

By: Senator(s) Posey

To: Finance

## SENATE BILL NO. 2061

1 AN ACT TO CREATE A CONSERVATION OFFICER'S 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 hereby established,  
9 which shall be under the jurisdiction and management of the Board  
10 of 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 hereby designated a distinct and separate  
17 corporation, and shall be known as the "Conservation Officer's  
18 Retirement System of Mississippi"; and its business shall be  
19 transacted and all of its funds and other property held by such  
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 prior to 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 such member shall be the beneficiary of such member  
45 unless the member has designated another beneficiary subsequent to  
46 the date of marriage in writing and filed such writing in the  
47 office of the executive director of the board of trustees. No  
48 designation or change of beneficiary shall be made in any other  
49 manner.

50 (e) "Board" means the board of trustees as provided in  
51 Section 25-11-15, Mississippi Code of 1972.

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

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

60 (h) "Earned compensation" means the full amount earned  
61 by an employee for a given pay period and proportionately for less

62 than one (1) year of service. Earned compensation shall be  
63 limited to the regular periodic compensation paid, exclusive of  
64 litigation fees, bond fees and other similar extraordinary  
65 non-recurring payments. The amount by which salary is reduced  
66 pursuant to a salary reduction agreement authorized under Section  
67 25-17-5, Mississippi Code of 1972, shall be included as earned  
68 compensation under this paragraph, provided this inclusion does  
69 not conflict with federal law, including federal regulations and  
70 federal administrative interpretations thereunder, pertaining to  
71 the Federal Insurance Contributions Act or to Internal Revenue  
72 Code Section 125 cafeteria plans.

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

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

77 (k) "Medical board" means the board of physicians or  
78 any governmental or non-governmental disability determination  
79 service designated by the board of trustees that is qualified to  
80 make disability determinations as provided for in Section  
81 25-11-119, Mississippi Code of 1972.

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

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

87 (n) "Prior service" means service rendered prior to the  
88 first day of the month of the effective date of the system in the  
89 position of a conservation officer.

90 (o) "Regular interest" means interest compounded  
91 annually at such a rate as shall be determined by the board in  
92 accordance with Section 25-11-121, Mississippi Code of 1972.

93 (p) "Retirement allowance" means an annuity for life,  
94 payable each year in twelve (12) equal monthly installments

95 beginning as of the date fixed by the board. The retirement  
96 allowance shall be calculated in accordance with this act.

97 (q) "System" means the Conservation Officer's  
98 Retirement System of Mississippi established and described by this  
99 act.

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

101 (s) "Service" means all employment as a conservation  
102 officer.

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

106 (2) The masculine pronoun, wherever used, shall include the  
107 feminine pronoun.

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

113 (2) The board shall invest all funds in accordance with  
114 Section 25-11-121, Mississippi Code of 1972.

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

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

128 (5) On the basis of regular interest and tables last adopted  
129 by the board, the actuary shall make biannual valuation of the  
130 contingent assets and liabilities of the system.

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

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

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

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

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

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

150 (2) All conservation officers employed on or after the  
151 effective date of the system shall become members of the system as  
152 a condition of their employment provided the conservation officer  
153 is under the age of sixty (60) years at the time of such  
154 employment.

155 (3) Membership in the system shall include all service in  
156 the position of conservation officer, and any funds contributed by  
157 a member prior to the effective date of this system to the Public  
158 Employees' Retirement System of Mississippi shall be transferred  
159 to the member's credit in this system.

160 SECTION 5. (1) Under such rules and regulations as the

161 board shall adopt, each person who becomes a member of this system  
162 shall receive credit for prior service rendered prior to the  
163 effective date of this system. To receive such credit, such  
164 member shall file a detailed certificate of all service rendered  
165 by the member prior to the effective date of this system.

166 (2) In the computation of membership service or prior  
167 service under the provisions of this system, the following  
168 schedule shall govern:

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

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

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

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

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

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

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

224           SECTION 6. (1) There shall be established by the board a  
225 fund for the Conservation Officers' Retirement System of  
226 Mississippi which shall be maintained as a separate fund, separate

227 from all other funds held by the board, and which shall be used  
228 only for the payment of benefits provided for by this system.

