

By: Janus

To: Appropriations

HOUSE BILL NO. 1344

1 AN ACT TO CREATE A SEPARATE RETIREMENT SYSTEM FOR LAW
2 ENFORCEMENT OFFICERS; TO PROVIDE THAT THE SYSTEM SHALL BE
3 ADMINISTERED BY THE BOARD OF TRUSTEES OF THE PUBLIC EMPLOYEES
4 RETIREMENT SYSTEM; TO DEFINE ELIGIBILITY FOR MEMBERSHIP IN THE
5 SYSTEM; TO PROVIDE FOR EMPLOYEE AND EMPLOYER CONTRIBUTIONS TO FUND
6 THE SYSTEM; TO ESTABLISH BENEFITS FOR DISABILITY AND
7 SUPERANNUATION RETIREMENT AND ESTABLISH DEATH BENEFITS; AND FOR
8 RELATED PURPOSES.

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

10 SECTION 1. There is established and placed under the
11 management of the Board of Trustees of the Public Employees'
12 Retirement System a retirement system for the purpose of providing
13 retirement allowances and other benefits under the provisions of
14 this act for law enforcement officers and their beneficiaries.

15 This retirement system shall be known as the "Law Enforcement
16 Officers' Retirement System." The retirement system shall go into
17 operation on July 1, 2000, when contributions by members shall
18 begin and benefits shall become payable. This retirement system
19 is designed to supplement and is in addition to the provisions of
20 Section 25-11-1 et seq. Under the terms of this act, law
21 enforcement officers shall retain all social security benefits
22 under Article I of the Public Employees' Retirement Law of 1952
23 but shall not be eligible for benefits under Article III of that
24 law. This act is a substitute for and in lieu of Article III of
25 that law, and is designed to provide more liberal benefits for law
26 enforcement officers by reason of the dangerous nature of and
27 special risk involved in their employment.

28 SECTION 2. (1) For the purposes of this act, the
29 definitions in Section 25-11-5 and Section 25-11-103 shall apply

30 unless a different meaning is plainly expressed by the context.

31 (2) As used in this act:

32 (a) "Board" means the Board of Trustees of the Public
33 Employees' Retirement System.

34 (b) "Law enforcement officer" means municipal police
35 officers and narcotics agents, sheriffs, deputy sheriffs,
36 constables, conservation officers, enforcement officers of the
37 Department of Marine Resources, agents and inspectors of the
38 Alcoholic Beverage Control Division of the State Tax Commission,
39 inspection station employees and field inspectors of the
40 Mississippi Department of Transportation, state correctional
41 facility guards and enforcement officers of the Department of
42 Corrections, enforcement officers of the Public Service
43 Commission, and any other full-time officer or employee of the
44 state or any agency, department, institution or county thereof who
45 is authorized to carry a firearm while in the performance of his
46 official duties and who has met the minimum educational and
47 training standards established by the Board on Law Enforcement
48 Officer Standards and Training for permanent, full-time law
49 enforcement officers and has received a certificate from that
50 board.

51 (c) "Member" means any person included in the
52 membership of the system as provided in Section 4 of this act.

53 (d) "System" means the Law Enforcement Officers'
54 Retirement System established by Section 1 of this act.

55 SECTION 3. (1) The general administration and
56 responsibility for the proper operation of the system and for
57 making effective the provisions hereof are vested in the Board of
58 Trustees of the Public Employees' Retirement System.

59 (2) The board shall invest all funds of the system in
60 accordance with Section 25-11-121.

61 (3) The board shall designate an actuary who shall be the
62 technical advisor of the board on matters regarding the operation

63 of the system and shall perform such other duties as are required
64 in connection therewith.

65 (4) At least once in each two-year period following July 1,
66 2000, the actuary shall make an actuarial investigation into the
67 mortality, service, withdrawal and compensation experience of the
68 members and beneficiaries of the system, and shall make a
69 valuation of the assets and liabilities of the system. Taking
70 into account the result of the investigation and valuation, the
71 board shall adopt for the retirement system such mortality,
72 service, and other tables as shall be deemed necessary. On the
73 basis of those tables that the board adopts, the actuary shall
74 make biennial valuations of the assets and liabilities of the
75 funds of the system.

76 (5) The board shall keep such data as shall be necessary for
77 the actuarial valuation of the contingent assets and liabilities
78 of the system and for checking the experience of the system.

79 (6) The board shall determine from time to time the rate of
80 regular interest for use in all calculations, with the rate of
81 five percent (5%) per annum applicable unless changed by the
82 board.

83 (7) Subject to the limitations hereof, the board from time
84 to time shall establish rules and regulations for the
85 administration of the system and for the transaction of business.

86 (8) The board shall keep a record of all its proceedings
87 under this act. All books, accounts and records shall be kept in
88 the general office of the Public Employees' Retirement System and
89 shall be public records except for individual member records. The
90 Public Employees' Retirement System shall not disclose the name,
91 address or contents of any individual member records without the
92 prior written consent of the individual to whom the record
93 pertains.

94 (9) The Executive Director of the Public Employees'
95 Retirement System shall serve as the executive director of this

96 system.

