

By: Representative McBride

To: Appropriations

HOUSE BILL NO. 12

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

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

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

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

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

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

28 (b) "Actuarial equivalent" means a benefit of equal  
29 value to the accumulated contributions, annuity or benefit, as the



30 case may be, when computed upon the basis of such mortality tables  
31 as shall be adopted by the board of trustees, and regular  
32 interest.

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

141           SECTION 4. (1) All conservation officers who are in the  
142 full-time employment of the Department of Wildlife, Fisheries and  
143 Parks on July 1, 2001, shall become members of the system as of  
144 that date; except that, within fifteen (15) days from that date,  
145 any such conservation officer may irrevocably elect in writing to  
146 the board not to be a member of the system.

147           (2) Membership in the system shall include all service in  
148 the position of conservation officer, and any funds contributed by  
149 a member to the Public Employees' Retirement System of Mississippi  
150 before July 1, 2001, shall be transferred to the member's credit  
151 in this system.

152           (3) All conservation officers employed on or after July 1,  
153 2001, shall become members of the system as a condition of their  
154 employment if the conservation officer is under the age of sixty  
155 (60) years at the time of that employment.

156           SECTION 5. (1) Under such rules and regulations as the  
157 board may adopt, each person who becomes a member of this system  
158 shall receive credit for prior service rendered before July 1,  
159 2001. To receive that credit, the member shall file a detailed



160 certificate of all service rendered by the member before July 1,  
161 2001.

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

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

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

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

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

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

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



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

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

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

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



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

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

231 (4) Beginning July 1, 2001, the employer shall cause to be  
232 deducted from the salary of each member on each and every payroll  
233 of the employer for each and every payroll period seven and  
234 one-fourth percent (7-1/4%) of earned compensation. Future  
235 contributions shall be fixed biennially by the board on the basis  
236 of the liabilities of the retirement system for the various  
237 allowances and benefits as shown by actuarial valuation.

238 (5) Beginning July 1, 2001, on account of each member, there  
239 shall be paid monthly into the fund for members by the employer  
240 from funds available an amount equal to a certain percentage of  
241 the compensation of each member to be known as the "normal  
242 contributions," and an additional amount equal to the percentage  
243 of his compensation to be known as the "accrued liability  
244 contributions." The percentage rate of those contributions shall  
245 be fixed by the board on the basis of the liabilities of the  
246 system for the various allowances and benefits as shown by the  
247 actuarial valuation. Until changed by the board, the contribution  
248 rate shall be nine and three-fourths percent (9-3/4%) of the  
249 earned compensation of all members.

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

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





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

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

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

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

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



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

299 (4) If the medical board reports and certifies to the board  
300 that the disability beneficiary is engaged in, or is able to  
301 engage in, a gainful occupation paying more than the difference  
302 between the disability benefit and the earned compensation, and if  
303 the board concurs in the report, the disability benefit shall be  
304 reduced to the amount which, together with the amount earnable,  
305 equals the amount of earned compensation. If the earning capacity  
306 is later changed, the amount of the benefit may be further  
307 modified; however, the revised benefit shall not exceed the amount  
308 originally granted or an amount which, when added to the amount  
309 earnable by the beneficiary, equals the amount of earned  
310 compensation.

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

315 SECTION 9. (1) Any member upon withdrawal from service,  
316 upon or after attainment of the age of fifty-five (55) years who  
317 has completed at least four (4) years of creditable service, or  
318 any member upon withdrawal from service upon or after attainment  
319 of the age of forty-five (45) years who has completed at least  
320 twenty (20) years of creditable service, or any member upon  
321 withdrawal from service regardless of age who has completed at  
322 least twenty-five (25) years of creditable service, shall be  
323 entitled to receive a retirement allowance that shall be payable  
324 the first of the month following receipt of the member's



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

328 (2) Any member whose withdrawal from service occurs before  
329 attaining the age of fifty-five (55) years, who has completed more  
330 than four (4) years of creditable service and has not received a  
331 refund of the member's accumulated contributions, shall be  
332 entitled to receive a retirement allowance beginning upon his  
333 attaining the age of fifty-five (55) years of the amount earned  
334 and accrued at the date of withdrawal from service.

335 (3) The annual amount of the retirement allowance shall  
336 consist of:

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

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

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

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

356 (4) Upon retiring from service, a member shall be eligible  
357 to obtain retirement benefits, as computed above, for life, except



358 that the aggregate amount of the employer's annuity and prior  
359 service annuity above described shall not exceed more than one  
360 hundred percent (100%) of the average compensation regardless of  
361 the years of service.