229 (2) The board shall act as custodian of the funds for  
230 members of the system; shall receive to the credit of such fund  
231 all donations, bequests, appropriations and all funds available as  
232 employer's contributions thereto from any source whatsoever.

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

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

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

255 (6) The board is hereby authorized to deduct two percent  
256 (2%) of all employers' contributions paid into the fund for  
257 members of the system to be transferred to the expense fund of the  
258 Public Employees' Retirement System of Mississippi to defray the  
259 cost of administering this fund.



260        SECTION 7. (1) In the event of a withdrawal from service of  
261 a member, he shall be refunded the amount of his total  
262 contributions under the provisions of this system, including any  
263 credit transferred to his account in the system from any other  
264 system, at his request; and should he die before retirement, such  
265 amount may be refunded to any beneficiary he may name, at the  
266 request of the beneficiary.

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

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

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

291        (3) Once each year during the first five (5) years following  
292 retirement of a member on a disability retirement allowance, and

293 once in every period of three (3) years thereafter, the board may  
294 require any disability beneficiary who has not yet attained the  
295 age of fifty-five (55) years to undergo a medical examination,  
296 such examination to be made at the place of residence of the  
297 beneficiary or other place mutually agreed upon, by the medical  
298 board. Should any disability beneficiary who has not yet attained  
299 the age of fifty-five (55) years refuse to submit to any medical  
300 examination provided for herein, the allowance may be discontinued  
301 until the withdrawal of such refusal; and, should the refusal  
302 continue for one (1) year, all rights in that part of the  
303 disability benefit provided by employer contributions shall be  
304 revoked.

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

317 (5) Should a disability beneficiary under the age of  
318 fifty-five (55) years be restored to active service at a  
319 compensation not less than the earned compensation, the disability  
320 benefit shall cease.

321 SECTION 9. (1) Any member upon withdrawal from service,  
322 upon or after attainment of the age of fifty-five (55) years, who  
323 shall have completed at least five (5) years of creditable  
324 service, or any member upon withdrawal from service upon or after  
325 attainment of the age of forty-five (45) years, who shall have

326 completed at least twenty (20) years of creditable service, or any  
327 member upon withdrawal from service, regardless of age, who shall  
328 have completed at least twenty-five (25) years of creditable  
329 service, shall be entitled to receive a retirement allowance which  
330 shall be payable the first of the month following receipt of the  
331 member's application in the office of the Executive Director of  
332 the Public Employees' Retirement System, but in no event before  
333 withdrawal from service.

334 Any member whose withdrawal from service occurs prior to  
335 attaining the age of fifty-five (55) years, who shall have  
336 completed more than five (5) years of creditable service and shall  
337 not have received a refund of the member's accumulated  
338 contributions, shall be entitled to receive a retirement allowance  
339 beginning upon his attaining the age of fifty-five (55) years of  
340 the amount earned and accrued at the date of withdrawal from  
341 service.

342 (2) The annual amount of the retirement allowance shall  
343 consist of:

344 (a) A member's annuity, which shall be the actuarial  
345 equivalent of the accumulated contributions of the member at the  
346 time of retirement, computed according to the actuarial table in  
347 use by the system.

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

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

354 (d) In the case of retirement of any member prior to  
355 attaining the age of fifty-five (55) years, the retirement  
356 allowance shall be computed in accordance with the formula  
357 hereinabove set forth in this section, except that the employer's  
358 annuity and prior service annuity above described shall be reduced

359 three percent (3%) for each year of age below fifty-five (55)  
360 years, or three percent (3%) for each year of service below  
361 twenty-five (25) years of creditable service, whichever is lesser.

362 (3) Upon retiring from service, a member shall be eligible  
363 to obtain retirement benefits, as computed above, for life, except  
364 that the aggregate amount of the employer's annuity and prior  
365 service annuity above described shall not exceed more than  
366 eighty-five percent (85%) of the average compensation regardless  
367 of the years of service.

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

376 The percentage provided in this subsection for any particular  
377 year shall not be less than the percentage provided for the  
378 previous year.

