

By: Representative Livingston

To: Appropriations

HOUSE BILL NO. 316

1 AN ACT TO CREATE A CONSERVATION OFFICERS' RETIREMENT SYSTEM;
2 TO DEFINE MEMBERSHIP AND OTHER TERMS; TO ESTABLISH BENEFITS FOR
3 DEATH, SUPERANNUATION AND DISABILITY RETIREMENT; TO AMEND SECTION
4 25-11-105, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE TRANSFER
5 OF MEMBERSHIP FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; AND
6 FOR RELATED PURPOSES.

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

8 SECTION 1. (1) A retirement system is established, which
9 shall be under the jurisdiction and management of the Board of
10 Trustees of the Public Employees' Retirement System of
11 Mississippi, for the purpose of providing retirement allowances
12 and other benefits for the conservation officers employed by the
13 Department of Wildlife, Fisheries and Parks and their
14 beneficiaries.

15 (2) This system shall have all the powers and privileges of
16 a corporation, and is designated a distinct and separate
17 corporation, and shall be known as the "Conservation Officers'
18 Retirement System of Mississippi"; and its business shall be
19 transacted and all of its funds and other property held by that
20 name.

21 SECTION 2. (1) The following words and phrases as used in
22 this act, unless a different meaning is plainly required by the
23 context, shall have the following meanings:

24 (a) "Accumulated contributions" means the sum of all
25 the amounts deducted from the compensation of a member and
26 credited to the individual member account, together with regular
27 interest thereon.

28 (b) "Actuarial equivalent" means a benefit of equal

29 value to the accumulated contributions, annuity or benefit, as the
30 case may be, when computed upon the basis of such mortality tables
31 as shall be adopted by the board of trustees, and regular
32 interest.

33 (c) "Average compensation" means the average of the
34 four (4) highest years of earned compensation reported in a fiscal
35 or calendar year period, or combination thereof which do not
36 overlap, or the last forty-eight (48) consecutive months of earned
37 compensation reported. The four (4) years need not be successive
38 or joined years of service.

39 (d) "Beneficiary" means any person entitled to receive
40 a retirement allowance, an annuity or other benefit as provided by
41 this act. In the event of the death before retirement of any
42 member whose spouse and/or children are not entitled to a
43 retirement allowance, the lawful spouse of a member at the time of
44 the death of the member shall be the beneficiary of the member
45 unless the member has designated another beneficiary after the
46 date of marriage in writing and filed the writing in the office of
47 the executive director of the board of trustees. No designation
48 or change of beneficiary shall be made in any other manner.

49 (e) "Board" means the board of trustees as provided in
50 Section 25-11-15.

51 (f) "Creditable service" means "prior service" plus
52 "membership service" for which credit is allowable.

53 (g) "Child" means either a natural child of the member,
54 a child who has been made a child of the member by applicable
55 court action before the death of the member, or a child under the
56 permanent care of the member at the time of the latter's death,
57 which permanent care status shall be determined by evidence
58 satisfactory to the board.

59 (h) "Earned compensation" means the full amount earned
60 by an employee for a given pay period and proportionately for less
61 than one (1) year of service. Earned compensation shall be

62 limited to the regular periodic compensation paid, exclusive of
63 litigation fees, bond fees and other similar extraordinary
64 non-recurring payments. The amount by which salary is reduced
65 pursuant to a salary reduction agreement authorized under Section
66 25-17-5 shall be included as earned compensation under this
67 paragraph, provided this inclusion does not conflict with federal
68 law, including federal regulations and federal administrative
69 interpretations thereunder, pertaining to the Federal Insurance
70 Contributions Act or to Internal Revenue Code Section 125
71 cafeteria plans.

72 (i) "Employer" means the Department of Wildlife,
73 Fisheries and Parks.

74 (j) "Fiscal year" means the period beginning on July 1
75 of any year and ending on June 30 of the next succeeding year.

76 (k) "Medical board" means the board of physicians or
77 any governmental or nongovernmental disability determination
78 service designated by the board of trustees that is qualified to
79 make disability determinations as provided for in Section
80 25-11-119.

81 (l) "Member" means any person included in the
82 membership of the system as provided.

83 (m) "Membership service" means service rendered while a
84 member of the system in the position of conservation officer.

85 (n) "Prior service" means service rendered before the
86 first day of the month of the effective date of the system in the
87 position of a conservation officer.

88 (o) "Regular interest" means interest compounded
89 annually at such a rate as determined by the board in accordance
90 with Section 25-11-121.

91 (p) "Retirement allowance" means an annuity for life,
92 payable each year in twelve (12) equal monthly installments
93 beginning as of the date fixed by the board. The retirement
94 allowance shall be calculated in accordance with this act.

95 (q) "System" means the Conservation Officers'
96 Retirement System of Mississippi established and described by this
97 act.

98 (r) "State" means the State of Mississippi.

99 (s) "Service" means all employment as a conservation
100 officer.

101 (t) "Withdrawal from service" means complete severance
102 of employment with the employer by resignation, dismissal or
103 discharge.

104 (2) The masculine pronoun, wherever used, shall include the
105 feminine pronoun.

106 SECTION 3. (1) The general administration and
107 responsibility for the proper operation of the system and for
108 making the provisions of this act effective are vested in the
109 Board of Trustees of the Public Employees' Retirement System of
110 Mississippi.

111 (2) The board shall invest all funds in accordance with
112 Section 25-11-121.

