

By: Representative Mayo

To: Appropriations

HOUSE BILL NO. 294

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

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

10 SECTION 1. There is established and placed under the  
 11 management of the Board of Trustees of the Public Employees'  
 12 Retirement System a retirement system for the purpose of providing  
 13 retirement allowances and other benefits under the provisions of  
 14 this act for municipal and county law enforcement officers and  
 15 their beneficiaries. This retirement system shall be known as the  
 16 "Municipal and County Law Enforcement Officers' Retirement  
 17 System." The retirement system shall go into operation on July 1,  
 18 2001, when contributions by members shall begin and benefits shall  
 19 become payable. This retirement system is designed to supplement  
 20 and is in addition to the provisions of Section 25-11-1 et seq.  
 21 Under the terms of this act, municipal and county law enforcement  
 22 officers shall retain all social security benefits under Article I  
 23 of the Public Employees' Retirement Law of 1952 but shall not be  
 24 eligible for benefits under Article III of that law. This act is  
 25 a substitute for and in lieu of Article III of that law, and is  
 26 designed to provide more liberal benefits for municipal and county  
 27 law enforcement officers by reason of the dangerous nature of and  
 28 special risk involved in their employment.



29           SECTION 2. (1) For the purposes of this act, the  
30 definitions in Section 25-11-5 and Section 25-11-103 shall apply  
31 unless a different meaning is plainly expressed by the context.

32           (2) As used in this act:

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

35                   (b) "Municipal and county law enforcement officer"  
36 means municipal police officers and narcotics agents, sheriffs and  
37 deputy sheriffs.

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

40                   (d) "System" means the Municipal and County Law  
41 Enforcement Officers' Retirement System established by Section 1  
42 of this act.

43           SECTION 3. (1) The general administration and  
44 responsibility for the proper operation of the system and for  
45 making the provisions of this act effective are vested in the  
46 Board of Trustees of the Public Employees' Retirement System.

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

49           (3) The board shall designate an actuary who shall be the  
50 technical advisor of the board on matters regarding the operation  
51 of the system and shall perform such other duties as are required  
52 in connection with the system.

53           (4) At least once in each two-year period following July 1,  
54 2001, the actuary shall make an actuarial investigation into the  
55 mortality, service, withdrawal and compensation experience of the  
56 members and beneficiaries of the system, and shall make a  
57 valuation of the assets and liabilities of the system. Taking  
58 into account the result of the investigation and valuation, the  
59 board shall adopt for the retirement system such mortality,  
60 service, and other tables as shall be deemed necessary. On the  
61 basis of those tables that the board adopts, the actuary shall



62 make biennial valuations of the assets and liabilities of the  
63 funds of the system.

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

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

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

74 (8) The board shall keep a record of all its proceedings  
75 under this act. All books, accounts and records shall be kept in  
76 the general office of the Public Employees' Retirement System and  
77 shall be public records except for individual member records. The  
78 Public Employees' Retirement System shall not disclose the name,  
79 address or contents of any individual member records without the  
80 prior written consent of the individual to whom the record  
81 pertains.

82 (9) The Executive Director of the Public Employees'  
83 Retirement System shall serve as the executive director of this  
84 system.

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

87 (a) All duly elected or appointed police officers and  
88 narcotics agents in the full-time employment of a municipality who  
89 are actually engaged in the enforcement of the laws of this state  
90 and the municipality, except police officers and narcotic agents  
91 who are members of any retirement system created under Section  
92 21-29-101 et seq. or Section 21-29-201 et seq., but not auxiliary  
93 officers or officers who are engaged only in administrative or  
94 civil duties.



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

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

102           (3) All municipal and county law enforcement officers  
103 eligible for membership in the system as provided in this section  
104 who are serving in that capacity on July 1, 2001, shall become  
105 members of the system on that date, unless they file with the  
106 board before August 1, 2001, on a form prescribed by the board, a  
107 notice of election not to be covered in the membership of the  
108 system and a duly executed waiver of all present and prospective  
109 benefits that otherwise would inure to them on account of their  
110 membership in the system.

111           (4) All municipal and county law enforcement officers  
112 eligible for membership in the system as provided in this section  
113 who are elected or appointed after June 30, 2001, shall become  
114 members of the system as a condition of their office or  
115 employment.

