumulated contributions and will be paid in equal monthly installments over a period of not less than six (6) months nor more than eighteen (18) months as elected by the member. The monthly payment shall be no more than one-half (½) of the estimated monthly disability retirement allowance to which the member would

become entitled under the applicable optional benefit payment plan selected by the member if approved for disability retirement benefits.

105 Payment of the Temporary Benefit

1. The temporary benefit will cease at the end of the pre-selected time frame or at the time a final disability determination is made, whichever occurs first.

2. If the Medical Board approves the claim for disability retirement benefits, the temporary benefit will end and disability retirement benefits will commence.

3. If the claim for disability retirement benefits is denied by the Medical Board and appealed to the Disability Appeals Committee, the temporary benefit will continue for the pre-selected time frame or until a final decision by the Board of Trustees is rendered, whichever occurs first.

4. In no case will the temporary benefit continue to be paid after a final decision is made by order of the Board of Trustees.

5. Payment of the temporary benefit is dependent upon active pursuit of a claim for disability retirement benefits. Inactivity on a claim for a period of 90 days from the effective date of disability retirement established upon receipt of the PERS Form 9A DSBL, Pre-Application for Disability Retirement Benefits, will result in the application being voided and the temporary benefit being suspended.

6. If death occurs during the disability application process after a temporary benefit has been initiated but prior to the final determination of disability, the temporary benefit will cease and future benefits, if any, will be paid under the survivor benefit provisions of the law.
    a. If monthly survivor benefits are payable under the law, the survivor benefit will be actuarially adjusted to take into account the partial distribution of contributions paid under the temporary benefit provisions.
    b. In the event that the disability applicant dies prior to a final determination, the disability application is void and no disability retirement benefits can be paid pursuant to such application.

7. No deductions for life and/or health insurance will be made from the temporary benefit.

106 Impact of Temporary Benefits on Member's Service Credit

Receipt of temporary benefits will not affect the member's service credit. However, the member's account will be marked as an account from which temporary benefits are or have been paid until the total amount distributed is repaid to the accumulation account or a recovery has begun through an actuarially reduced monthly benefit payment as noted in Section 108 below.

107 Taxation of the Temporary Benefits

1. The temporary benefit is subject to taxation and federal income taxes will be withheld in accordance with the Internal Revenue Code.

2. The temporary benefit is not a disability retirement benefit. Temporary benefits are considered partial distributions of the member's accumulated contributions and are therefore subject to a mandatory 20% federal income tax withholding.

3. The temporary benefit may also be subject to a 10% tax penalty if the member is younger than age 55 (age 50 for a qualified public safety employee) at the time of the distribution.

4. An IRS Form 1099-R will be issued with each payment of the temporary benefit.

108 Recovery of the Temporary Benefits

All amounts paid under the temporary benefit provisions will be recovered by PERS. No interest will be charged on the recovery of the temporary benefit when recovered through actuarially reduced disability, service, or survivor retirement benefits.

1. Applicant Approved for Disability Retirement Benefits
   An applicant approved for disability retirement benefits who previously elected to receive a temporary benefit shall have the disability retirement allowance actuarially reduced to ensure full recovery of any temporary benefit paid.

2. Applicant Denied Disability Retirement Benefits Who Later Elects to Receive Refund of Remaining Accumulated Contributions
   An applicant who is not approved for disability retirement benefits and who had previously elected to receive a temporary benefit may apply for and receive a refund of the remaining contributions in his or her accumulation account. Where a member applies for and receives a refund of his or her accumulated contributions and interest, the member waives and relinquishes all accrued rights to future benefits from PERS or SLRP, as applicable. Any member who subsequently returns to covered employment and who wishes to repay the refund will be responsible for the payment of interest on the full balance of the member's accumulation account previously distributed including the portion distributed under the temporary benefit provision.

3. Applicant Denied Disability Retirement Benefits Who Later Applies for Service Retirement Benefits
   An applicant who has previously elected to receive a temporary benefit and who is not approved for disability retirement benefits may elect to leave the remaining unused contributions in his or her accumulation account in anticipation of returning to covered employment or later becoming eligible to apply for service retirement benefits. The member shall have his or her benefit reduced actuarially to recover the total temporary benefit previously paid over his or her life expectancy.

4. Applicant Denied Disability Retirement Benefits and Later Dies Before Retirement

   The spouse and/or dependent child(ren) of a member who has previously elected to receive a temporary benefit and who is not approved for disability retirement benefits who dies prior to retirement having left his or her remaining contributions with PERS or SLRP, as applicable, may be entitled to statutory benefits provided that the deceased member was vested at the time of death. If a deceased member's spouse or dependent children are eligible for survivor benefits, a reduced actuarial equivalent of the normal benefit will be paid to the spouse and/or dependent children to recover the total temporary benefit previously paid.

(History: Adopted effective October 1, 2009)

Public Employees' Retirement System

Board of Trustees

June 23, 2009

Regulatory Change

Regulation 63 **Temporary Benefit Available to Eligible Inactive PERS and SLRP Members Who Apply for Disability Retirement Benefits**

The purpose of this proposed regulation is to formally establish the rules for administering the payment of temporary benefits to eligible inactive PERS and SLRP members who apply for disability retirement benefits. Currently, the administration of these benefits follows an administrative procedure adopted by the Board when this benefit was first allowed by law. While the administrative procedure serves as the basis for the regulation, the formalized regulation also incorporates current administrative practice and statutory guidance.

The effective date for the proposed regulation is October 1, 2009. **Staff requests the Board's initial approval of the new regulation. Notice of such action will be filed with the Secretary of State's Office.**