113 (3) The board shall designate an actuary who shall be the
114 technical advisor of the board on matters regarding the operation
115 of the system and shall perform such other duties as are required
116 in connection with those matters.

117 (4) At least once in each two-year period following the date
118 of establishment, the actuary shall make an actuarial
119 investigation into the mortality, service and compensation
120 experience of the members and beneficiaries of the system and
121 shall make a valuation of the contingent assets and liabilities of
122 the system. The board, after taking into account the results of
123 those investigations and valuations, shall adopt for the system
124 such mortality, service and other tables as shall be deemed
125 necessary.

126 (5) On the basis of regular interest and tables last adopted
127 by the board, the actuary shall make biannual valuation of the

128 contingent assets and liabilities of the system.

129 (6) The board shall keep such data as necessary for the
130 actuarial valuation of the contingent assets and liabilities of
131 the system and for checking the experience of the system.

132 (7) The board shall determine from time to time the rate of
133 regular interest for use in all calculations.

134 (8) Subject to the limitations hereof, the board shall, from
135 time to time, establish rules and regulations for the
136 administration of the system and for the transaction of business.

137 (9) The board shall keep a record of all its proceedings
138 under this act which shall be open to public inspection.

139 (10) The Executive Director of the Public Employees'
140 Retirement System of Mississippi shall serve as the executive
141 director of this system.

142 SECTION 4. (1) All conservation officers who are in the
143 full-time employment of the Department of Wildlife, Fisheries and
144 Parks on the effective date of the system shall become members of
145 the system as of that date; except that, within fifteen (15) days
146 from that date, any such conservation officer may irrevocably
147 elect in writing to the board not to be a member of the system.

148 (2) Membership in the system shall include all service in
149 the position of conservation officer, and any funds contributed by
150 a member before the effective date of this system to the Public
151 Employees' Retirement System of Mississippi shall be transferred
152 to the member's credit in this system.

153 (3) All conservation officers employed on or after the
154 effective date of the system shall become members of the system as
155 a condition of their employment if the conservation officer is
156 under the age of sixty (60) years at the time of that employment.

157 SECTION 5. (1) Under such rules and regulations as the
158 board may adopt, each person who becomes a member of this system
159 shall receive credit for prior service rendered before the
160 effective date of this system. To receive that credit, the member

161 shall file a detailed certificate of all service rendered by the
162 member before the effective date of this system.

163 (2) In the computation of membership service or prior
164 service under the provisions of this system, the following
165 schedule shall govern:

166 (a) Ten (10) or more months of service during any
167 fiscal year shall constitute a year of service;

168 (b) Service less than ten (10) months shall be taken
169 into account on a quarterly basis based on the fractional part of
170 the year.

171 (3) In the computation of any retirement allowance or any
172 annuity or benefit provided in this system, any fractional period
173 of service of less than one (1) year shall be taken into account
174 and a proportionate amount of such retirement allowance, annuity
175 or benefit shall be granted for any such fractional period of
176 service.

177 (4) Subject to the above restrictions and to such other
178 rules and regulations as the board may adopt, the board shall
179 verify, as soon as practicable after the filing of those
180 statements of service, the services claimed in the statements.

181 (5) Upon verification of the certification of prior service,
182 the board shall issue a prior service certificate certifying to
183 each member the length of prior service for which credit has been
184 allowed on the basis of his certification of service. So long as
185 membership continues, a prior service certificate shall be final
186 and conclusive for retirement purposes as to that service;
187 however, any member may, within one (1) year from the date of
188 issuance or modification of the certificate, request the board of
189 trustees to modify or correct his prior service certificate.

190 (6) Creditable service at retirement, on which the
191 retirement allowance of a member shall be based, shall consist of
192 the membership rendered by him since he became a member, and also,
193 if he has a prior service certificate that is in full force and

194 effect, the amount of the service certified on his prior service
195 certificate.

196 (7) Anything in this act to the contrary notwithstanding,
197 any member who served on active duty in the Armed Forces of the
198 United States, or who served in maritime service during periods of
199 hostility in World War II, shall be entitled to creditable service
200 for his service on active duty in the Armed Forces or in that
201 maritime service, provided he became a conservation officer after
202 his discharge from the Armed Forces or became a conservation
203 officer after he completed that maritime service. The maximum
204 period for this creditable service for all military service shall
205 not exceed four (4) years unless positive proof can be furnished
206 by the person that he was retained in the Armed Forces during
207 World War II or in maritime service during World War II by causes
208 beyond his control and without opportunity of discharge. The
209 member shall furnish proof satisfactory to the board of trustees
210 of certification of military service or maritime service records
211 showing dates of entrance into active duty service and the date of
212 discharge. No creditable service shall be granted for any
213 military service or maritime service to a member who qualifies for
214 a retirement allowance in another public retirement system
215 administered by the Board of Trustees of the Public Employees'
216 Retirement System based in whole or in part on such military or
217 maritime service. In no case shall the member receive creditable
218 service if the member received a dishonorable discharge from the
219 Armed Forces of the United States.

220 SECTION 6. (1) There shall be established by the board a
221 fund for the Conservation Officers' Retirement System of
222 Mississippi which shall be maintained as a separate fund, separate
223 from all other funds held by the board, and which shall be used
224 only for the payment of benefits provided for by this system.

225 (2) The board shall act as custodian of the funds for
226 members of the system; shall receive to the credit of the fund all

227 donations, bequests, appropriations and all funds available as
228 employer's contributions thereto from any source whatsoever.