379 (2) Persons who on December 1 of each year are receiving a  
380 retirement allowance for service or disability retirement, or  
381 their beneficiaries, may receive, in addition to the amount  
382 provided in subsection (1) of this section, a payment, as  
383 determined by the board, calculated in increments of one-fourth of  
384 one percent (1/4 of 1%), not to exceed one and one-half percent  
385 (1-1/2%) of the annual retirement allowance, for each full year of  
386 retirement, provided that any such payment shall be contingent  
387 upon the reserve for annuities in force for retired members and  
388 beneficiaries providing sufficient investment gains in excess of  
389 the accrued actuarial liabilities for the previous fiscal year as  
390 certified by the actuary and determined by the board.

391 (3) The percentages in this section shall be based on each

392 full fiscal year that the retired member or beneficiary has  
393 actually drawn retirement payments from the date of retirement, or  
394 the date of last retirement if there is more than one retirement  
395 date.

396 (4) Persons eligible to receive the payments provided in  
397 subsections (1) and (2) of this section shall receive such  
398 payments in one (1) additional payment, except that such person  
399 may elect by an irrevocable agreement on a form prescribed by the  
400 board of trustees to receive such payments in not less than equal  
401 monthly installments not to exceed six (6) months during the  
402 remaining months of the current fiscal year. In the event of  
403 death of a person or a beneficiary thereof receiving monthly  
404 benefits, any remaining amounts shall be paid in a lump sum to the  
405 designated beneficiary.

406 SECTION 11. (1) Upon the death of any member who has  
407 retired for service or disability and who has not elected any  
408 other option under Section 12, his widow shall receive one-half  
409 (1/2) the benefit which he was receiving and each child not having  
410 attained his nineteenth birthday shall receive one-fourth (1/4) of  
411 his benefit, but not more than one-half (1/2) of the benefits  
412 shall be paid for the support and maintenance of two (2) or more  
413 children. Upon each child's attaining the age of nineteen (19)  
414 years, the child shall no longer be eligible for such benefit, and  
415 when all of such children have attained their nineteenth birthday,  
416 only the widow shall be eligible for one-half (1/2) the amount of  
417 his benefit. She shall continue to be eligible for such benefit  
418 in the amount of fifty percent (50%) of his retirement benefit so  
419 long as she may live and until she remarries. In the event of her  
420 remarriage at any time, her eligibility for the fifty percent  
421 (50%) benefits shall cease and terminate, but she will be eligible  
422 to continue to receive benefits for their children until the last  
423 child attains his or her nineteenth birthday in the manner  
424 aforesaid.

425           (2) Upon the death of any member who has served the minimum  
426 retirement period required for eligibility for such retirement  
427 system, his spouse and family shall receive all the benefits  
428 payable to his beneficiaries as if he had retired at the time of  
429 his death. Such benefits cease as to the spouse upon remarriage  
430 but continue to be payable to each child until he reaches the age  
431 of nineteen (19) years. Such benefits are payable on a monthly  
432 basis.

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

456           (4) All benefits accruing to any child under the provisions  
457 of this act shall be paid to the parent custodian of such children

458 or the legal guardian.

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

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

491 retirement, to receive the actuarial equivalent of his retirement  
492 allowance in a reduced retirement allowance payable throughout  
493 life with the provision that:

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

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

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

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

515 **Option 4-B.** A reduced retirement allowance shall be  
516 continued throughout the life of the retirant, but with the  
517 further guarantee of payments to the named beneficiary,  
518 beneficiaries or to the estate for a specified number of years  
519 certain. If the retired member or the last designated beneficiary  
520 receiving annuity payments dies prior to receiving all guaranteed  
521 payments due, the actuarial equivalent of the remaining payments  
522 would be paid to the estate of the retired member as intestate  
523 property.



524           **Option 4-C.** Such retirement allowance otherwise payable may  
525 be converted into a retirement allowance of equivalent actuarial  
526 value in such an amount that, with the member's benefit under  
527 Title II of the federal Social Security Act, the member will  
528 receive, so far as possible, approximately the same amount  
529 annually before and after the earliest age at which the member  
530 becomes eligible to receive a Social Security benefit.