97 SECTION 4. (1) The membership of the system shall be
98 composed as follows:

99 (a) All duly elected or appointed police officers and
100 narcotics agents in the full-time employment of a municipality
101 that has elected to include its police officers and narcotics
102 agents in the membership of the system under subsection (3) of
103 this section, who are actually engaged in the enforcement of the
104 laws of this state and the municipality, except police officers
105 and narcotic agents who are members of any retirement system
106 created under Section 21-29-101 et seq. or Section 21-29-201 et
107 seq., but not auxiliary officers or officers who are engaged only
108 in administrative or civil duties.

109 (b) All duly elected sheriffs and all duly appointed
110 deputy sheriffs in the full-time employment of a county who are
111 actually engaged in the enforcement of the laws of this state and
112 the county, but not deputy sheriffs who are engaged only in
113 administrative or civil duties.

114 (c) All duly elected constables.

115 (d) All duly appointed conservation officers of the
116 Department of Wildlife, Fisheries and Parks who are actually
117 engaged in the enforcement of the game and fish laws of this state
118 (Section 49-7-1 et seq.).

119 (e) All duly appointed enforcement officers of the
120 Department of Marine Resources who are actually engaged in the
121 enforcement of the seafood laws of this state (Section 49-15-1 et
122 seq.)

123 (f) All duly appointed agents and inspectors of the
124 Alcoholic Beverage Control Division of the State Tax Commission
125 who are actually engaged in the enforcement of the alcoholic
126 beverage control laws of this state (Section 67-1-1 et seq.).

127 (g) All duly appointed or employed inspection station
128 employees, field inspectors and railroad inspectors of the

129 Mississippi Department of Transportation who are actually engaged
130 in the enforcement of the laws specified in Section 27-5-71 or
131 other laws of this state administered and enforced by the
132 Department of Transportation.

133 (h) All duly appointed or employed state correctional
134 facility guards and enforcement officers of the Department of
135 Corrections whose official duties are to insure the custody,
136 security and control of any offenders under their supervision.

137 (i) All duly appointed or employed enforcement officers
138 and inspectors of the Public Service Commission who are actually
139 engaged in the enforcement of the provisions of Section 77-7-1 et
140 seq. or other laws of this state administered and enforced by the
141 Public Service Commission.

142 (j) All full-time officers and employees of the state
143 or any agency, department, institution or county thereof, not
144 listed in paragraphs (a) through (j) of this subsection, who are
145 authorized to carry firearms while in the performance of their
146 official duties and who have met the minimum educational and
147 training standards established by the Board on Law Enforcement
148 Officer Standards and Training for permanent, full-time law
149 enforcement officers and have received a certificate from that
150 board.

151 (2) Membership in the system shall not include any
152 secretarial, clerical, stenographic or administrative employees.

153 (3) (a) The governing authorities of any municipality are
154 authorized, in their discretion, to elect to include in the
155 membership of the system the full-time police officers and
156 narcotics agents of the municipality who are actually engaged in
157 the enforcement of the laws of this state and the municipality,
158 except police officers and narcotics agents who are members of any
159 retirement system created under Section 21-29-101 et seq. or
160 Section 21-29-201 et seq., by adopting a resolution to that effect
161 and transmitting the resolution to the board.

162 (b) When any municipality elects to include its police
163 officers and narcotics agents in the membership of the system:

164 (i) All such persons serving in that capacity on
165 the date that the governing authorities adopt the resolution,
166 except police officers and narcotics agents who are members of any
167 retirement system created under Section 21-29-101 et seq. or
168 Section 21-29-201 et seq., shall become members of the system on
169 the first day of the month following the date that the board
170 receives the resolution, unless they file with the board within
171 thirty (30) days after the date that the board receives the
172 resolution, on a form prescribed by the board, a notice of
173 election not to be covered in the membership of the system and a
174 duly executed waiver of all present and prospective benefits that
175 would otherwise inure to them on account of their membership in
176 the system; and

177 (ii) All such persons who are elected, appointed
178 or employed after the date that the governing authorities adopt
179 the resolution shall become members of the system as a condition
180 of their office, appointment or employment.

181 (c) After a municipality has elected to include its
182 police officers and narcotics agents in the membership of the
183 system, the municipality shall not be authorized to withdraw from
184 the system or to cancel or preclude membership in the system for
185 any such person elected, appointed or employed on or after the
186 date that the municipality made the election.

187 (4) Except as otherwise provided for municipalities in
188 subsection (3) of this section, all law enforcement officers
189 eligible for membership in the system as provided in this section
190 who are serving in that capacity on July 1, 2000, shall become
191 members of the system on that date, unless they file with the
192 board within thirty (30) days after July 1, 2000, on a form
193 prescribed by the board, a notice of election not to be covered in
194 the membership of the system and a duly executed waiver of all

195 present and prospective benefits that otherwise would inure to
196 them on account of their membership in the system.

197 (5) Except as otherwise provided for municipalities in
198 subsection (3) of this section, all law enforcement officers
199 eligible for membership in the system as provided in this section
200 who are elected or appointed after June 30, 2000, shall become
201 members of the system as a condition of their office or
202 employment.

203 (6) Membership in the system shall cease by a member
204 withdrawing his accumulated contributions, or by a member
205 withdrawing from active service with a retirement allowance, or by
206 death of the member.

