HOUSE BILL NO. 292

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

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

SECTION 1. There is established and placed under the management of the Board of Trustees of the Public Employees' Retirement System a retirement system for the purpose of providing retirement allowances and other benefits under the provisions of this act for law enforcement officers and their beneficiaries. This retirement system shall be known as the "Law Enforcement Officers' Retirement System." The retirement system shall go into operation on July 1, 2001, when contributions by members shall begin and benefits shall become payable. This retirement system is designed to supplement and is in addition to the provisions of Section 25-11-1 et seq. Under the terms of this act, law enforcement officers shall retain all social security benefits under Article I of the Public Employees' Retirement Law of 1952 but shall not be eligible for benefits under Article III of that law. This act is a substitute for and in lieu of Article III of that law, and is designed to provide more liberal benefits for law enforcement officers by reason of the dangerous nature of and special risk involved in their employment.

SECTION 2. (1) For the purposes of this act, the definitions in Section 25-11-5 and Section 25-11-103 shall apply unless a different meaning is plainly expressed by the context.
(2) As used in this act:
   (a) "Board" means the Board of Trustees of the Public Employees' Retirement System.
   (b) "Law enforcement officer" means municipal police officers and narcotics agents, sheriffs, deputy sheriffs, constables, conservation officers, enforcement officers of the Department of Marine Resources, agents and inspectors of the Alcoholic Beverage Control Division of the State Tax Commission, inspection station employees and field inspectors of the Mississippi Department of Transportation, state correctional facility guards and enforcement officers of the Department of Corrections, enforcement officers of the Public Service Commission, and any other full-time officer or employee of the state or any agency, department, institution or county thereof who is authorized to carry a firearm while in the performance of his official duties and who has met the minimum educational and training standards established by the Board on Law Enforcement Officer Standards and Training for permanent, full-time law enforcement officers and has received a certificate from that board.
   (c) "Member" means any person included in the membership of the system as provided in Section 4 of this act.
   (d) "System" means the Law Enforcement Officers' Retirement System established by Section 1 of this act.

SECTION 3. (1) The general administration and responsibility for the proper operation of the system and for making the provisions of this act effective are vested in the Board of Trustees of the Public Employees' Retirement System.
(2) The board shall invest all funds of the system in accordance with Section 25-11-121.
(3) The board shall designate an actuary who shall be the technical advisor of the board on matters regarding the operation
of the system and shall perform such other duties as are required
in connection with the system.

(4) At least once in each two-year period following July 1, 2001, the actuary shall make an actuarial investigation into the mortality, service, withdrawal and compensation experience of the members and beneficiaries of the system, and shall make a valuation of the assets and liabilities of the system. Taking into account the result of the investigation and valuation, the board shall adopt for the retirement system such mortality, service, and other tables as shall be deemed necessary. On the basis of those tables that the board adopts, the actuary shall make biennial valuations of the assets and liabilities of the funds of the system.

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

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

(7) Subject to the limitations of this act, the board from time to time shall establish rules and regulations for the administration of the system and for the transaction of business.

(8) The board shall keep a record of all its proceedings under this act. All books, accounts and records shall be kept in the general office of the Public Employees' Retirement System and shall be public records except for individual member records. The Public Employees' Retirement System shall not disclose the name, address or contents of any individual member records without the prior written consent of the individual to whom the record pertains.
(9) The Executive Director of the Public Employees' Retirement System shall serve as the executive director of this system.

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

(a) All duly elected or appointed police officers and narcotics agents in the full-time employment of a municipality who are actually engaged in the enforcement of the laws of this state and the municipality, except police officers and narcotic agents who are members of any retirement system created under Section 21-29-101 et seq. or Section 21-29-201 et seq., but not auxiliary officers or officers who are engaged only in administrative or civil duties.

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

(c) All duly elected constables.

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

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

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

(g) All duly appointed or employed inspection station employees, field inspectors and railroad inspectors of the...
Mississippi Department of Transportation who are actually engaged in the enforcement of the laws specified in Section 27-5-71 or other laws of this state administered and enforced by the Department of Transportation.