229 (3) From the funds credited to this account, the board of
230 trustees shall pay retirements, disability benefits, survivors'
231 benefits, expenses and shall refund contributions as provided.

232 (4) Beginning July 1, 1999, the employer shall cause to be
233 deducted from the salary of each member on each and every payroll
234 of the employer for each and every payroll period five percent
235 (5%) of earned compensation. Future contributions shall be fixed
236 biennially by the board on the basis of the liabilities of the
237 retirement system for the various allowances and benefits as shown
238 by actuarial valuation.

239 (5) Beginning July 1, 1999, on account of each member, there
240 shall be paid monthly into the fund for members by the employer
241 from funds available an amount equal to a certain percentage of
242 the compensation of each member to be known as the "normal
243 contributions," and an additional amount equal to the percentage
244 of his compensation to be known as the "accrued liability
245 contributions." The percentage rate of those contributions shall
246 be fixed by the board on the basis of the liabilities of the
247 system for the various allowances and benefits as shown by the
248 actuarial valuation. Until changed by the board, the contribution
249 rate shall be two percent (2%) of the earned compensation of all
250 members.

251 (6) The board is hereby authorized to deduct two percent
252 (2%) of all employers' contributions paid into the fund for
253 members of the system to be transferred to the expense fund of the
254 Public Employees' Retirement System of Mississippi to defray the
255 cost of administering this fund.

256 SECTION 7. (1) If a member withdraws from service, he shall
257 be refunded the amount of his total contributions under the
258 provisions of this system, including any credit transferred to his
259 account in the system from any other system, at his request; and

260 if he dies before retirement, that amount may be refunded to any
261 beneficiary he may name, at the request of the beneficiary.

262 (2) If any member who receives a refund reenters and again
263 becomes a member of the system and remains a contributor for four
264 (4) years, he may repay all amounts previously received by him as
265 a refund, together with regular interest covering the period from
266 the date of the refund to the date of repayment. Upon that
267 repayment, the member shall again receive credit for the entire
268 period of creditable service which he forfeited upon the receipt
269 of the refund.

270 SECTION 8. (1) Upon application of an active member in
271 service as a conservation officer who has not attained the age of
272 fifty-five (55) years may be retired by the board after date of
273 termination of employment as of the date of filing the
274 application, on a disability retirement allowance, provided that
275 the medical board, after a medical examination, certifies that he
276 is mentally or physically incapacitated for the performance of
277 duty and that the incapacity is likely to be permanent, and that
278 the sickness or injury was caused or sustained as a direct result
279 of duty as a conservation officer after the effective date of this
280 act.

281 (2) Upon retirement for disability, a member shall receive a
282 disability benefit equal to fifty percent (50%) of the earned
283 compensation for the year immediately preceding retirement, but
284 not less than any retirement benefits for which the member may be
285 eligible at the date disability is granted.

286 (3) Once each year during the first five (5) years following
287 retirement of a member on a disability retirement allowance, and
288 once in every period of three (3) years thereafter, the board may
289 require any disability beneficiary who has not yet attained the
290 age of fifty-five (55) years to undergo a medical examination, the
291 examination to be made at the place of residence of the
292 beneficiary or other place mutually agreed upon, by the medical

293 board. If any disability beneficiary who has not yet attained the
294 age of fifty-five (55) years refuses to submit to any medical
295 examination provided for in this section, the allowance may be
296 discontinued until the withdrawal of that refusal; and, if the
297 refusal continues for one (1) year, all rights in that part of the
298 disability benefit provided by employer contributions shall be
299 revoked.

300 (4) If the medical board reports and certifies to the board
301 that the disability beneficiary is engaged in, or is able to
302 engage in, a gainful occupation paying more than the difference
303 between the disability benefit and the earned compensation, and if
304 the board concurs in the report, the disability benefit shall be
305 reduced to the amount which, together with the amount earnable,
306 equals the amount of earned compensation. If the earning capacity
307 is later changed, the amount of the benefit may be further
308 modified; however, the revised benefit shall not exceed the amount
309 originally granted nor an amount which, when added to the amount
310 earnable by the beneficiary, equals the amount of earned
311 compensation.

312 (5) If a disability beneficiary under the age of fifty-five
313 (55) years is restored to active service at a compensation not
314 less than the earned compensation, the disability benefit shall
315 cease.

316 SECTION 9. (1) Any member upon withdrawal from service,
317 upon or after attainment of the age of fifty-five (55) years, who
318 has completed at least five (5) years of creditable service, or
319 any member upon withdrawal from service upon or after attainment
320 of the age of forty-five (45) years, who has completed at least
321 twenty (20) years of creditable service, or any member upon
322 withdrawal from service, regardless of age, who has completed at
323 least twenty-five (25) years of creditable service, shall be
324 entitled to receive a retirement allowance which shall be payable
325 the first of the month following receipt of the member's

326 application in the Office of the Executive Director of the Public
327 Employees' Retirement System, but in no event before withdrawal
328 from service.

329 Any member whose withdrawal from service occurs before
330 attaining the age of fifty-five (55) years, who has completed more
331 than five (5) years of creditable service and has not received a
332 refund of the member's accumulated contributions, shall be
333 entitled to receive a retirement allowance beginning upon his
334 attaining the age of fifty-five (55) years of the amount earned
335 and accrued at the date of withdrawal from service.

336 (2) The annual amount of the retirement allowance shall
337 consist of:

338 (a) A member's annuity, which shall be the actuarial
339 equivalent of the accumulated contributions of the member at the
340 time of retirement, computed according to the actuarial table in
341 use by the system.

