

By: Posey

To: Finance

SENATE BILL NO. 2504

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

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

8 SECTION 1. (1) A retirement system is 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 Officers'
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 nonrecurring 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 nongovernmental 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 Officers'
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, and shall receive to the credit of such
231 fund all donations, bequests, appropriations and all funds
232 available as employer's contributions thereto from any source
233 whatsoever.

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

237 (4) Beginning October 1, 2000, the employer shall cause to
238 be deducted from the salary of each member on each and every
239 payroll of such employer for each and every payroll period five
240 percent (5%) of earned compensation. Future contributions shall
241 be fixed biennially by the board on the basis of the liabilities
242 of the retirement system for the various allowances and benefits
243 as shown by actuarial valuation.

244 (5) Beginning October 1, 2000, on account of each member,
245 there shall be paid monthly into the fund for members by the
246 employer from funds available an amount equal to a certain
247 percentage of the compensation of each member to be known as the
248 "normal contributions," and an additional amount equal to the
249 percentage of his compensation to be known as the "accrued
250 liability contributions." The percentage rate of such

251 contributions shall be fixed by the board on the basis of the
252 liabilities of the system for the various allowances and benefits
253 as shown by the actuarial valuation. Until changed by the board,
254 the contribution rate shall be two percent (2%) of the earned
255 compensation of all members.

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

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

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

276 SECTION 8. (1) Upon application of a member or his
277 employer, an active member in service as a conservation officer
278 who has not attained the age of fifty-five (55) years may be

279 retired by the board after date of termination of employment as of
280 the date of filing such application, on a disability retirement
281 allowance, provided that the medical board, after a medical
282 examination, shall certify that he is mentally or physically
283 incapacitated for the performance of duty and that such incapacity
284 is likely to be permanent, and that such sickness or injury was
285 caused or sustained as a direct result of duty as a conservation
286 officer after the effective date of this act.

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

292 (3) Once each year during the first five (5) years following
293 retirement of a member on a disability retirement allowance, and
294 once in every period of three (3) years thereafter, the board may
295 require any disability beneficiary who has not yet attained the
296 age of fifty-five (55) years to undergo a medical examination,
297 such examination to be made at the place of residence of the
298 beneficiary or other place mutually agreed upon, by the medical
299 board. Should any disability beneficiary who has not yet attained
300 the age of fifty-five (55) years refuse to submit to any medical
301 examination provided for herein, the allowance may be discontinued
302 until the withdrawal of such refusal; and, should the refusal
303 continue for one (1) year, all rights in that part of the
304 disability benefit provided by employer contributions shall be
305 revoked.

306 (4) If the medical board reports and certifies to the board

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

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

322 SECTION 9. (1) Any member upon withdrawal from service,
323 upon or after attainment of the age of fifty-five (55) years, who
324 shall have completed at least five (5) years of creditable
325 service, or any member upon withdrawal from service upon or after
326 attainment of the age of forty-five (45) years, who shall have
327 completed at least twenty (20) years of creditable service, or any
328 member upon withdrawal from service, regardless of age, who shall
329 have completed at least twenty-five (25) years of creditable
330 service, shall be entitled to receive a retirement allowance which
331 shall be payable the first of the month following receipt of the
332 member's application in the Office of the Executive Director of
333 the Public Employees' Retirement System, but in no event before
334 withdrawal from service.

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

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

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

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

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

355 (d) In the case of retirement of any member prior to
356 attaining the age of fifty-five (55) years, the retirement
357 allowance shall be computed in accordance with the formula
358 hereinabove set forth in this section, except that the employer's
359 annuity and prior service annuity above described shall be reduced
360 three percent (3%) for each year of age below fifty-five (55)
361 years, or three percent (3%) for each year of service below
362 twenty-five (25) years of creditable service, whichever is lesser.

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

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

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

391 certified by the actuary and determined by the board.

392 (3) The percentages in this section shall be based on each
393 full fiscal year that the retired member or beneficiary has
394 actually drawn retirement payments from the date of retirement, or
395 the date of last retirement if there is more than one retirement
396 date.