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

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

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

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

(3) All law enforcement officers eligible for membership in the system as provided in this section who are serving in that capacity on July 1, 2001, shall become members of the system on that date, unless they file with the board before August 1, 2001, on a form prescribed by the board, a notice of election not to be covered in the membership of the system and a duly executed waiver of all present and prospective benefits that otherwise would inure to them on account of their membership in the system.
(4) All law enforcement officers eligible for membership in
the system as provided in this section who are elected or
appointed after June 30, 2001, shall become members of the system
as a condition of their office or employment.

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

SECTION 5. (1) Creditable service on which a member's
service or disability retirement benefit is based shall consist of
prior service and membership service. Except as otherwise
provided for municipalities in this subsection, prior service
means service performed before July 1, 2001, for which
contributions were made to the Public Employees' Retirement
System, and membership service means all service for which credit
may be allowed under this act after June 30, 2001, and all
lawfully credited unused leave as of the date of withdrawal from
service, as certified by the employer.

(2) Notwithstanding anything in this act to the contrary, in
calculating the period of service of a member of the system, any
member who served on active duty in the Armed Forces of the United
States, or who served in maritime service during periods of
hostility in World War II, shall be entitled to creditable service
for his service on active duty in the Armed Forces or in such
maritime service, provided he entered state service after his
discharge from the Armed Forces or entered state service after he
completed such maritime service. The maximum period for
creditable service for all military service shall not exceed four
(4) years unless positive proof can be furnished by the person
that he was retained in the Armed Forces during World War II or in
maritime service during World War II by causes beyond his control
and without opportunity of discharge. The member shall furnish
proof satisfactory to the board of certification of military
service or maritime service records showing dates of entrance into
service and the date of discharge. No creditable service shall be
granted for any military service or maritime service to a member
who qualifies for a retirement allowance in another public
retirement system administered by the board based in whole or in
part on that military or maritime service. In no case shall the
member receive creditable service if the member received a
dishonorable discharge from the Armed Forces of the United States.

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

(2) The employers shall deduct each month from the salary of
each member seven and one-fourth percent (7-1/4%) of earned
compensation, and shall pay the amount so deducted to the board to
be credited to the system. Notwithstanding the employee
contribution rates specified in this subsection, the board may
vary the percentage of employee contribution biennially on the
basis of the liabilities of the system for the various allowances
and benefits as shown by actuarial valuation. From the funds
credited to this account, the board shall pay retirements,
disability benefits, survivors' benefits, expenses and shall
refund contributions as provided in this act. The funds of the
system shall be maintained as a separate fund, separate from all
other funds held by the board and shall be used only for the
payment of benefits provided for by this act or amendments to this
act.

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

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

SECTION 7. Each employer shall withhold the member contributions required by Section 6 of this act from all compensation earned after June 30, 2001, and the contributions so withheld shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and Mississippi Income Tax Code. These contributions shall not be included as gross income of the member until such time as they are distributed or made available. The employer shall pay these member contributions from the same source of funds that is used in paying earnings to the member. The employer may withhold member contributions by a reduction in the cash salary of the member, or by an offset against a future salary increase, or by a combination of a reduction in salary and offset against a future salary increase. The member contributions so withheld shall be treated for all purposes in the same manner and to the same extent as member contributions.