342 (b) An employer's annuity which, together with the
343 member's annuity provided above, shall be equal to two and
344 one-half percent (2-1/2%) of the average compensation.

345 (c) A prior service annuity equal to two and one-half
346 percent (2-1/2%) of the average compensation for each year of
347 prior service for which the member is allowed credit.

348 (d) In the case of retirement of any member before
349 attaining the age of fifty-five (55) years, the retirement
350 allowance shall be computed in accordance with the formula set
351 forth above in this section, except that the employer's annuity
352 and prior service annuity above described shall be reduced three
353 percent (3%) for each year of age below fifty-five (55) years, or
354 three percent (3%) for each year of service below twenty-five (25)
355 years of creditable service, whichever is lesser.

356 (3) Upon retiring from service, a member shall be eligible
357 to obtain retirement benefits, as computed above, for life, except
358 that the aggregate amount of the employer's annuity and prior

359 service annuity above described shall not exceed more than
360 eighty-five percent (85%) of the average compensation regardless
361 of the years of service.

362 SECTION 10. (1) Members who have retired and who on
363 December 1 of each year are receiving a retirement allowance for
364 service or disability retirement, or their beneficiaries, shall
365 receive in one (1) additional payment an amount equal to the
366 annual percentage increase in each fiscal year of the Consumer
367 Price Index set by the United States Government in each fiscal
368 year, not exceeding two and one-half percent (2-1/2%) for any
369 fiscal year, times the amount of the annual retirement allowance.

370 The percentage provided in this subsection for any particular
371 year shall not be less than the percentage provided for the
372 previous year.

373 (2) Persons who on December 1 of each year are receiving a
374 retirement allowance for service or disability retirement, or
375 their beneficiaries, may receive, in addition to the amount
376 provided in subsection (1) of this section, a payment, as
377 determined by the board, calculated in increments of one-fourth of
378 one percent (1/4 of 1%), not to exceed one and one-half percent
379 (1-1/2%) of the annual retirement allowance, for each full year of
380 retirement, provided that any such payment shall be contingent
381 upon the reserve for annuities in force for retired members and
382 beneficiaries providing sufficient investment gains in excess of
383 the accrued actuarial liabilities for the previous fiscal year as
384 certified by the actuary and determined by the board.

385 (3) The percentages in this section shall be based on each
386 full fiscal year that the retired member or beneficiary has
387 actually drawn retirement payments from the date of retirement, or
388 the date of last retirement if there is more than one (1)
389 retirement date.

390 (4) Persons eligible to receive the payments provided in
391 subsections (1) and (2) of this section shall receive the payments

392 in one (1) additional payment, except that the person may elect by
393 an irrevocable agreement on a form prescribed by the board of
394 trustees to receive the payments in not less than equal monthly
395 installments not to exceed six (6) months during the remaining
396 months of the current fiscal year. In the event of death of a
397 person or a beneficiary thereof receiving monthly benefits, any
398 remaining amounts shall be paid in a lump sum to the designated
399 beneficiary.

400 SECTION 11. (1) Upon the death of any member who has
401 retired for service or disability and who has not elected any
402 other option under Section 12, his widow shall receive one-half
403 (1/2) the benefit that he was receiving and each child not having
404 attained his nineteenth birthday shall receive one-fourth (1/4) of
405 his benefit, but not more than one-half (1/2) of the benefits
406 shall be paid for the support and maintenance of two (2) or more
407 children. Upon each child's attaining the age of nineteen (19)
408 years, the child shall no longer be eligible for the benefit, and
409 when all of the children have attained the age of nineteen (19)
410 years, only the widow shall be eligible for one-half (1/2) the
411 amount of his benefit. She shall continue to be eligible for the
412 benefit in the amount of fifty percent (50%) of his retirement
413 benefit so long as she may live and until she remarries. If she
414 remarries at any time, her eligibility for the fifty percent (50%)
415 benefits shall cease and terminate, but she will be eligible to
416 continue to receive benefits for their children until the last
417 child attains the age of nineteen (19) years in the manner stated
418 above.

419 (2) Upon the death of any member who has served the minimum
420 retirement period required for eligibility for a retirement
421 allowance, his spouse and family shall receive all the benefits
422 payable to his beneficiaries as if he had retired at the time of
423 his death. Those benefits cease as to the spouse upon remarriage
424 but continue to be payable to each child until he reaches the age

425 of nineteen (19) years. The benefits are payable on a monthly
426 basis.

427 (3) The spouse and/or the dependent children of an active
428 member who is killed in the line of performance of duty or dies as
429 a direct result of an accident occurring in the line of
430 performance of duty shall qualify, on approval of the board, for a
431 retirement allowance on the first of the month following the date
432 of death, but not before receipt of application by the board. The
433 spouse shall receive a retirement allowance equal to one-half
434 (1/2) of the average compensation of the deceased member. In
435 addition to the retirement allowance for the spouse, or if there
436 is no surviving spouse, a retirement allowance shall be paid in
437 the amount of one-fourth (1/4) of the average compensation for the
438 support and maintenance of one (1) child or in the amount of
439 one-half (1/2) of the average compensation for the support and
440 maintenance of two (2) or more children. Those benefits shall
441 cease to be paid for the support and maintenance of each child
442 upon the child attaining the age of nineteen (19) years; however,
443 the spouse shall continue to be eligible for the retirement
444 allowance. Benefits may be paid to a surviving parent or lawful
445 custodian of the children for the use and benefit of the children
446 without the necessity of appointment as guardian. The retirement
447 allowance shall cease to the spouse upon remarriage but continue
448 to be payable for each dependent child until the age of nineteen
449 (19) years.