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

407 SECTION 11. (1) Upon the death of any member who has
408 retired for service or disability and who has not elected any
409 other option under Section 12, his widow shall receive one-half
410 (1/2) the benefit which he was receiving and each child not having
411 attained his nineteenth birthday shall receive one-fourth (1/4) of
412 his benefit, but not more than one-half (1/2) of the benefits
413 shall be paid for the support and maintenance of two (2) or more
414 children. Upon each child's attaining the age of nineteen (19)
415 years, the child shall no longer be eligible for such benefit, and
416 when all of such children have attained their nineteenth birthday,
417 only the widow shall be eligible for one-half (1/2) the amount of
418 his benefit. She shall continue to be eligible for such benefit

419 in the amount of fifty percent (50%) of his retirement benefit so
420 long as she may live and until she remarries. In the event of her
421 remarriage at any time, her eligibility for the fifty percent
422 (50%) benefits shall cease and terminate, but she will be eligible
423 to continue to receive benefits for their children until the last
424 child attains his or her nineteenth birthday in the manner
425 aforesaid.

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

434 (3) The spouse and/or the dependent children of an active
435 member who is killed in the line of performance of duty or dies as
436 a direct result of an accident occurring in the line of
437 performance of duty shall qualify, on approval of the board, for a
438 retirement allowance on the first of the month following the date
439 of death, but not before receipt of application by the board. The
440 spouse shall receive a retirement allowance equal to one-half
441 (1/2) of the average compensation of the deceased member. In
442 addition to the retirement allowance for the spouse, or if there
443 is no surviving spouse, a retirement allowance shall be paid in
444 the amount of one-fourth (1/4) of the average compensation for the
445 support and maintenance of one (1) child or in the amount of
446 one-half (1/2) of the average compensation for the support and

447 maintenance of two (2) or more children. Such benefits shall
448 cease to be paid for the support and maintenance of each child
449 upon such child attaining the age of nineteen (19) years; however,
450 the spouse shall continue to be eligible for the aforesaid
451 retirement allowance. Benefits may be paid to a surviving parent
452 or lawful custodian of such children for the use and benefit of
453 the children without the necessity of appointment as guardian.
454 Such retirement allowance shall cease to be paid to the spouse
455 upon remarriage but continue to be payable for each dependent
456 child until the age of nineteen (19) years.

457 (4) All benefits accruing to any child under the provisions
458 of this act shall be paid to the parent custodian of such children
459 or the legal guardian.

460 (5) Children receiving the benefits provided herein, who are
461 permanently or totally disabled, shall continue to receive such
462 benefits for as long as the medical board or other designated
463 governmental agency certifies that such disability continues. The
464 age limitation for benefits payable to a child under any provision
465 of this section shall be extended beyond age nineteen (19), but in
466 no event beyond the attainment of age twenty-three (23), as long
467 as the child is a student regularly pursuing a full-time course of
468 resident study or training in an accredited high school, trade
469 school, technical or vocational institute, junior or community
470 college, college, university or comparable recognized educational
471 institution duly licensed by a state. A student child whose
472 birthday falls during the school year (September 1 through June
473 30) is considered not to reach age twenty-three (23) until the
474 July 1 following the actual twenty-third birthday. A full-time

475 course of resident study or training means a day or evening
476 noncorrespondence course that includes school attendance at the
477 rate of at least thirty-six (36) weeks per academic year or other
478 applicable period with a subject load sufficient, if successfully
479 completed, to attain the educational or training objective within
480 the period generally accepted as minimum for completion, by a
481 full-time day student, of the academic or training program
482 concerned.

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

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

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

503 acknowledged and filed with the board of trustees at the time of
504 his retirement;

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

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

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

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

531 becomes eligible to receive a social security benefit.