SECTION 8. (1) Upon application of a member or his employer, any active member who has not attained the age of fifty-five (55) years may be retired by the board, not less than thirty (30) and not more than ninety (90) days next following the date of filing the application, on a disability retirement allowance, if the medical board of the Public Employees' Retirement System or other designated governmental agency, after a medical examination, certifies that he is mentally or physically incapacitated for the performance of duty, that the incapacity is likely to be permanent, and that the sickness or injury was caused
or sustained as a direct result of duty as a law enforcement

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

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

(3) Once each year during the first five (5) years following
retirement of a member on a disability retirement allowance, and
once in every period of three (3) years thereafter, the board may,
and upon his application shall, require any disability retiree who
has not yet attained the age of fifty-five (55) years to undergo a
medical examination. The examination shall be made at the place
of residence of the retiree or other place mutually agreed upon by
the medical board or other designated governmental agency. If any
disability retiree who has not yet attained the age of fifty-five
(55) years refuses to submit to any medical examination provided
for in this subsection, his allowance may be discontinued until
his withdrawal of his refusal, and if his refusal continues for
one (1) year, all his rights in that part of the disability
benefit provided by employer contributions shall be revoked by the
board.
(4) If the medical board or other designated governmental agency reports and certifies to the board, after a comparable job analysis or other similar study, that the disability retiree is engaged in, or is able to engage in, a gainful occupation paying more than the difference between his disability benefit and his average compensation, and if the board concurs in the report, the disability benefit shall be reduced to an amount that, together with the amount earnable by him, equals the amount of his average compensation. If his earning capacity is later changed, the amount of the benefit may be further modified, but the revised benefit shall not exceed the amount originally granted or an amount that, when added to the amount earnable by the retiree, together with the member's annuity, equals the amount of his average compensation.

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

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

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

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

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

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

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

(d) In the case of retirement of any member before
attaining the age of fifty-five (55) years, the retirement
allowance shall be computed in accordance with the formula set
forth above in this section, except that the employer's annuity
and prior service annuity shall be reduced by three percent (3%)
for each year of age below fifty-five (55) years, or three percent
(3%) for each year of service below twenty-five (25) years of
credible service, whichever is lesser.
(e) Upon retiring for service, a member shall be eligible to obtain retirement benefits, as computed above, for life, except that the aggregate amount of the employer's annuity and prior service annuity shall not exceed more than one hundred percent (100%) of the average compensation regardless of the years of service.

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

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

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

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

(4) If a retiree who is receiving a retirement allowance that will terminate upon the retiree's death is receiving the...
additional payments under this section in one (1) payment and dies on or after July 1 but before December 1, the beneficiary designated on the retirement application shall receive in a single payment a fractional part of the additional payments based on the number of months in which a retirement allowance was received during the fiscal year. If there is no surviving beneficiary, payment shall be made according to Section 15(1). Any similar remaining payments of additional benefit payable under this section to a deceased beneficiary who was receiving a monthly benefit shall be payable according to Section 15(2).

(5) Persons eligible to receive the payments provided in this section shall receive the payments in one (1) additional payment, except that the person may elect by an irrevocable agreement on a form prescribed by the board to receive the payments in not less than equal monthly installments not to exceed six (6) months during the remaining months of the current fiscal year. In the event of death of a retiree receiving monthly benefits, any remaining amounts shall be paid in a lump sum to the beneficiary designated on the retirement application, or if none, according to Section 15(1). Any similar remaining payments of additional benefit payable under this section to a deceased beneficiary who was receiving a monthly benefit shall be payable according to Section 15(2).

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

SECTION 11. (1) Upon the death of any member who has retired for service or disability and who has not elected any other option under Section 12 of this act, the member's spouse shall receive one-half (1/2) the benefit that the member was receiving and each child not having attained the age of nineteen (19) years shall receive one-fourth (1/4) of the member's benefit, but not more than one-half (1/2) of the benefits shall be paid for the support and maintenance of two (2) or more children. Upon each child's attaining the age of nineteen (19) years, the child shall no longer be eligible for the benefit, and when all of the children have attained the age of nineteen (19) years, only the spouse shall be eligible for one-half (1/2) of the amount of the member's benefit. The spouse shall continue to be eligible for the benefit in the amount of fifty percent (50%) of the member's retirement benefit as long as the spouse may live or until remarriage. Upon remarriage of the spouse at any time, the spouse's eligibility for the fifty percent (50%) benefits shall end, but the spouse will be eligible to continue to receive benefits for their children until the last child attains the age of nineteen (19) years.