450 (4) All benefits accruing to any child under the provisions
451 of this act shall be paid to the parent custodian of the children
452 or the legal guardian.

453 (5) Children receiving the benefits provided in this
454 section, who are permanently or totally disabled shall continue to
455 receive the benefits for as long as the medical board or other
456 designated governmental agency certifies that the disability
457 continues. The age limitation for benefits payable to a child

458 under any provision of this section shall be extended beyond the
459 age of nineteen (19) years, but in no event beyond the attainment
460 of the age of twenty-three (23) years, as long as the child is a
461 student regularly pursuing a full-time course of resident study or
462 training in an accredited high school, trade school, technical or
463 vocational institute, junior or community college, college,
464 university or comparable recognized educational institution duly
465 licensed by a state. A student child whose birthday falls during
466 the school year (September 1 through June 30) is considered not to
467 reach the age of twenty-three (23) years until the July 1
468 following the actual twenty-third birthday. A full-time course of
469 resident study or training means a day or evening
470 noncorrespondence course that includes school attendance at the
471 rate of at least thirty-six (36) weeks per academic year or other
472 applicable period with a subject load sufficient, if successfully
473 completed, to attain the educational or training objective within
474 the period generally accepted as minimum for completion, by a
475 full-time day student, of the academic or training program
476 concerned.

477 SECTION 12. (1) Upon application for superannuation or
478 disability retirement, any member may elect to receive his benefit
479 under the provisions of Sections 9 and 11 or may elect to receive
480 his benefit in a retirement allowance payable throughout life with
481 no further payments to anyone at his death, except that if his
482 total retirement payments under this act do not equal his total
483 contributions under this act, his named beneficiary shall receive
484 the difference in cash at his death. Or he may elect upon
485 retirement, or upon becoming eligible for retirement, to receive
486 the actuarial equivalent of his retirement allowance in a reduced
487 retirement allowance payable throughout life with the provision
488 that:

489 **Option 1.** If he dies before he has received in annuity
490 payment the value of the member's annuity as it was at the time of

491 his retirement, the balance shall be paid to his legal
492 representative or to such person as he has nominated by written
493 designation duly acknowledged and filed with the board; or

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

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

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

510 **Option 4-B.** A reduced retirement allowance shall be
511 continued throughout the life of the retirant, but with the
512 further guarantee of payments to the named beneficiary,
513 beneficiaries or to the estate for a specified number of years
514 certain. If the retired member or the last designated beneficiary
515 receiving annuity payments dies before receiving all guaranteed
516 payments due, the actuarial equivalent of the remaining payments
517 will be paid to the estate of the retired member as intestate
518 property;

519 **Option 4-C.** The retirement allowance otherwise payable may
520 be converted into a retirement allowance of equivalent actuarial
521 value in such an amount that, with the member's benefit under
522 Title II of the federal Social Security Act, the member will
523 receive, so far as possible, approximately the same amount

524 annually before and after the earliest age at which the member
525 becomes eligible to receive a Social Security benefit;

526 **Option 5.** With the added provision under Option 2 or Option
527 4-A that if the designated beneficiary predeceased the member, the
528 retirement allowance payable to the member after the death of the
529 designated beneficiary shall be equal to the retirement allowance
530 that would have been payable if the member had not elected the
531 option.

532 (2) No change in the option selected shall be permitted
533 after the member's death or after the member has received his
534 first retirement check. If a member retired on disability is
535 returned to active service, the option previously selected shall
536 be null and void. Upon subsequent retirement a new option may be
537 selected.

538 (3) Any member in service who has qualified for retirement
539 benefits may select any optional method of settlement of
540 retirement benefits by notifying the Executive Director of the
541 Board of Trustees of the Public Employees' Retirement System in
542 writing, on a form prescribed by the board, of the option he has
543 selected and by naming the beneficiary of the option and
544 furnishing necessary proof of age. That option, once selected,
545 may be changed at any time before actual retirement or death, but
546 upon the death or retirement of the member, the optional
547 settlement shall be placed in effect upon proper notification to
548 the executive director.

549 (4) For purposes of this section:

550 (a) "Beneficiary" means any person designated to
551 receive a retirement allowance, an annuity or other benefit as
552 provided by this act. That designation shall be in writing filed
553 in the Office of the Executive Director of the Board of Trustees
554 of the Public Employees' Retirement System, and no designation or
555 change of beneficiary shall be made in any other manner; however,
556 notwithstanding any provision of this act to the contrary, the

557 lawful spouse of a member at the time of the death of a member
558 shall be the beneficiary of the member unless the member has
559 designated another beneficiary after the date of marriage.

560 (b) "Actuarial equivalent" means a benefit of equal
561 value to the accumulated contributions, annuity or benefit, as the
562 case may be, when computed upon the basis of such mortality tables
563 as adopted by the board of trustees, and regular interest.

564 (c) "Actuarial tables" means such mortality tables and
565 rates of interest as adopted by the board in accordance with the
566 recommendation of the actuary.