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

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

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

555 (4) For purposes of this section:

556 (a) "Beneficiary" means any person designated to
557 receive a retirement allowance, an annuity or other benefit as
558 provided by this act. Such designation shall be in writing filed

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

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

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

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

585 SECTION 14. (1) The maintenance of actuarial reserves for
586 the various allowances and benefits under this system, and the

587 payment of all annuities, retirement allowances, refunds and other
588 benefits granted hereunder are hereby made obligations of the
589 fund. All income, interest and dividends derived from deposits
590 and investments authorized by this act shall be used for the
591 payment of the obligations of the system.

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

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

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

615 Conservation Officers' Retirement System of Mississippi. The
616 difference between the member contributions required to transfer
617 the member to the Public Employees' Retirement System of
618 Mississippi shall be refunded to the member at the time of
619 transfer.

620 SECTION 16. No person who is being paid a retirement
621 allowance from this system shall serve or be paid for any service
622 as a conservation officer. Should any retired member under this
623 act return to service as a conservation officer, the retirement
624 allowance shall cease and the member shall become a contributing
625 member of the system and shall be credited with all creditable
626 service at the time of the previous withdrawal of service on a
627 retirement allowance. The retirement allowance payable upon
628 subsequent retirement shall be based on the total creditable
629 service rendered before and after return to service. The total
630 retirement allowance paid to the retired member in his previous
631 retirement shall be deducted from his retirement reserve and taken
632 into consideration in recalculating the retirement allowance.

633 SECTION 17. Any person or corporation who shall receive and
634 retain any payment after the death of a member or after the death
635 of the beneficiary of any member, which amount is not lawfully
636 due, shall be liable for the repayment of such amount to the
637 system plus interest thereon at ten percent (10%) per annum plus
638 all costs of collection. Any person who shall knowingly make any
639 false statement or shall falsify or permit to be falsified any
640 record or records of the system in any attempt to defraud such
641 system as a result of such act shall be guilty of a misdemeanor if
642 the amount obtained or attempted to be obtained does not exceed

643 the amount of Five Hundred Dollars (\$500.00), and, upon conviction
644 thereof by any court of competent jurisdiction, shall be punished
645 by a fine not exceeding Five Hundred Dollars (\$500.00) or
646 imprisonment in the county jail not exceeding six (6) months, or
647 both; if such amount obtained or attempted to be obtained shall
648 exceed the sum of Five Hundred Dollars (\$500.00), such person or
649 persons shall be guilty of a felony and, upon conviction thereof
650 by any court of competent jurisdiction, shall be punished by a
651 fine not exceeding Ten Thousand Dollars (\$10,000.00) or by
652 commitment to the custody of the State Department of Corrections
653 for not more than five (5) years, or both.

654 Should any change or error in the records result in any
655 member or beneficiary receiving from the retirement system more or
656 less than he would have been entitled to receive had the records
657 been correct, the board of trustees shall correct such error and,
658 as far as practicable, adjust the payment in such a manner that
659 the actuarial equivalent of the benefit to which such member or
660 beneficiary was correctly entitled shall be paid.

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

671 cash salary of the member, or by an offset against a future salary
672 increase, or by a combination of a reduction in salary and offset
673 against a future salary increase. The member contributions so
674 withheld shall be treated for all purposes in the same manner and
675 to the same extent as member contributions.

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

678 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

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

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

687 (b) All persons who shall become employees in the state
688 service after January 31, 1953, except those specifically excluded
689 or as to whom election is provided in Articles 1 and 3, unless
690 they shall file with the board prior to the lapse of sixty (60)
691 days of employment or sixty (60) days after the effective date of
692 the cited articles, whichever is later, on a form prescribed by
693 the board, a notice of election not to be covered by the
694 membership of the retirement system and a duly executed waiver of
695 all present and prospective benefits which would otherwise inure
696 to them on account of their participation in the system, shall
697 become members of the retirement system; provided, however, that
698 no credit for prior service will be granted to members until they