207 SECTION 5. (1) Creditable service on which a member's
208 service or disability retirement benefit is based shall consist of
209 prior service and membership service. Except as otherwise
210 provided for municipalities in this subsection, prior service
211 means service performed before July 1, 2000, for which
212 contributions were made to the Public Employees' Retirement
213 System, and membership service means all service for which credit
214 may be allowed under this act after June 30, 2000, and all
215 lawfully credited unused leave as of the date of withdrawal from
216 service, as certified by the employer. For police officers and
217 narcotics agents of municipalities that have elected to include
218 those persons in the membership of the system, prior service means
219 service performed before the date that they became members of the
220 system for which contributions were made to the Public Employees'
221 Retirement System, and membership service means all service for
222 which credit may be allowed under this act on or after the date
223 that they became members of the system and all lawfully credited
224 unused leave as of the date of withdrawal from service, as
225 certified by the municipality.

226 (2) In computing the period of service of a member of the
227 system, anything in this act to the contrary notwithstanding, any

228 member who served on active duty in the Armed Forces of the United
229 States, or who served in maritime service during periods of
230 hostility in World War II, shall be entitled to creditable service
231 for his service on active duty in the Armed Forces or in such
232 maritime service, provided he entered state service after his
233 discharge from the Armed Forces or entered state service after he
234 completed such maritime service. The maximum period for
235 creditable service for all military service shall not exceed four
236 (4) years unless positive proof can be furnished by the person
237 that he was retained in the Armed Forces during World War II or in
238 maritime service during World War II by causes beyond his control
239 and without opportunity of discharge. The member shall furnish
240 proof satisfactory to the board of certification of military
241 service or maritime service records showing dates of entrance into
242 service and the date of discharge. In no case shall the member
243 receive creditable service if the member received a dishonorable
244 discharge from the Armed Forces of the United States.

245 SECTION 6. (1) The board shall act as custodian of the
246 system, and shall receive to the credit of the system all
247 donations, bequests, appropriations, and all funds available as an
248 employer's contribution thereto from any source whatsoever.

249 (2) The employers shall deduct each month from the salary of
250 each member seven and one-fourth percent (7-1/4%) thereof, and
251 shall pay the amount so deducted to the board to be credited to
252 the system. Notwithstanding the employee contribution rates
253 specified in this subsection, the board may vary the percentage of
254 employee contribution biennially on the basis of the liabilities
255 of the system for the various allowances and benefits as shown by
256 actuarial valuation. From the funds credited to this account, the
257 board shall pay retirements, disability benefits, survivors
258 benefits, expenses and shall refund contributions as provided in
259 this act. The funds of the system shall be maintained as a
260 separate fund, separate from all other funds held by the board and

261 shall be used only for the payment of benefits provided for by
262 this act or amendments thereto.

263 (3) On account of each member the employers shall pay
264 monthly into the system from funds available an amount equal to a
265 certain percentage of the compensation of each member to be known
266 as the "normal contributions," and an additional amount equal to a
267 percentage of his compensation to be known as the "accrued
268 liability contribution." The percentage rate of those
269 contributions shall be fixed biennially by the board on the basis
270 of the liabilities of the system for the various allowances and
271 benefits as shown by the actuarial valuation.

272 (4) The board is authorized to deduct two percent (2%) of
273 all employer contributions paid into the system to be transferred
274 to the expense fund of the Public Employees' Retirement System to
275 defray the cost of administering the system.

276 SECTION 7. The employers shall pick up the member
277 contributions required by Section 6 of this act for all
278 compensation earned after June 30, 2000, or in the case of police
279 officers and narcotics agents of municipalities that have elected
280 to include those persons in the membership of the system, for all
281 compensation earned on and after the date that they became members
282 of the system. The contributions so picked up shall be treated as
283 employer contributions in determining tax treatment under the
284 United States Internal Revenue Code and Mississippi Income Tax
285 Code. However, the employer shall continue to withhold federal
286 and state income taxes based upon these contributions until the
287 Internal Revenue Service or federal courts rule that pursuant to
288 Section 414(h) of the United States Internal Revenue Code, these
289 contributions shall not be included as gross income of the member
290 until such time as they are distributed or made available. The
291 employer shall pay these member contributions from the same source
292 of funds that is used in paying earnings to the member. The
293 employer may pick up these contributions by a reduction in the

294 cash salary of the member or by an offset against a future salary
295 increase or by a combination of a reduction in salary and offset
296 against a future salary increase. If member contributions are
297 picked up, they shall be treated for all purposes of this act in
298 the same manner and to the same extent as member contributions
299 made before to the date picked up.

300 SECTION 8. (1) Upon application of a member or his
301 employer, any active member who has not attained the age of
302 fifty-five (55) years may be retired by the board, not less than
303 thirty (30) and not more than ninety (90) days next following the
304 date of filing the application, on a disability retirement
305 allowance, if the medical board of the Public Employees'
306 Retirement System or other designated governmental agency, after a
307 medical examination, certifies that he is mentally or physically
308 incapacitated for the performance of duty, that the incapacity is
309 likely to be permanent, and that the sickness or injury was caused
310 or sustained as a direct result of duty as a law enforcement
311 officer after June 30, 2000, or in the case of a police officer or
312 narcotics agent of a municipality that has elected to include
313 those persons in the membership of the system, on or after the
314 date that the person became a member of the system.