567 SECTION 13. The right of a person to an annuity, a
568 retirement allowance or benefit, or to the return of
569 contributions, or to any optional benefits or any other right
570 accrued or accruing to any person under the provisions of this
571 act, the system and the monies in the system, are exempt from any
572 state, county or municipal ad valorem taxes, income taxes, premium
573 taxes, privilege taxes, property taxes, sales and use taxes or
574 other taxes not so named, notwithstanding any other provision of
575 law to the contrary, and exempt from levy and sale, garnishment,
576 attachment, or any other process whatsoever, and shall be
577 unassignable except as specifically otherwise provided in this
578 act.

579 SECTION 14. (1) The maintenance of actuarial reserves for
580 the various allowances and benefits under this system, and the
581 payment of all annuities, retirement allowances, refunds and other
582 benefits granted under this act are made obligations of the fund.

583 All income, interest and dividends derived from deposits and
584 investments authorized by this act shall be used for the payment
585 of the obligations of the system.

586 (2) If the system is terminated, all members of the system
587 as of the date of termination of the system shall be deemed to
588 have a vested right to benefits to the extent and in the same
589 manner that rights would be vested under the laws existing as of

590 the date of termination of the system; except that any member who,
591 because of a termination of the system has not fulfilled the
592 requirements for length of service, shall be entitled to
593 compensation as of the date that the member would otherwise be
594 eligible, with the compensation to be computed on the basis of
595 time actually a member of the system and compensation actually
596 earned during the time as a member, in the manner now provided by
597 law.

598 (3) If there is a deficit in the availability of funds for
599 payment due under the provisions of the system, an appropriation
600 shall be made sufficient for the payment of the deficit as an
601 obligation of the State of Mississippi.

602 SECTION 15. In case a member of this system withdraws from
603 service and does not have at least five (5) years of creditable
604 service and the member becomes a member of the Public Employees'
605 Retirement System of Mississippi, the required amount of employer
606 and member contributions plus interest as determined by the board
607 may be transferred to the Public Employees' Retirement System of
608 Mississippi to receive creditable service for service in the
609 Conservation Officers' Retirement System of Mississippi. The
610 difference between the member contributions required to transfer
611 the member to the Public Employees' Retirement System of
612 Mississippi shall be refunded to the member at the time of
613 transfer.

614 SECTION 16. No person who is being paid a retirement
615 allowance from this system shall serve or be paid for any service
616 as a conservation officer. If any retired member under this act
617 returns to service as a conservation officer, the retirement
618 allowance shall cease and the member shall become a contributing
619 member of the system and shall be credited with all creditable
620 service at the time of the previous withdrawal of service on a
621 retirement allowance. The retirement allowance payable upon
622 subsequent retirement shall be based on the total creditable

623 service rendered before and after return to service. The total
624 retirement allowance paid to the retired member in his previous
625 retirement shall be deducted from his retirement reserve and taken
626 into consideration in recalculating the retirement allowance.

627 SECTION 17. Any person or corporation who receives and
628 retains any payment after the death of a member or after the death
629 of the beneficiary of any member, which amount is not lawfully
630 due, shall be liable for the repayment of that amount to the
631 system plus interest thereon at ten percent (10%) per annum plus
632 all costs of collection. Any person who knowingly makes any false
633 statement or falsifies or permits to be falsified any record or
634 records of the system in any attempt to defraud the system as a
635 result of that act shall be guilty of a misdemeanor if the amount
636 obtained or attempted to be obtained does not exceed the amount of
637 Five Hundred Dollars (\$500.00), and, upon conviction thereof by
638 any court of competent jurisdiction, shall be punished by a fine
639 not exceeding Five Hundred Dollars (\$500.00) or imprisonment in
640 the county jail not exceeding six (6) months, or both; if the
641 amount obtained or attempted to be obtained exceeds the sum of
642 Five Hundred Dollars (\$500.00), the person or persons shall be
643 guilty of a felony and, upon conviction thereof by any court of
644 competent jurisdiction, shall be punished by a fine not exceeding
645 Ten Thousand Dollars (\$10,000.00) or by commitment to the custody
646 of the State Department of Corrections for not more than five (5)
647 years, or both.

648 If any change or error in the records results in any member
649 or beneficiary receiving from the retirement system more or less
650 than he would have been entitled to receive if the records had
651 been correct, the board of trustees shall correct the error and,
652 as far as practicable, adjust the payment in such a manner that
653 the actuarial equivalent of the benefit to which the member or
654 beneficiary was correctly entitled shall be paid.

655 SECTION 18. Each employer shall withhold the member

656 contributions required from all compensation earned and the
657 contributions so withheld shall be treated as employer
658 contributions in determining tax treatment under the United States
659 Internal Revenue Code and the Mississippi Income Tax Code. These
660 contributions shall not be included as gross income of the member
661 until such time as they are distributed or made available. The
662 employer shall pay these member contributions from the same source
663 of funds which is used in paying earnings to the member. The
664 employer may withhold member contributions by a reduction in the
665 cash salary of the member, or by an offset against a future salary
666 increase, or by a combination of a reduction in salary and offset
667 against a future salary increase. The member contributions so
668 withheld shall be treated for all purposes in the same manner and
669 to the same extent as member contributions.