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

(3) The spouse and/or the dependent children of an active member who is killed in the line of performance of duty or dies as a direct result of an accident occurring in the line of performance of duty shall qualify, on approval of the board, for a retirement allowance on the first of the month following the date of the member's death, but not before receipt of application by the board. The spouse shall receive a retirement allowance equal to one-half (1/2) of the average compensation of the deceased member. In addition to the retirement allowance for the spouse, or if there is no surviving spouse, a retirement allowance shall be paid in the amount of one-fourth (1/4) of the average compensation for the support and maintenance of one (1) child or in the amount of one-half (1/2) of the average compensation for the support and maintenance of two (2) or more children. Those benefits shall cease to be paid for the support and maintenance of each child upon the child attaining the age of nineteen (19) years; however, the spouse shall continue to be eligible for the retirement allowance provided for the spouse. Benefits may be paid to a surviving parent or lawful custodian of the children for the use and benefit of the children without the necessity of appointment as guardian. That retirement allowance shall cease to the spouse upon remarriage but continue to be payable for each dependent child until the age of nineteen (19) years.

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

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

(6) If all the annuities provided for in this section payable on the account of the death of a member terminate before there has been paid an aggregate amount equal to the member's accumulated contributions standing to the member's credit in the annuity savings account at the time of the member's death, the difference between the accumulated contributions and the aggregate amount of annuity payments shall be paid to such person as the member has nominated by written designation duly executed and filed with the system. If there is no designated beneficiary surviving at termination of benefits, the difference shall be payable according to Section 15(1).

(7) All benefits paid to a spouse or child due to the death of a member before or after retirement shall be paid in accordance with the statutory provisions existing on the date of death.
SECTION 12. (1) Upon application for superannuation or disability retirement, any member may elect to receive his benefit under the provisions of Section 8 or 9 of this act, or he may elect, upon retirement or upon becoming eligible for retirement, to receive the actuarial equivalent, subject to the provisions of subsection (4) of this section, of his retirement allowance in a reduced retirement allowance payable throughout life with the provision that:

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

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

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

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

Option 4-B. A reduced retirement allowance shall be continued throughout the life of the retirant, but with the further guarantee of payments to the named beneficiary, beneficiaries or to the estate for a specified number of years.
certain. If the retired member or the last designated beneficiary receiving annuity payments dies before receiving all guaranteed payments due, the actuarial equivalent of the remaining payments shall be paid according to Section 15(1); or

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

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

(2) Any member in service who has qualified for retirement benefits may select any optional method of settlement of
retirement benefits by notifying the executive director of the system in writing, on a form prescribed by the board, of the option he has selected and by naming the beneficiary of the option and furnishing necessary proof of age. The option, once selected, may be changed at any time before actual retirement or death, but upon the death or retirement of the member, the optional settlement shall be placed in effect upon proper notification to the executive director.

(3) No change in the option selected shall be permitted after the member's death or after the member has received his first retirement check, except as provided in subsections (4) and (5) of this section and in Section 18 of this act. If a member retired on disability is returned to active service, the option previously selected shall be null and void, and upon subsequent retirement a new option may be selected by the member.

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

(5) Any retired member who is receiving the maximum retirement allowance for life, or a retirement allowance under Option 1, and who marries after his retirement may elect to cancel his maximum retirement allowance or Option 1 retirement allowance and receive a reduced retirement allowance under Option 2 or Option 4-A to provide continuing lifetime benefits to his spouse.
The election must be made in writing to the office of the executive director of the system on a form prescribed by the board not earlier than the date of the marriage. Any such election shall be effective the first of the month following the date the election is received by the system. The amount of the reduced retirement allowance shall be the actuarial equivalent, taking into account that the member received the maximum retirement allowance or Option 1 retirement allowance for a period of time before electing to receive a reduced retirement allowance.