315 Upon the application of a member or his employer, any member
316 who is not yet eligible for service retirement benefits and who
317 has had at least ten (10) years of creditable service may be
318 retired by the board, not less than thirty (30) and not more than
319 ninety (90) days next following the date of filing the
320 application, on a disability retirement allowance, if the medical
321 board or other designated governmental agency, after a medical
322 examination, certifies that he is mentally or physically
323 incapacitated for the further performance of duty, that the
324 incapacity is likely to be permanent, and that he should be
325 retired. This disability need not be service connected.

326 (2) Upon retirement for disability, a member shall receive a

327 disability benefit equal to fifty percent (50%) of his average
328 compensation for the two (2) years immediately preceding his
329 retirement, but not less than any retirement benefits for which he
330 may be eligible at the date he is granted disability.

331 (3) Once each year during the first five (5) years following
332 retirement of a member on a disability retirement allowance, and
333 once in every period of three (3) years thereafter, the board may,
334 and upon his application shall, require any disability retiree who
335 has not yet attained the age of fifty-five (55) years to undergo a
336 medical examination. The examination shall be made at the place
337 of residence of the retiree or other place mutually agreed upon by
338 the medical board or other designated governmental agency. If any
339 disability retiree who has not yet attained the age of fifty-five
340 (55) years refuses to submit to any medical examination provided
341 for in this subsection, his allowance may be discontinued until
342 his withdrawal of his refusal, and if his refusal continues for
343 one (1) year, all his rights in that part of the disability
344 benefit provided by employer contributions shall be revoked by the
345 board.

346 (4) If the medical board or other designated governmental
347 agency reports and certifies to the board, after a comparable job
348 analysis or other similar study, that the disability retiree is
349 engaged in, or is able to engage in, a gainful occupation paying
350 more than the difference between his disability benefit and his
351 average compensation, and if the board concurs in the report, the
352 disability benefit shall be reduced to an amount that, together
353 with the amount earnable by him, equals the amount of his average
354 compensation. If his earning capacity is later changed, the
355 amount of the benefit may be further modified, but the revised
356 benefit shall not exceed the amount originally granted nor an
357 amount that, when added to the amount earnable by the retiree,
358 together with the member's annuity, equals the amount of his
359 average compensation.

360 (5) If a disability retiree under the age of fifty-five (55)
361 years is restored to active service at a compensation not less
362 than his average compensation, his disability benefit shall cease,
363 he shall again become a member of the retirement system, and he
364 shall contribute thereafter at the same rate he paid before
365 disability. Any such prior service certificate on the basis of
366 which his service was computed at the time of retirement shall be
367 restored to full force and effect. In addition, upon his
368 subsequent retirement he shall be credited with all creditable
369 service as a member, including the period for which he was paid
370 disability benefits.

371 SECTION 9. (1) Any member upon withdrawal from service upon
372 or after attainment of the age of fifty-five (55) years who has
373 completed at least four (4) years of creditable service, or any
374 member upon withdrawal from service upon or after attainment of
375 the age of forty-five (45) years who has completed at least twenty
376 (20) years of creditable service, or any member upon withdrawal
377 from service regardless of age who has completed at least
378 twenty-five (25) years of creditable service, shall be entitled to
379 receive a retirement allowance that shall be payable the first of
380 the month following receipt of the member's application in the
381 office of the executive director of the system, but in no event
382 before withdrawal from service.

383 (2) Any member whose withdrawal from service occurs before
384 attaining the age of fifty-five (55) years who has completed four
385 (4) or more years of creditable service and has not received a
386 refund of the member's accumulated contributions shall be entitled
387 to receive a retirement allowance of the amount earned and accrued
388 at the date of withdrawal from service, beginning upon his
389 attaining the age of fifty-five (55) years.

390 (3) The annual amount of the retirement allowance shall
391 consist of:

392 (a) A member's annuity, which shall be the actuarial

393 equivalent of the accumulated contributions of the member at the
394 time of retirement, computed according to the actuarial table in
395 use by the system.

396 (b) An employer's annuity, which, together with the
397 member's annuity provided above, shall be equal to two and
398 one-half percent (2-1/2%) of the average compensation for each
399 year of membership service.

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

403 (d) In the case of retirement of any member before
404 attaining the age of fifty-five (55) years, the retirement
405 allowance shall be computed in accordance with the formula set
406 forth above in this section, except that the employer's annuity
407 and prior service annuity shall be reduced by three percent (3%)
408 for each year of age below fifty-five (55) years, or three percent
409 (3%) for each year of service below twenty-five (25) years of
410 creditable service, whichever is lesser.

411 (e) Upon retiring for service, a member shall be
412 eligible to obtain retirement benefits, as computed above, for
413 life, except that the aggregate amount of the employer's annuity
414 and prior service annuity shall not exceed more than eighty-five
415 percent (85%) of the average compensation regardless of the years
416 of service.

417 (f) Any member of the system who attains the age of
418 sixty (60) years shall be immediately retired.