670 SECTION 19. Section 25-11-105, Mississippi Code of 1972, is
671 amended as follows:

672 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

673 The membership of this retirement system shall be composed as
674 follows:

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

681 (b) All persons who shall become employees in the state
682 service after January 31, 1953, except those specifically excluded
683 or as to whom election is provided in Articles 1 and 3, unless
684 they shall file with the board prior to the lapse of sixty (60)
685 days of employment or sixty (60) days after the effective date of
686 the cited articles, whichever is later, on a form prescribed by
687 the board, a notice of election not to be covered by the
688 membership of the retirement system and a duly executed waiver of

689 all present and prospective benefits which would otherwise inure
690 to them on account of their participation in the system, shall
691 become members of the retirement system; provided, however, that
692 no credit for prior service will be granted to members until they
693 have contributed to Article 3 of the retirement system for a
694 minimum period of at least four (4) years. Such members shall
695 receive credit for services performed prior to January 1, 1953, in
696 employment now covered by Article 3, but no credit shall be
697 granted for retroactive services between January 1, 1953, and the
698 date of their entry into the retirement system unless the employee
699 pays into the retirement system both the employer's and the
700 employee's contributions on wages paid him during the period from
701 January 31, 1953, to the date of his becoming a contributing
702 member, together with interest at the rate determined by the board
703 of trustees. Members reentering after withdrawal from service
704 shall qualify for prior service under the provisions of Section
705 25-11-117. From and after July 1, 1998, upon eligibility as noted
706 above, the member may receive credit for such retroactive service
707 provided:

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

711 (2) The member shall pay to the retirement system
712 on the date he or she is eligible for such credit or at any time
713 thereafter prior to the date of retirement the actuarial cost for
714 each year of such creditable service. The provisions of this
715 subparagraph (2) shall be subject to the limitations of Section
716 415 of the Internal Revenue Code and regulations promulgated
717 thereunder.

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

722 (c) All persons who shall become employees in the state
723 service after January 31, 1953, and who are eligible for
724 membership in any other retirement system shall become members of
725 this retirement system as a condition of their employment unless
726 they elect at the time of their employment to become a member of
727 such other system.

728 (d) All persons who are employees in the state service
729 on January 31, 1953, and who are members of any nonfunded
730 retirement system operated by the State of Mississippi, or any of
731 its departments or agencies, shall become members of this system
732 with prior service credit unless, before February 1, 1953, they
733 shall file a written notice with the board of trustees that they
734 do not elect to become members.

735 (e) All persons who are employees in the state service
736 on January 31, 1953, and who under existing laws are members of
737 any fund operated for the retirement of employees by the State of
738 Mississippi, or any of its departments or agencies, shall not be
739 entitled to membership in this retirement system unless, before
740 February 1, 1953, any such person shall indicate by a notice filed
741 with the board, on a form prescribed by the board, his individual
742 election and choice to participate in this system, but no such
743 person shall receive prior service credit unless he becomes a
744 member on or before February 1, 1953.

745 (f) Each political subdivision of the state and each
746 instrumentality of the state or a political subdivision, or both,
747 is hereby authorized to submit, for approval by the board of
748 trustees, a plan for extending the benefits of this article to
749 employees of any such political subdivision or instrumentality.
750 Each such plan or any amendment to the plan for extending benefits
751 thereof shall be approved by the board of trustees if it finds
752 that such plan, or such plan as amended, is in conformity with
753 such requirements as are provided in Articles 1 and 3; however,
754 upon approval of such plan or any such plan heretofore approved by

755 the board of trustees, the approved plan shall not be subject to
756 cancellation or termination by the political subdivision or
757 instrumentality. No such plan shall be approved unless:

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

765 (2) It specifies the source or sources from which
766 the funds necessary to make the payments required by subsection
767 (d) of Section 25-11-123 and of subsections (f)(5)B and C of this
768 section are expected to be derived and contains reasonable
769 assurance that such sources will be adequate for such purpose;

770 (3) It provides for such methods of administration
771 of the plan by the political subdivision or instrumentality as are
772 found by the board of trustees to be necessary for the proper and
773 efficient administration thereof;

774 (4) It provides that the political subdivision or
775 instrumentality will make such reports, in such form and
776 containing such information, as the board of trustees may from
777 time to time require;

778 (5) It authorizes the board of trustees to
779 terminate the plan in its entirety in the discretion of the board
780 if it finds that there has been a failure to comply substantially
781 with any provision contained in such plan, such termination to
782 take effect at the expiration of such notice and on such
783 conditions as may be provided by regulations of the board and as
784 may be consistent with applicable federal law.

785 A. The board of trustees shall not finally
786 refuse to approve a plan submitted under subsection (f), and shall
787 not terminate an approved plan without reasonable notice and

788 opportunity for hearing to each political subdivision or
789 instrumentality affected thereby. The board's decision in any
790 such case shall be final, conclusive and binding unless an appeal
791 be taken by the political subdivision or instrumentality aggrieved
792 thereby to the Circuit Court of Hinds County, Mississippi, in
793 accordance with the provisions of law with respect to civil causes
794 by certiorari.

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

802 C. Every political subdivision or
803 instrumentality required to make payments under subsection (f)(5)B
804 hereof is authorized, in consideration of the employees' retention
805 in or entry upon employment after enactment of Articles 1 and 3,
806 to impose upon its employees, as to services which are covered by
807 an approved plan, a contribution with respect to wages (as defined
808 in Section 25-11-5) not exceeding the amount provided in Section
809 25-11-123(d) if such services constituted employment within the
810 meaning of Articles 1 and 3, and to deduct the amount of such
811 contribution from the wages as and when paid. Contributions so
812 collected shall be paid into the contribution fund as partial
813 discharge of the liability of such political subdivisions or
814 instrumentality under subsection (f)(5)B hereof. Failure to
815 deduct such contribution shall not relieve the employee or
816 employer of liability thereof.