(6) If a retiree and his eligible beneficiary, if any, both die before they have received in annuity payments a total amount equal to the accumulated contributions standing to the retirant's credit in the annuity savings account at the time of his retirement, the difference between the accumulated contributions and the total amount of annuities received by them shall be paid to such persons as the retirant has nominated by written designation duly executed and filed in the office of the executive director. If no designated person survives the retirant and his beneficiary, the difference, if any, shall be paid according to Section 15(1).

SECTION 13. (1) Except as otherwise provided in this subsection for municipalities, all persons who are covered under the terms of this act on July 1, 2001, and who become members of the retirement system established by this act shall cease to be members of the Public Employees' Retirement System under the provisions of Section 25-11-101 et seq. upon July 1, 2001, and shall become members of this retirement system with full credit for all prior service performed before July 1, 2001, for which contributions were made to the Public Employees' Retirement System.

(2) For each law enforcement officer who has been a member of the Public Employees' Retirement System under Section 25-11-101 et seq. and has made contributions thereto, all employee's
contributions and interest to the credit of that person shall be transferred by the Public Employees' Retirement System to the credit of the person in the retirement system established by this act, and shall be considered an asset to the credit of that person in this retirement system.

**SECTION 14.** If a member of the retirement system ceases to work as a law enforcement officer for any reason other than occupational disease contracted or for any accident sustained by the member by reason of his service or discharge of his duties as a law enforcement officer, and if the member is not eligible for retirement either for service or disability, he shall be refunded the amount of his total contributions under the provisions of this act, including any credit transferred to his account in this system from any other system, at his request, and if he dies before retirement, those funds shall be refunded to any beneficiary that he has named. If there is no surviving designated beneficiary, the contributions to the credit of the deceased member shall be refunded according to Section 15(1).

Under the Unemployment Compensation Amendments of 1992 (Public Law 102-218(UCA)), a member or eligible beneficiary eligible for a refund under this section may elect on a form prescribed by the board under rules and regulations established by the board, to have an eligible roll over distribution of accumulated contributions payable under this section paid directly to an eligible retirement plan or individual retirement account. If the member or eligible beneficiary makes that election and specifies the eligible retirement plan or individual retirement account to which the distribution is to be paid, the distribution will be made in the form of a direct trustee to trustee transfer to the specified eligible retirement plan. Flexible roll overs under this paragraph shall not be considered assignments under Section 19 of this act.
If any member who receives a refund reenters service as a law enforcement officer and again becomes a member of the system, he may repay all amounts previously received by him as a refund, together with regular interest covering the period from the date of refund to the date of repayment; however, the amounts that are repaid by the member and the creditable service related thereto shall not be used in any benefit calculation or determination until the member has remained a contributor to the system for a period of at least four (4) years after such member’s reentry into service as a law enforcement officer. Repayment for that time shall be made in increments of not less than one-quarter (1/4) year of creditable service beginning with the most recent service for which refund has been made. Upon the repayment of all or part of that refund and interest, the member shall again receive credit for the period of creditable service for which full repayment has been made to the system.

SECTION 15. (1) Except as otherwise provided in subsection (2) of this section, where benefits are payable to a designated beneficiary or beneficiaries under this article and the designated beneficiary or beneficiaries as provided by the member on the most recent form filed with the system are deceased or otherwise disqualified at the time such benefits become payable, the following persons, in descending order of precedence, shall be eligible to receive such benefits:

(a) The surviving spouse of the member or retiree;
(b) The children of the member or retiree or their descendants, per stirpes;
(c) The brothers and sisters of the member or retiree or their descendants, per stirpes;
(d) The parents of the member or retiree;
(e) The executor or administrator on behalf of the member or retiree’s estate;
(f) The persons entitled by law to distribution of the member or retiree’s estate.

(2) Any monthly benefits payable to a beneficiary who dies before cashing his or her final check(s) and/or any additional benefits payable under Section 10 of this act still payable at the death of a beneficiary receiving monthly benefits shall be paid as follows:

(a) The surviving spouse of the beneficiary;
(b) The children of the beneficiary or their descendants, per stirpes;
(c) The brothers and sisters of the beneficiary or their descendants, per stirpes;
(d) The parents of the beneficiary;
(e) The executor or administrator on behalf of the beneficiary’s estate;
(f) The persons entitled by law to distribution of the beneficiary’s estate.