419 SECTION 10. (1) Retired members who on December 1 of each
420 year, or July 1 of each year as provided for in subsection (6) of
421 this section, are receiving a retirement allowance for service or
422 disability retirement, or their beneficiaries, shall receive in
423 one (1) additional payment an amount equal to two and one-half
424 percent (2-1/2%) of the annual retirement allowance for each full
425 fiscal year of retirement.

426 (2) Retired members who on December 1 of each year are
427 receiving a retirement allowance for service or disability
428 retirement, or their beneficiaries, may receive, in addition to
429 the cumulative percentage provided in subsection (1) of this
430 section, a payment as determined by the board, calculated in
431 increments of one-quarter of one percent ($1/4$ of 1%), not to
432 exceed one and one-half percent (1-1/2%) of the annual retirement
433 allowance, for each full fiscal year of retirement, but any such
434 payment shall be contingent upon the reserve for annuities in
435 force for retired members and beneficiaries providing sufficient
436 investment gains in excess of the accrued actuarial liabilities
437 for the previous fiscal year as certified by the actuary and
438 determined by the board.

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

444 (4) If a person who is receiving a retirement allowance that
445 will terminate upon the person's death is receiving the additional
446 payments under subsections (1) and (2) of this section in one (1)
447 payment and dies on or after July 1 but before December 1, the
448 beneficiary or estate of the person shall receive in a single
449 payment a fractional part of the additional payments based on the
450 number of months in which a retirement allowance was received
451 during the fiscal year.

452 (5) Persons eligible to receive the payments provided in
453 this section shall receive the payments in one (1) additional
454 payment, except that the person may elect by an irrevocable
455 agreement on a form prescribed by the board to receive the
456 payments in not less than equal monthly installments not to exceed
457 six (6) months during the remaining months of the current fiscal
458 year. In the event of death of a person or a beneficiary

459 receiving monthly benefits, any remaining amounts shall be paid in
460 a lump sum to the designated beneficiary.

461 (6) Retired members or beneficiaries thereof who on July 1
462 of any fiscal year are receiving a retirement allowance may elect
463 by an irrevocable agreement in writing filed in the office of the
464 Public Employees' Retirement System no less than thirty (30) days
465 before July 1 of the appropriate year, to begin receiving the
466 payments provided for in subsection (1) of this section in twelve
467 (12) equal installments beginning on July 1. This irrevocable
468 agreement shall be binding on the member and subsequent
469 beneficiaries. The cumulative percentage provided in subsection
470 (1) of this section and paid in twelve (12) equal installments for
471 any particular year shall not be less than the cumulative
472 percentage provided for the previous year. However, payment of
473 the installments shall not extend beyond the month in which a
474 retirement allowance is due and payable. Any additional amounts
475 approved by the board under subsection (2) of this section shall
476 be paid in one (1) lump sum payment to retirees and beneficiaries
477 in accordance with subsection (2) of this section.

478 SECTION 11. (1) Upon the death of any member who has
479 retired for service or disability and who has not elected any
480 other option under Section 12 of this act, the member's spouse
481 shall receive one-half (1/2) the benefit that the member was
482 receiving and each child not having attained the age of nineteen
483 (19) years shall receive one-fourth (1/4) of the member's benefit,
484 but not more than one-half (1/2) of the benefits shall be paid for
485 the support and maintenance of two (2) or more children. Upon
486 each child's attaining the age of nineteen (19) years, the child
487 shall no longer be eligible for the benefit, and when all of the
488 children have attained the age of nineteen (19) years, only the
489 spouse shall be eligible for one-half (1/2) of the amount of the
490 member's benefit. The spouse shall continue to be eligible for
491 the benefit in the amount of fifty percent (50%) of the member's

492 retirement benefit as long as the spouse may live or until
493 remarriage. Upon remarriage of the spouse at any time, the
494 spouse's eligibility for the fifty percent (50%) benefits shall
495 end, but the spouse will be eligible to continue to receive
496 benefits for their children until the last child attains the age
497 of nineteen (19) years.

498 (2) Upon the death of any member who has served the minimum
499 period required for eligibility for retirement, the member's
500 spouse and family shall receive all the benefits payable to the
501 member's beneficiaries as if the member had retired at the time of
502 death. Those benefits shall cease as to the spouse upon
503 remarriage but shall continue to be payable to each child until he
504 reaches the age of nineteen (19) years. The benefits are payable
505 on a monthly basis.

506 (3) The spouse and/or the dependent children of an active
507 member who is killed in the line of performance of duty or dies as
508 a direct result of an accident occurring in the line of
509 performance of duty shall qualify, on approval of the board, for a
510 retirement allowance on the first of the month following the date
511 of the member's death, but not before receipt of application by
512 the board. The spouse shall receive a retirement allowance equal
513 to one-half (1/2) of the average compensation of the deceased
514 member. In addition to the retirement allowance for the spouse,
515 or if there is no surviving spouse, a retirement allowance shall
516 be paid in the amount of one-fourth (1/4) of the average
517 compensation for the support and maintenance of one (1) child or
518 in the amount of one-half (1/2) of the average compensation for
519 the support and maintenance of two (2) or more children. Those
520 benefits shall cease to be paid for the support and maintenance of
521 each child upon the child attaining the age of nineteen (19)
522 years; however, the spouse shall continue to be eligible for the
523 retirement allowance provided for the spouse. Benefits may be
524 paid to a surviving parent or lawful custodian of the children for

525 the use and benefit of the children without the necessity of
526 appointment as guardian. That retirement allowance shall cease to
527 the spouse upon remarriage but continue to be payable for each
528 dependent child until the age of nineteen (19) years.