817 D. Any state agency, school, political
818 subdivision, instrumentality or any employer that is required to
819 submit contribution payments or wage reports under any section of
820 this chapter shall be assessed interest on delinquent payments or

821 wage reports as determined by the board of trustees in accordance
822 with rules and regulations adopted by the board and such assessed
823 interest may be recovered by action in a court of competent
824 jurisdiction against such reporting agency liable therefor or may,
825 upon due certification of delinquency and at the request of the
826 board of trustees, be deducted from any other monies payable to
827 such reporting agency by any department or agency of the state.

828 E. Each political subdivision of the state
829 and each instrumentality of the state or a political subdivision
830 or subdivisions which submits a plan for approval of the board, as
831 provided in this section, shall reimburse the board for coverage
832 into the expense account, its pro rata share of the total expense
833 of administering Articles 1 and 3 as provided by regulations of
834 said board.

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

841 (h) An employee whose membership in this system is
842 contingent on his own election, and who elects not to become a
843 member, may thereafter apply for and be admitted to membership;
844 but no such employee shall receive prior service credit unless he
845 becomes a member prior to July 1, 1953, except as provided in
846 subsection (b).

847 (i) In the event any member of this system should
848 change his employment to any agency of the state having an
849 actuarially funded retirement system, the board of trustees may
850 authorize the transfer of the member's creditable service and of
851 the present value of the member's employer's accumulation account
852 and of the present value of the member's accumulated membership
853 contributions to such other system, provided the employee agrees

854 to the transfer of his accumulated membership contributions and
855 provided such other system is authorized to receive and agrees to
856 make such transfer.

857 In the event any member of any other actuarially funded
858 system maintained by an agency of the state changes his employment
859 to an agency covered by this system, the board of trustees may
860 authorize the receipt of the transfer of the member's creditable
861 service and of the present value of the member's employer's
862 accumulation account and of the present value of the member's
863 accumulated membership contributions from such other system,
864 provided the employee agrees to the transfer of his accumulated
865 membership contributions to this system and provided the other
866 system is authorized and agrees to make such transfer.

867 (j) If any member of this system is a conservation
868 officer employed by the Department of Wildlife, Fisheries and
869 Parks and the member elects to become a member of the Conservation
870 Officers' Retirement System of Mississippi or by virtue of his
871 employment becomes a member of that system, the board shall
872 transfer the member's creditable service and the present value of
873 the member's employer's accumulation account and the present value
874 of the member's accumulated membership contribution to that
875 system.

876 (k) Employees of a political subdivision or
877 instrumentality who were employed by such political subdivision or
878 instrumentality prior to an agreement between such entity and the
879 Public Employees' Retirement System to extend the benefits of this
880 article to its employees, and which agreement provides for the
881 establishment of retroactive service credit, and who have been
882 members of the retirement system and have remained contributors to
883 the retirement system for four (4) years, may receive credit for
884 such retroactive service with such political subdivision or
885 instrumentality, provided the employee and/or employer, as
886 provided under the terms of the modification of the joinder

887 agreement in allowing such coverage, pay into the retirement
888 system the employer's and employee's contributions on wages paid
889 the member during such previous employment, together with interest
890 or actuarial cost as determined by the board covering the period
891 from the date the service was rendered until the payment for the
892 credit for such service was made. Such wages shall be verified by
893 the Social Security Administration or employer payroll records.
894 Effective July 1, 1998, upon eligibility as noted above, a member
895 may receive credit for such retroactive service with such
896 political subdivision or instrumentality provided:

897 (1) The member shall furnish proof satisfactory to
898 the board of trustees of certification of such services from the
899 political subdivision or instrumentality where the services were
900 rendered or verification by the Social Security Administration;
901 and

902 (2) The member shall pay to the retirement system
903 on the date he or she is eligible for such credit or at any time
904 thereafter prior to the date of retirement the actuarial cost for
905 each year of such creditable service. The provisions of this
906 subparagraph (2) shall be subject to the limitations of Section
907 415 of the Internal Revenue Code and regulations promulgated
908 thereunder.

909 Nothing contained in this paragraph (k) shall be construed to
910 limit the authority of the board to allow the correction of
911 reporting errors or omissions based on the payment of employee and
912 employer contributions plus applicable interest. Payment for such
913 time shall be made in increments of not less than one-quarter
914 (1/4) year of creditable service beginning with the most recent
915 service. Upon the payment of all or part of such required
916 contributions, plus interest or the actuarial cost as provided
917 above, the member shall receive credit for the period of
918 creditable service for which full payment has been made to the
919 retirement system.

920 (1) Through June 30, 1998, any state service eligible
921 for retroactive service credit, no part of which has ever been
922 reported, and requiring the payment of employee and employer
923 contributions plus interest, or, from and after July 1, 1998, any
924 state service eligible for retroactive service credit, no part of
925 which has ever been reported to the retirement system, and
926 requiring the payment of the actuarial cost for such creditable
927 service, may, at the member's option, be purchased in quarterly
928 increments as provided above at such time as its purchase is
929 otherwise allowed.

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

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

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

937 (a) Patient or inmate help in state charitable, penal
938 or correctional institutions;

939 (b) Students of any state educational institution
940 employed by any agency of the state for temporary, part-time or
941 intermittent work;

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

945 **III. TERMINATION OF MEMBERSHIP**

946 Membership in this system shall cease by a member withdrawing
947 his accumulated contributions, or by a member withdrawing from
948 active service with a retirement allowance, or by a member's
949 death.

950 SECTION 20. This act shall take effect and be in force from
951 and after July 1, 1999.