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

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

385       (3) The percentages in this section shall be based on each  
386 full fiscal year that the retired member or beneficiary has  
387 actually drawn retirement payments from the date of retirement.

388       (4) Persons eligible to receive the payments provided in  
389 this section shall receive the payments in one (1) additional  
390 payment, except that the person may elect by an irrevocable



391 agreement on a form prescribed by the board of trustees to receive  
392 the payments in not less than equal monthly installments not to  
393 exceed six (6) months during the remaining months of the current  
394 fiscal year. In the event of death of a person or a beneficiary  
395 thereof receiving monthly benefits, any remaining amounts shall be  
396 paid in a lump sum to the designated beneficiary.

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

417       (2) Upon the death of any member who has served the minimum  
418 retirement period required for eligibility for a retirement  
419 allowance, the member's surviving spouse and family shall receive  
420 all the benefits payable to the member's beneficiaries as if the  
421 member had retired at the time of his or her death. Those  
422 benefits cease as to the spouse upon remarriage but continue to be



423 payable to each child until the child reaches the age of nineteen  
424 (19) years. The benefits are payable on a monthly basis.

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

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

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



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

475       SECTION 12. (1) Upon application for superannuation or  
476 disability retirement, any member may elect to receive his benefit  
477 under the provisions of Section 8 or 9 or may elect to receive his  
478 benefit in a retirement allowance payable throughout life with no  
479 further payments to anyone at his death, except that if his total  
480 retirement payments under this act do not equal his total  
481 contributions under this act, his named beneficiary shall receive  
482 the difference in cash at his death. Alternatively, the member  
483 may elect, upon retirement or upon becoming eligible for  
484 retirement, to receive the actuarial equivalent of his retirement  
485 allowance in a reduced retirement allowance payable throughout  
486 life with the provision that:

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



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

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

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

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

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

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





522 receive, so far as possible, approximately the same amount  
523 annually before and after the earliest age at which the member  
524 becomes eligible to receive a Social Security benefit; or

525       **Option 6.** Any member who is eligible to retire with an  
526 unreduced benefit may select the maximum retirement benefit or an  
527 optional benefit as provided in this subsection together with a  
528 partial lump sum distribution. The amount of the lump sum  
529 distribution under this option shall be equal to the maximum  
530 monthly benefit multiplied by twelve (12), twenty-four (24) or  
531 thirty-six (36) as selected by the member. The maximum retirement  
532 benefit shall be actuarially reduced to reflect the amount of the  
533 lump sum distribution selected and further reduced for any other  
534 optional benefit selected. The annuity and lump sum distribution  
535 shall be computed to result in no actuarial loss to the system.  
536 The lump sum distribution shall be made as a single payment  
537 payable at the time the first monthly annuity payment is paid to  
538 the retiree. The amount of the lump sum distribution shall be  
539 deducted from the member's annuity savings account in computing  
540 what contributions remain at the death of the retiree and/or a  
541 beneficiary. The lump sum distribution option may be elected only  
542 once by a member upon initial retirement, and may not be elected  
543 by a retiree, by members applying for a disability retirement  
544 annuity, by survivors or by a member selecting Option 4-C.

545       (2) No change in the option selected shall be permitted  
546 after the member's death or after the member has received his  
547 first retirement check. If a member retired on disability is  
548 returned to active service, the option previously selected shall  
549 be null and void. Upon subsequent retirement a new option may be  
550 selected.

551       (3) Any member in service who has qualified for retirement  
552 benefits may select any optional method of settlement of  
553 retirement benefits by notifying the Executive Director of the  
554 Board of Trustees of the Public Employees' Retirement System in



555 writing, on a form prescribed by the board, of the option he has  
556 selected and by naming the beneficiary of the option and  
557 furnishing necessary proof of age. That option, once selected,  
558 may be changed at any time before actual retirement or death, but  
559 upon the death or retirement of the member, the optional  
560 settlement shall be placed in effect upon proper notification to  
561 the executive director.

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

574       SECTION 14. (1) The maintenance of actuarial reserves for  
575 the various allowances and benefits under this system, and the  
576 payment of all annuities, retirement allowances, refunds and other  
577 benefits granted under this act are made obligations of the fund.  
578 All income, interest and dividends derived from deposits and  
579 investments authorized by this act shall be used for the payment  
580 of the obligations of the system.

581       (2) If the system is terminated, all members of the system  
582 as of the date of termination of the system shall be deemed to  
583 have a vested right to benefits to the extent and in the same  
584 manner that rights would be vested under the laws existing as of  
585 the date of termination of the system; except that any member who,  
586 because of a termination of the system has not fulfilled the  
587 requirements for length of service, shall be entitled to



588 compensation as of the date that the member would otherwise be  
589 eligible, with the compensation to be computed on the basis of  
590 time actually a member of the system and compensation actually  
591 earned during the time as a member, in the manner now provided by  
592 law.