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

532 (5) Children receiving the benefits provided in this section
533 who are permanently or totally disabled shall continue to receive
534 the benefits for as long as the medical board or other designated
535 governmental agency certifies that the disability continues. The
536 age limitation for benefits payable to a child under any provision
537 of this section shall be extended beyond age nineteen (19), but in
538 no event beyond the attainment of age twenty-three (23), as long
539 as the child is a student regularly pursuing a full-time course of
540 resident study or training in an accredited high school, trade
541 school, technical or vocational institute, junior or community
542 college, college, university or comparable recognized educational
543 institution duly licensed by a state. A student child whose
544 birthday falls during the school year (September 1 through June
545 30) is considered not to reach age twenty-three (23) until the
546 July 1 following the actual twenty-third birthday. A full-time
547 course of resident study or training means a day or evening
548 noncorrespondence course that includes school attendance at the
549 rate of a least thirty-six (36) weeks, per academic year or other
550 applicable period with a subject load sufficient, if successfully
551 completed, to attain the educational or training objective within
552 the period generally accepted as minimum for completion, by a
553 full-time day student, of the academic or training program
554 concerned.

555 (6) If all the annuities provided for in this section
556 payable on the account of the death of a member terminate before
557 there has been paid an aggregate amount equal to the member's

558 accumulated contributions standing to the member's credit in the
559 annuity savings account at the time of the member's death, the
560 difference between the accumulated contributions and the aggregate
561 amount of annuity payments shall be paid to such person as the
562 member has nominated by written designation duly executed and
563 filed with the system. If there is no designated beneficiary
564 surviving at termination of benefits, the difference shall be
565 payable in the following statutory succession: spouse, children,
566 parents, estate.

567 (7) All benefits paid to a spouse or child due to the death
568 of a member before or after retirement shall be paid in accordance
569 with the statutory provisions set forth as of the date of death.

570 SECTION 12. (1) Upon application for superannuation or
571 disability retirement, any member may elect to receive his benefit
572 pursuant to the provisions of Sections 9 and 11 of this act or may
573 elect to receive his benefit in a retirement allowance payable
574 throughout life with no further payments to anyone at his death,
575 except that if his total retirement payments under this act do not
576 equal his total contributions under this act, his named
577 beneficiary shall receive the difference in cash at his death. As
578 an alternative, he may elect upon retirement, or upon becoming
579 eligible for retirement, to receive the actuarial equivalent,
580 subject to the provisions of subsection (4) of this section, of
581 his retirement allowance in a reduced retirement allowance payable
582 throughout life with the provision that:

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

588 **Option 2.** Upon his death, his reduced retirement allowance
589 shall be continued throughout the life of, and paid to, such
590 person as he has nominated by written designation duly

591 acknowledged and filed with the board at the time of his
592 retirement; or

593 **Option 3.** Upon his death, one half (1/2) of his reduced
594 retirement allowance shall be continued throughout the life of,
595 and paid to, such person as he has nominated by written
596 designation duly acknowledged and filed with the board at the time
597 of his retirement, and the other one half (1/2) of his reduced
598 retirement allowance to some other designated beneficiary; or

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

604 **Option 4-B.** A reduced retirement allowance shall be
605 continued throughout the life of the retirant, but with the
606 further guarantee of payments to the named beneficiary,
607 beneficiaries or to the estate for a specified number of years
608 certain. If the retired member or the last designated beneficiary
609 receiving annuity payments dies before receiving all guaranteed
610 payments due, the actuarial equivalent of the remaining payments
611 will be paid to the estate of the retired member as intestate
612 property.

613 **Option 4-C.** The retirement allowance otherwise payable may
614 be converted into a retirement allowance of equivalent actuarial
615 value in such an amount that, with the member's benefit under
616 Title II of the Federal Social Security Act, the member will
617 receive, so far as possible, approximately the same amount
618 annually before and after the earliest age at which the member
619 becomes eligible to receive a social security benefit.

620 (2) Any member in service who has qualified for retirement
621 benefits may select any optional method of settlement of
622 retirement benefits by notifying the executive director of the
623 system in writing, on a form prescribed by the board, of the

624 option he has selected and by naming the beneficiary of the option
625 and furnishing necessary proof of age. The option, once selected,
626 may be changed at any time before actual retirement or death, but
627 upon the death or retirement of the member, the optional
628 settlement shall be placed in effect upon proper notification to
629 the executive director.

630 (3) No change in the option selected shall be permitted
631 after the member's death or after the member has received his
632 first retirement check, except as provided in subsections (4) and
633 (5) of this section and in Section 17 of this act. If a member
634 retired on disability is returned to active service, the option
635 previously selected shall be null and void, and upon subsequent
636 retirement a new option may be selected by the member.