531           **Option 5.** With the added provision under Option 2 or Option  
532 4-A that in the event the designated beneficiary predeceased the  
533 member, the retirement allowance payable to the member after the  
534 death of the designated beneficiary shall be equal to the  
535 retirement allowance which would have been payable had the member  
536 not elected the option.

537           (2) No change in the option selected shall be permitted  
538 after the member's death or after the member has received his  
539 first retirement check. Should a member retired on disability be  
540 returned to active service, the option previously selected shall  
541 be null and void. Upon subsequent retirement a new option may be  
542 selected.

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

554           (4) For purposes of this section:

555           (a) "Beneficiary" means any person designated to  
556 receive a retirement allowance, an annuity or other benefit as

557 provided by this act. Such designation shall be in writing filed  
558 in the Office of the Executive Director of the Board of Trustees  
559 of the Public Employees' Retirement System, and no designation or  
560 change of beneficiary shall be made in any other manner; however,  
561 notwithstanding any provision of this act to the contrary, the  
562 lawful spouse of a member at the time of the death of a member  
563 shall be the beneficiary of such member unless the member has  
564 designated another beneficiary subsequent to the date of marriage.

565 (b) "Actuarial equivalent" means a benefit of equal  
566 value to the accumulated contributions, annuity or benefit, as the  
567 case may be, when computed upon the basis of such mortality tables  
568 as shall be adopted by the board of trustees, and regular  
569 interest.

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

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

584 SECTION 14. (1) The maintenance of actuarial reserves for  
585 the various allowances and benefits under this system, and the  
586 payment of all annuities, retirement allowances, refunds and other  
587 benefits granted hereunder are hereby made obligations of the  
588 fund. All income, interest and dividends derived from deposits  
589 and investments authorized by this act shall be used for the

590 payment of the obligations of the system.

591 (2) In the event of the termination of the system, all  
592 members of the system as of the date of termination of the system  
593 shall be deemed to have a vested right to benefits to the extent  
594 and in the same manner that rights would be vested under the  
595 statute existing as of the date of termination of the system;  
596 except that any member who, because of a termination of the system  
597 has not fulfilled the requirements for length of service, shall be  
598 entitled to compensation as of the date that such member would  
599 otherwise be eligible, with such compensation to be computed on  
600 the basis of time actually a member of the system and compensation  
601 actually earned during the time as a member, in the manner now  
602 provided by statute.

603 (3) In the event of a deficit in the availability of funds  
604 for payment due under the provisions of the system, an  
605 appropriation shall hereinafter be made sufficient for the payment  
606 thereof as an obligation of the State of Mississippi.

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

619 SECTION 16. No person who is being paid a retirement  
620 allowance from this system shall serve or be paid for any service  
621 as a conservation officer. Should any retired member under this  
622 act return to service as a conservation officer, the retirement

623 allowance shall cease and the member shall become a contributing  
624 member of the system and shall be credited with all creditable  
625 service at the time of the previous withdrawal of service on a  
626 retirement allowance. The retirement allowance payable upon  
627 subsequent retirement shall be based on the total creditable  
628 service rendered before and after return to service. The total  
629 retirement allowance paid to the retired member in his previous  
630 retirement shall be deducted from his retirement reserve and taken  
631 into consideration in recalculating the retirement allowance.

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

653       Should any change or error in the records result in any  
654 member or beneficiary receiving from the retirement system more or  
655 less than he would have been entitled to receive had the records

656 been correct, the board of trustees shall correct such error and,  
657 as far as practicable, adjust the payment in such a manner that  
658 the actuarial equivalent of the benefit to which such member or  
659 beneficiary was correctly entitled shall be paid.

660       SECTION 18. Each employer shall withhold the member  
661 contributions required from all compensation earned and the  
662 contributions so withheld shall be treated as employer  
663 contributions in determining tax treatment under the United States  
664 Internal Revenue Code and the Mississippi Income Tax Code. These  
665 contributions shall not be included as gross income of the member  
666 until such time as they are distributed or made available. The  
667 employer shall pay these member contributions from the same source  
668 of funds which is used in paying earnings to the member. The  
669 employer may withhold member contributions by a reduction in the  
670 cash salary of the member, or by an offset against a future salary  
671 increase, or by a combination of a reduction in salary and offset  
672 against a future salary increase. The member contributions so  
673 withheld shall be treated for all purposes in the same manner and  
674 to the same extent as member contributions.