699 have contributed to Article 3 of the retirement system for a
700 minimum period of at least four (4) years. Such members shall
701 receive credit for services performed prior to January 1, 1953, in
702 employment now covered by Article 3, but no credit shall be
703 granted for retroactive services between January 1, 1953, and the
704 date of their entry into the retirement system unless the employee
705 pays into the retirement system both the employer's and the
706 employee's contributions on wages paid him during the period from
707 January 31, 1953, to the date of his becoming a contributing
708 member, together with interest at the rate determined by the board
709 of trustees. Members reentering after withdrawal from service
710 shall qualify for prior service under the provisions of Section
711 25-11-117. From and after July 1, 1998, upon eligibility as noted
712 above, the member may receive credit for such retroactive service
713 provided:

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

717 (2) The member shall pay to the retirement system
718 on the date he or she is eligible for such credit or at any time
719 thereafter prior to the date of retirement the actuarial cost for
720 each year of such creditable service. The provisions of this
721 subparagraph (2) shall be subject to the limitations of Section
722 415 of the Internal Revenue Code and regulations promulgated
723 thereunder.

724 Nothing contained in this paragraph (b) shall be construed to
725 limit the authority of the board to allow the correction of
726 reporting errors or omissions based on the payment of the employee

727 and employer contributions plus applicable interest.

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

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

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

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

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

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

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

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

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

783 time to time require;

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

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

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

808 C. Every political subdivision or
809 instrumentality required to make payments under subsection (f)(5)B
810 hereof is authorized, in consideration of the employees' retention

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

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

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

839 of administering Articles 1 and 3 as provided by regulations of
840 said board.

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

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

853 (i) In the event any member of this system should
854 change his employment to any agency of the state having an
855 actuarially funded retirement system, the board of trustees may
856 authorize the transfer of the member's creditable service and of
857 the present value of the member's employer's accumulation account
858 and of the present value of the member's accumulated membership
859 contributions to such other system, provided the employee agrees
860 to the transfer of his accumulated membership contributions and
861 provided such other system is authorized to receive and agrees to
862 make such transfer.

863 In the event any member of any other actuarially funded
864 system maintained by an agency of the state changes his employment
865 to an agency covered by this system, the board of trustees may
866 authorize the receipt of the transfer of the member's creditable

867 service and of the present value of the member's employer's
868 accumulation account and of the present value of the member's
869 accumulated membership contributions from such other system,
870 provided the employee agrees to the transfer of his accumulated
871 membership contributions to this system and provided the other
872 system is authorized and agrees to make such transfer.

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

882 (k) Employees of a political subdivision or
883 instrumentality who were employed by such political subdivision or
884 instrumentality prior to an agreement between such entity and the
885 Public Employees' Retirement System to extend the benefits of this
886 article to its employees, and which agreement provides for the
887 establishment of retroactive service credit, and who have been
888 members of the retirement system and have remained contributors to
889 the retirement system for four (4) years, may receive credit for
890 such retroactive service with such political subdivision or
891 instrumentality, provided the employee and/or employer, as
892 provided under the terms of the modification of the joinder
893 agreement in allowing such coverage, pay into the retirement
894 system the employer's and employee's contributions on wages paid

895 the member during such previous employment, together with interest
896 or actuarial cost as determined by the board covering the period
897 from the date the service was rendered until the payment for the
898 credit for such service was made. Such wages shall be verified by
899 the Social Security Administration or employer payroll records.
900 Effective July 1, 1998, upon eligibility as noted above, a member
901 may receive credit for such retroactive service with such
902 political subdivision or instrumentality provided:

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

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

915 Nothing contained in this paragraph (k) shall be construed to
916 limit the authority of the board to allow the correction of
917 reporting errors or omissions based on the payment of employee and
918 employer contributions plus applicable interest. Payment for such
919 time shall be made in increments of not less than one-quarter
920 (1/4) year of creditable service beginning with the most recent
921 service. Upon the payment of all or part of such required
922 contributions, plus interest or the actuarial cost as provided

923 above, the member shall receive credit for the period of
924 creditable service for which full payment has been made to the
925 retirement system.

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

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

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

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

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

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

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

951 **III. TERMINATION OF MEMBERSHIP**

952 Membership in this system shall cease by a member withdrawing
953 his accumulated contributions, or by a member withdrawing from
954 active service with a retirement allowance, or by a member's
955 death.

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