637 (4) Any retired member who is receiving a reduced retirement
638 allowance under Option 2 or Option 4-A whose designated
639 beneficiary predeceases him, or whose marriage to a spouse who is
640 his designated beneficiary is terminated by divorce or other
641 dissolution, may elect to cancel his reduced retirement allowance
642 and receive the maximum retirement allowance for life in an amount
643 equal to the amount that would have been payable if the member had
644 not elected Option 2 or Option 4-A. The election must be made in
645 writing to the office of the executive director of the system on a
646 form prescribed by the board. Any such election shall be
647 effective the first of the month following the date the election
648 is received by the system.

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

655 The election must be made in writing to the office of the
656 executive director of the system on a form prescribed by the board

657 not earlier than the date of the marriage. Any such election
658 shall be effective the first of the month following the date the
659 election is received by the system. The amount of the reduced
660 retirement allowance shall be the actuarial equivalent, taking
661 into account that the member received the maximum retirement
662 allowance or Option 1 retirement allowance for a period of time
663 before electing to receive a reduced retirement allowance.

664 (6) If the election of an optional benefit is made after the
665 member has attained the age of sixty-five (65) years, the
666 actuarial equivalent factor shall be used to compute the reduced
667 retirement allowance as if the election had been made on his
668 sixty-fifth birthday. However, if a retiree marries or remarries
669 after retirement, and elects either Option 2 or Option 4-A as
670 provided in subsection (5) of this section, the actuarial
671 equivalent factor used to compute the reduced retirement allowance
672 shall be the factor for the age of the retiree and his or her
673 beneficiary at the time that the election for recalculation of
674 benefits is made.

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

686 SECTION 13. (1) Except as otherwise provided in this
687 subsection for municipalities, all persons who are covered under
688 the terms of this act on July 1, 2000, and who become members of
689 the retirement system established by this act shall cease to be

690 members of the Public Employees' Retirement System under the
691 provisions of Section 25-11-101 et seq. upon July 1, 2000, and
692 shall become members of this retirement system with full credit
693 for all prior service performed before July 1, 2000, for which
694 contributions were made to the Public Employees' Retirement
695 System. All police officers and narcotics agents of
696 municipalities that have elected to include those persons in the
697 membership of the retirement system established by this act who
698 become members of this retirement system shall cease to be members
699 of the Public Employees' Retirement System under the provisions of
700 Section 25-11-101 et seq. upon the date that they become members
701 of this retirement system, and shall become members of this
702 retirement system with full credit for all prior service performed
703 before the date that they become members of this retirement system
704 for which contributions were made to the Public Employees'
705 Retirement System.

706 (2) In any case in which a law enforcement officer has been
707 a member of the Public Employees' Retirement System under Section
708 25-11-101 et seq. and has made contributions thereto, all
709 employee's contributions, plus interest credited thereto, inuring
710 to the credit of that person shall be transferred by the Public
711 Employees' Retirement System to the credit of the person in the
712 retirement system established by this act, and shall be considered
713 an asset to the credit of that person in this retirement system.

714 SECTION 14. If a member of the retirement system ceases to
715 work as a law enforcement officer for any reason other than
716 occupational disease contracted or for any accident sustained by
717 the member by reason of his service or discharge of his duties as
718 a law enforcement officer, and if the member is not eligible for
719 retirement either for service or disability, he shall be refunded
720 the amount of his total contributions under the provisions of this
721 act, including any credit transferred to his account in this
722 system from any other system, at his request, and if he dies

723 before retirement, those funds shall be refunded to any
724 beneficiary that he has named.

725 Under the Unemployment Compensation Amendments of 1992
726 (Public Law 102-218(UCA)), a member or eligible beneficiary
727 eligible for a refund under this section may elect on a form
728 prescribed by the board under rules and regulations established by
729 the board, to have an eligible roll over distribution of
730 accumulated contributions payable under this section paid directly
731 to an eligible retirement play or individual retirement account.
732 If the member or eligible beneficiary makes that election and
733 specifies the eligible retirement plan or individual retirement
734 account to which the distribution is to be paid, the distribution
735 will be made in the form of a direct trustee to trustee transfer
736 to the specified eligible retirement plan. Flexible roll overs
737 under this paragraph shall not be considered assignments under
738 Section 18 of this act.

739 If any member who receives a refund reenters service as a law
740 enforcement officer and again becomes a member of the system, he
741 may repay all amounts previously received by him as a refund,
742 together with regular interest covering the period from the date
743 of refund to the date of repayment; however, the amounts that are
744 repaid by the member and the creditable service related thereto
745 shall not be used in any benefit calculation or determination
746 until the member has remained a contributor to the system for a
747 period of at least five (5) years after such member's reentry into
748 service as a law enforcement officer. Repayment for that time
749 shall be made in increments of not less than one-quarter (1/4)
750 year of creditable service beginning with the most recent service
751 for which refund has been made. Upon the repayment of all or part
752 of that refund and interest, the member shall again receive credit
753 for the period of creditable service for which full repayment has
754 been made to the system.

755 SECTION 15. Subject to the rules adopted by the board, the

756 system shall accept an eligible roll over distribution or a direct
757 transfer of funds from another qualified plan in payment of all or
758 a portion of the cost to purchase optional service credit or to
759 reinstate previously withdrawn service credit as permitted by the
760 system. The system may only accept roll over payments in an
761 amount equal to or less than the balance due for purchase or
762 reinstatement of service credit. The rules adopted by the board
763 shall condition the acceptance of a roll over or transfer from
764 another qualified plan on the receipt from the other plan of
765 information necessary to enable the system to determine the
766 eligibility of any transferred funds for tax-free roll over
767 treatment or other treatment under federal income tax law.