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

677       25-11-105.   **I.   THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

678       The membership of this retirement system shall be composed as  
679 follows:

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

686               (b) All persons who shall become employees in the state  
687 service after January 31, 1953, except those specifically excluded  
688 or as to whom election is provided in Articles 1 and 3, unless

689 they shall file with the board prior to the lapse of sixty (60)  
690 days of employment or sixty (60) days after the effective date of  
691 the cited articles, whichever is later, on a form prescribed by  
692 the board, a notice of election not to be covered by the  
693 membership of the retirement system and a duly executed waiver of  
694 all present and prospective benefits which would otherwise inure  
695 to them on account of their participation in the system, shall  
696 become members of the retirement system; provided, however, that  
697 no credit for prior service will be granted to members until they  
698 have contributed to Article 3 of the retirement system for a  
699 minimum period of at least four (4) years. Such members shall  
700 receive credit for services performed prior to January 1, 1953, in  
701 employment now covered by Article 3, but no credit shall be  
702 granted for retroactive services between January 1, 1953, and the  
703 date of their entry into the retirement system unless the employee  
704 pays into the retirement system both the employer's and the  
705 employee's contributions on wages paid him during the period from  
706 January 31, 1953, to the date of his becoming a contributing  
707 member, together with interest at the rate determined by the board  
708 of trustees. Members reentering after withdrawal from service  
709 shall qualify for prior service under the provisions of Section  
710 25-11-117. From and after July 1, 1998, upon eligibility as noted  
711 above, the member may receive credit for such retroactive service  
712 provided:

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

716                   (2) The member shall pay to the retirement system  
717 on the date he or she is eligible for such credit or at any time  
718 thereafter prior to the date of retirement the actuarial cost for  
719 each year of such creditable service. The provisions of this  
720 subparagraph (2) shall be subject to the limitations of Section  
721 415 of the Internal Revenue Code and regulations promulgated

722 thereunder.

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

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

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

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

750           (f) Each political subdivision of the state and each  
751 instrumentality of the state or a political subdivision, or both,  
752 is hereby authorized to submit, for approval by the board of  
753 trustees, a plan for extending the benefits of this article to  
754 employees of any such political subdivision or instrumentality.

755 Each such plan or any amendment to the plan for extending benefits  
756 thereof shall be approved by the board of trustees if it finds  
757 that such plan, or such plan as amended, is in conformity with  
758 such requirements as are provided in Articles 1 and 3; however,  
759 upon approval of such plan or any such plan heretofore approved by  
760 the board of trustees, the approved plan shall not be subject to  
761 cancellation or termination by the political subdivision or  
762 instrumentality. No such plan shall be approved unless:

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

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

775           (3) It provides for such methods of administration  
776 of the plan by the political subdivision or instrumentality as are  
777 found by the board of trustees to be necessary for the proper and  
778 efficient administration thereof;

779           (4) It provides that the political subdivision or  
780 instrumentality will make such reports, in such form and  
781 containing such information, as the board of trustees may from  
782 time to time require;

783           (5) It authorizes the board of trustees to  
784 terminate the plan in its entirety in the discretion of the board  
785 if it finds that there has been a failure to comply substantially  
786 with any provision contained in such plan, such termination to  
787 take effect at the expiration of such notice and on such



788 conditions as may be provided by regulations of the board and as  
789 may be consistent with applicable federal law.

790           A. The board of trustees shall not finally  
791 refuse to approve a plan submitted under subsection (f), and shall  
792 not terminate an approved plan without reasonable notice and  
793 opportunity for hearing to each political subdivision or  
794 instrumentality affected thereby. The board's decision in any  
795 such case shall be final, conclusive and binding unless an appeal  
796 be taken by the political subdivision or instrumentality aggrieved  
797 thereby to the Circuit Court of Hinds County, Mississippi, in  
798 accordance with the provisions of law with respect to civil causes  
799 by certiorari.

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

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

821 employer of liability thereof.