(3) If no claim is made by any individual listed in subsection (2) of this section, a distribution may be made under the provisions of subsection (1) of this section.

(4) Payment under the provisions of this section shall bar recovery by any other person of the benefits distributed. Payment of benefits made to one or more members of a class of individuals are made on behalf of all members of the class. Any members of the class coming forward after payment is made must look to those who received the payment.

SECTION 16. Subject to the rules adopted by the board, the system shall accept an eligible roll over distribution or a direct transfer of funds from another qualified plan in payment of all or a portion of the cost to purchase optional service credit or to reinstate previously withdrawn service credit as permitted by the system. The system may only accept roll over payments in an amount equal to or less than the balance due for purchase or
reinstatement of service credit. The rules adopted by the board shall condition the acceptance of a roll over or transfer from another qualified plan on the receipt from the other plan of information necessary to enable the system to determine the eligibility of any transferred funds for tax-free roll over treatment or other treatment under federal income tax law.

SECTION 17. Regular interest shall be credited annually to the mean amount of the employee reserve account for the preceding year. This credit shall be made annually from interest and other earnings on the invested assets of the system. Any additional amount required to meet the regular interest on the funds of the system shall be charged to the employer's accumulation account, and any excess of earnings over the regular interest required shall be credited to the employer's accumulation account. Regular interest shall mean such percentage rate of interest compounded annually as determined by the board on the basis of the interest earnings of the system for the preceding year. Once that interest is credited it shall be added to the sum of all amounts deducted from the compensation of a member and shall be included in determining his total contributions.

SECTION 18. No person who is being paid a retirement allowance under this act shall serve as or be paid for any service as a law enforcement officer. Any member who has been retired under this act and who is later elected, appointed or employed as a law enforcement officer shall cease to receive benefits under this act and shall become a contributing member of the retirement system again. Upon retiring again, if the member's reemployment exceeds six (6) months, he shall have his benefit recomputed, including service after becoming a member again. However, the total retirement allowance paid to the retired member in his previous retirement shall be deducted from his retirement reserve and taken into consideration in recalculating the retirement allowance under a new option selected.
SECTION 19. The right of a person to an annuity, a
retirement allowance or benefit, or to the return of
contributions, or to any optional benefits or any other right
accrued or accruing to any person under the provisions of this
act, the system and the moneys in the system created by this act,
are exempt from any state, county or municipal ad valorem taxes,
income taxes, premium taxes, privilege taxes, property taxes,
sales and use taxes or other taxes not so named, notwithstanding
any other provision of law to the contrary, and exempt from levy
and sale, garnishment, attachment, or any other process
whatsoever, and shall be unassignable except as specifically
provided otherwise in this act.

SECTION 20. (1) The maintenance of actuarial reserves for
the various allowances and benefits under this act, and the
payment of all annuities, retirement allowances, refunds and other
benefits granted under this act are made obligation of the system.
All income, interest and dividends derived from deposits and
investments authorized by this act shall be used for the payment
of the obligations of the system.

(2) If the system is terminated, all members of the system
as of the date of termination of the system shall be deemed to
have a vested right to benefits to the extent and in the same
manner that rights would be vested under the laws existing as of
the date of termination of the system. However, any member who
has not fulfilled the requirements for length of service because
of a termination of the system shall be entitled to compensation
as of the date that the member would otherwise be eligible. That
compensation shall be computed on the basis of the time he was
actually a member of the system and the compensation he actually
earned during the time he was a member, in the manner provided by
this act.

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

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

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

(5) The actuarial assumptions used to convert a retirement allowance from the normal form of payment to an optional form of payment shall be an appendix to this act and subject to approval by the board based upon certification by the actuary.

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

SECTION 21. This act shall take effect and be in force from and after July 1, 2001.