768 SECTION 16. Regular interest shall be credited annually to
769 the mean amount of the employee reserve account for the preceding
770 year. This credit shall be made annually from interest and other
771 earnings on the invested assets of the system. Any additional
772 amount required to meet the regular interest on the funds of the
773 system shall be charged to the employer's accumulation account,
774 and any excess of earnings over the regular interest required
775 shall be credited to the employer's accumulation account. Regular
776 interest shall mean such percentage rate of interest compounded
777 annually as determined by the board on the basis of the interest
778 earnings of the system for the preceding year. Once that interest
779 is credited it shall be added to the sum of all amounts deducted
780 from the compensation of a member and shall be included in
781 determining his total contributions.

782 SECTION 17. Any member who has been retired under the
783 provisions of this act and who is later reemployed in service
784 covered by this act shall cease to receive benefits under this act
785 and shall become a contributing member of the retirement system
786 again. Upon retiring again, if the member's reemployment exceeds
787 six (6) months, he shall have his benefit recomputed, including
788 service after becoming a member again. However, the total

789 retirement allowance paid to the retired member in his previous
790 retirement shall be deducted from his retirement reserve and taken
791 into consideration in recalculating the retirement allowance under
792 a new option selected.

793 SECTION 18. The right of a person to an annuity, a
794 retirement allowance or benefit, or to the return of
795 contributions, or to any optional benefits or any other right
796 accrued or accruing to any person under the provisions of this
797 act, the system and the moneys in the system created by this act,
798 are exempt from any state, county or municipal ad valorem taxes,
799 income taxes, premium taxes, privilege taxes, property taxes,
800 sales and use taxes or other taxes not so named, notwithstanding
801 any other provision of law to the contrary, and exempt from levy
802 and sale, garnishment, attachment, or any other process
803 whatsoever, and shall be unassignable except as specifically
804 provided otherwise in this act.

805 SECTION 19. (1) The maintenance of actuarial reserves for
806 the various allowances and benefits under this act, and the
807 payment of all annuities, retirement allowances, refunds and other
808 benefits granted under this act are made obligation of the system.
809 All income, interest and dividends derived from deposits and
810 investments authorized by this act shall be used for the payment
811 of the obligations of the system.

812 (2) If the system is terminated, all members of the system
813 as of the date of termination of the system shall be deemed to
814 have a vested right to benefits to the extent and in the same
815 manner that rights would be vested under the laws existing as of
816 the date of termination of the system. However, any member who
817 has not fulfilled the requirements for length of service because
818 of a termination of the system shall be entitled to compensation
819 as of the date that the member would otherwise be eligible. That
820 compensation shall be computed on the basis of the time he was
821 actually a member of the system and the compensation he actually

822 earned during the time he was a member, in the manner provided by
823 this act.

824 If there is a deficit in the availability of funds for
825 payment due under the provisions of the system, an appropriation
826 shall be made that is sufficient for the payment thereof, as an
827 obligation of the State of Mississippi.

828 (3) Notwithstanding any provisions of this section or this
829 act to the contrary, the maximum annual retirement allowance
830 attributable to the employer contributions payable by the system
831 to a member shall be subject to the limitations set forth in
832 Section 415 of the Internal Revenue Code and any regulations
833 issued thereunder as applicable to governmental plans as that term
834 is defined under Section 414(d) of the Internal Revenue Code. If
835 a member is a participant in any qualified defined contribution
836 plan required to be taken into account for purposes of applying
837 the combined plan limitations contained in Section 415(e) of the
838 Internal Revenue Code, then for any year the sum of the defined
839 benefit plan fraction and the defined contribution plan fraction,
840 as those terms are defined in Section 415(e), shall not exceed one
841 (1.0). If for any year the foregoing combined plan limitation
842 would be exceeded, the benefit provided under this plan shall be
843 reduced to the extent necessary to meet that limitation.

844 (4) Notwithstanding any other provision of this plan, all
845 distributions from this plan shall conform to the regulations
846 issued under Section 401(a)(9) of the Internal Revenue Code,
847 applicable to governmental plans, as defined in Section 414(d) of
848 the Internal Revenue Code, including the incidental death benefit
849 provisions of Section 401(a)(9)(G) of the Internal Revenue Code.
850 Further, those regulations shall override any plan provision that
851 is inconsistent with Section 401(a)(9) of the Internal Revenue
852 Code.

853 (5) The actuarial assumptions used to convert a retirement
854 allowance from the normal form of payment to an optional form of

855 payment shall be an appendix to this act and subject to approval
856 by the board based upon certification by the actuary.

857 (6) Notwithstanding any other provision of this plan, the
858 maximum compensation that can be considered for all plan purposes
859 is One Hundred Fifty Thousand Dollars (\$150,000.00) per year,
860 adjusted annually to reflect changes in the cost of living to
861 conform to the regulations issued under Section 401(a)(17) of the
862 Internal Revenue Code.

863 SECTION 20. This act shall take effect and be in force from
864 and after July 1, 2000.