822                   D. Any state agency, school, political  
823 subdivision, instrumentality or any employer that is required to  
824 submit contribution payments or wage reports under any section of  
825 this chapter shall be assessed interest on delinquent payments or  
826 wage reports as determined by the board of trustees in accordance  
827 with rules and regulations adopted by the board and such assessed  
828 interest may be recovered by action in a court of competent  
829 jurisdiction against such reporting agency liable therefor or may,  
830 upon due certification of delinquency and at the request of the  
831 board of trustees, be deducted from any other monies payable to  
832 such reporting agency by any department or agency of the state.

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

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

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

852                   (i) In the event any member of this system should  
853 change his employment to any agency of the state having an

854 actuarially funded retirement system, the board of trustees may  
855 authorize the transfer of the member's creditable service and of  
856 the present value of the member's employer's accumulation account  
857 and of the present value of the member's accumulated membership  
858 contributions to such other system, provided the employee agrees  
859 to the transfer of his accumulated membership contributions and  
860 provided such other system is authorized to receive and agrees to  
861 make such transfer.

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

872 (j) In the event any member of this system is a  
873 conservation officer employed by the Department of Wildlife,  
874 Fisheries and Parks and such member elects to become a member of  
875 the Conservation Officers' Retirement System of Mississippi or by  
876 virtue of his employment becomes a member of such system, the  
877 board shall transfer the member's creditable service and the  
878 present value of the member's employer's accumulation account and  
879 the present value of the member's accumulated membership  
880 contribution to such system.

881 (k) Employees of a political subdivision or  
882 instrumentality who were employed by such political subdivision or  
883 instrumentality prior to an agreement between such entity and the  
884 Public Employees' Retirement System to extend the benefits of this  
885 article to its employees, and which agreement provides for the  
886 establishment of retroactive service credit, and who have been

887 members of the retirement system and have remained contributors to  
888 the retirement system for four (4) years, may receive credit for  
889 such retroactive service with such political subdivision or  
890 instrumentality, provided the employee and/or employer, as  
891 provided under the terms of the modification of the joinder  
892 agreement in allowing such coverage, pay into the retirement  
893 system the employer's and employee's contributions on wages paid  
894 the member during such previous employment, together with interest  
895 or actuarial cost as determined by the board covering the period  
896 from the date the service was rendered until the payment for the  
897 credit for such service was made. Such wages shall be verified by  
898 the Social Security Administration or employer payroll records.  
899 Effective July 1, 1998, upon eligibility as noted above, a member  
900 may receive credit for such retroactive service with such  
901 political subdivision or instrumentality provided:

902                   (1) The member shall furnish proof satisfactory to  
903 the board of trustees of certification of such services from the  
904 political subdivision or instrumentality where the services were  
905 rendered or verification by the Social Security Administration;  
906 and

907                   (2) The member shall pay to the retirement system  
908 on the date he or she is eligible for such credit or at any time  
909 thereafter prior to the date of retirement the actuarial cost for  
910 each year of such creditable service. The provisions of this  
911 subparagraph (2) shall be subject to the limitations of Section  
912 415 of the Internal Revenue Code and regulations promulgated  
913 thereunder.

914           Nothing contained in this paragraph (k) shall be construed to  
915 limit the authority of the board to allow the correction of  
916 reporting errors or omissions based on the payment of employee and  
917 employer contributions plus applicable interest. Payment for such  
918 time shall be made in increments of not less than one-quarter  
919 (1/4) year of creditable service beginning with the most recent

920 service. Upon the payment of all or part of such required  
921 contributions, plus interest or the actuarial cost as provided  
922 above, the member shall receive credit for the period of  
923 creditable service for which full payment has been made to the  
924 retirement system.

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

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

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

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

942 (a) Patient or inmate help in state charitable, penal  
943 or correctional institutions;

944 (b) Students of any state educational institution  
945 employed by any agency of the state for temporary, part-time or  
946 intermittent work;

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

950 **III. TERMINATION OF MEMBERSHIP**

951 Membership in this system shall cease by a member withdrawing  
952 his accumulated contributions, or by a member withdrawing from

953 active service with a retirement allowance, or by a member's  
954 death.

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