593 (3) If there is a deficit in the availability of funds for  
594 payment due under the provisions of the system, an appropriation  
595 shall be made sufficient for the payment of the deficit as an  
596 obligation of the State of Mississippi.

597 SECTION 15. In case a member of this system withdraws from  
598 service and does not have at least four (4) years of creditable  
599 service and the member becomes a member of the Public Employees'  
600 Retirement System of Mississippi, the required amount of employer  
601 and member contributions plus interest as determined by the board  
602 may be transferred to the Public Employees' Retirement System of  
603 Mississippi to receive creditable service for service in the  
604 Conservation Officers' Retirement System of Mississippi. The  
605 difference between the member contributions required to transfer  
606 the member to the Public Employees' Retirement System of  
607 Mississippi shall be refunded to the member at the time of  
608 transfer.

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



620 retirement shall be deducted from his retirement reserve and taken  
621 into consideration in recalculating the retirement allowance.

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

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

650       SECTION 18. Each employer shall withhold the member  
651 contributions required from all compensation earned and the  
652 contributions so withheld shall be treated as employer



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

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

667 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

668 The membership of this retirement system shall be composed as  
669 follows:

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

676 (b) All persons who shall become employees in the state  
677 service after January 31, 1953, except those specifically excluded  
678 or as to whom election is provided in Articles 1 and 3, unless  
679 they shall file with the board prior to the lapse of sixty (60)  
680 days of employment or sixty (60) days after the effective date of  
681 the cited articles, whichever is later, on a form prescribed by  
682 the board, a notice of election not to be covered by the  
683 membership of the retirement system and a duly executed waiver of  
684 all present and prospective benefits which would otherwise inure  
685 to them on account of their participation in the system, shall



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

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

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

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

717 (c) All persons who shall become employees in the state  
718 service after January 31, 1953, and who are eligible for



719 membership in any other retirement system shall become members of  
720 this retirement system as a condition of their employment unless  
721 they elect at the time of their employment to become a member of  
722 such other system.

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

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

740           (f) Each political subdivision of the state and each  
741 instrumentality of the state or a political subdivision, or both,  
742 is hereby authorized to submit, for approval by the board of  
743 trustees, a plan for extending the benefits of this article to  
744 employees of any such political subdivision or instrumentality.  
745 Each such plan or any amendment to the plan for extending benefits  
746 thereof shall be approved by the board of trustees if it finds  
747 that such plan, or such plan as amended, is in conformity with  
748 such requirements as are provided in Articles 1 and 3; however,  
749 upon approval of such plan or any such plan heretofore approved by  
750 the board of trustees, the approved plan shall not be subject to  
751 cancellation or termination by the political subdivision or



752 instrumentality, except that any community hospital serving a  
753 municipality that joined the Public Employees' Retirement System  
754 as of November 1, 1956, to offer social security coverage for its  
755 employees and subsequently extended retirement annuity coverage to  
756 its employees as of December 1, 1965, may, upon documentation of  
757 extreme financial hardship, have future retirement annuity  
758 coverage cancelled or terminated at the discretion of the board of  
759 trustees. No such plan shall be approved unless:

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

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

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

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

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





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

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

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

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



817 such contribution shall not relieve the employee or employer of  
818 liability thereof.

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

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

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

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



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

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

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

878 (k) Employees of a political subdivision or  
879 instrumentality who were employed by such political subdivision or  
880 instrumentality prior to an agreement between such entity and the  
881 Public Employees' Retirement System to extend the benefits of this



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

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

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

911 Nothing contained in this paragraph (k) shall be construed to  
912 limit the authority of the board to allow the correction of  
913 reporting errors or omissions based on the payment of employee and  
914 employer contributions plus applicable interest. Payment for such



915 time shall be made in increments of not less than one-quarter  
916 (1/4) year of creditable service beginning with the most recent  
917 service. Upon the payment of all or part of such required  
918 contributions, plus interest or the actuarial cost as provided  
919 above, the member shall receive credit for the period of  
920 creditable service for which full payment has been made to the  
921 retirement system.

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

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

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

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

939 (a) Patient or inmate help in state charitable, penal  
940 or correctional institutions;

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

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

947 **III. TERMINATION OF MEMBERSHIP**



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

952           SECTION 20. This act shall take effect and be in force from  
953 and after July 1, 2001.