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

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



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

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

155           (2) The employers shall deduct each month from the salary of  
156 each member seven and one-fourth percent (7-1/4%) of earned  
157 compensation, and shall pay the amount so deducted to the board to  
158 be credited to the system. Notwithstanding the employee  
159 contribution rates specified in this subsection, the board may  
160 vary the percentage of employee contribution biennially on the



161 basis of the liabilities of the system for the various allowances  
162 and benefits as shown by actuarial valuation. From the funds  
163 credited to this account, the board shall pay retirements,  
164 disability benefits, survivors' benefits, expenses and shall  
165 refund contributions as provided in this act. The funds of the  
166 system shall be maintained as a separate fund, separate from all  
167 other funds held by the board and shall be used only for the  
168 payment of benefits provided for by this act or amendments to this  
169 act.

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

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

183 SECTION 7. Each employer shall withhold the member  
184 contributions required by Section 6 of this act from all  
185 compensation earned after June 30, 2001, and the contributions so  
186 withheld shall be treated as employer contributions in determining  
187 tax treatment under the United States Internal Revenue Code and  
188 Mississippi Income Tax Code. These contributions shall not be  
189 included as gross income of the member until such time as they are  
190 distributed or made available. The employer shall pay these  
191 member contributions from the same source of funds that is used in  
192 paying earnings to the member. The employer may withhold member  
193 contributions by a reduction in the cash salary of the member, or



194 by an offset against a future salary increase, or by a combination  
195 of a reduction in salary and offset against a future salary  
196 increase. The member contributions so withheld shall be treated  
197 for all purposes in the same manner and to the same extent as  
198 member contributions.

199 SECTION 8. (1) Upon application of a member or his  
200 employer, any active member who has not attained the age of  
201 fifty-five (55) years may be retired by the board, not less than  
202 thirty (30) and not more than ninety (90) days next following the  
203 date of filing the application, on a disability retirement  
204 allowance, if the medical board of the Public Employees'  
205 Retirement System or other designated governmental agency, after a  
206 medical examination, certifies that he is mentally or physically  
207 incapacitated for the performance of duty, that the incapacity is  
208 likely to be permanent, and that the sickness or injury was caused  
209 or sustained as a direct result of duty as a municipal or county  
210 law enforcement officer after June 30, 2001.

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

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



227           (3) Once each year during the first five (5) years following  
228 retirement of a member on a disability retirement allowance, and  
229 once in every period of three (3) years thereafter, the board may,  
230 and upon his application shall, require any disability retiree who  
231 has not yet attained the age of fifty-five (55) years to undergo a  
232 medical examination. The examination shall be made at the place  
233 of residence of the retiree or other place mutually agreed upon by  
234 the medical board or other designated governmental agency. If any  
235 disability retiree who has not yet attained the age of fifty-five  
236 (55) years refuses to submit to any medical examination provided  
237 for in this subsection, his allowance may be discontinued until  
238 his withdrawal of his refusal, and if his refusal continues for  
239 one (1) year, all his rights in that part of the disability  
240 benefit provided by employer contributions shall be revoked by the  
241 board.

242           (4) If the medical board or other designated governmental  
243 agency reports and certifies to the board, after a comparable job  
244 analysis or other similar study, that the disability retiree is  
245 engaged in, or is able to engage in, a gainful occupation paying  
246 more than the difference between his disability benefit and his  
247 average compensation, and if the board concurs in the report, the  
248 disability benefit shall be reduced to an amount that, together  
249 with the amount earnable by him, equals the amount of his average  
250 compensation. If his earning capacity is later changed, the  
251 amount of the benefit may be further modified, but the revised  
252 benefit shall not exceed the amount originally granted or an  
253 amount that, when added to the amount earnable by the retiree,  
254 together with the member's annuity, equals the amount of his  
255 average compensation.

256           (5) If a disability retiree under the age of fifty-five (55)  
257 years is restored to active service at a compensation not less  
258 than his average compensation, his disability benefit shall cease,  
259 he shall again become a member of the retirement system, and he



260 shall contribute thereafter at the same rate he paid before  
261 disability. Any such prior service certificate on the basis of  
262 which his service was computed at the time of retirement shall be  
263 restored to full force and effect. In addition, upon his  
264 subsequent retirement he shall be credited with all creditable  
265 service as a member, including the period for which he was paid  
266 disability benefits.

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

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

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

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



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

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

299 (d) In the case of retirement of any member before  
300 attaining the age of fifty-five (55) years, the retirement  
301 allowance shall be computed in accordance with the formula set  
302 forth above in this section, except that the employer's annuity  
303 and prior service annuity shall be reduced by three percent (3%)  
304 for each year of age below fifty-five (55) years, or three percent  
305 (3%) for each year of service below twenty-five (25) years of  
306 creditable service, whichever is lesser.

307 (e) Upon retiring for service, a member shall be  
308 eligible to obtain retirement benefits, as computed above, for  
309 life, except that the aggregate amount of the employer's annuity  
310 and prior service annuity shall not exceed more than one hundred  
311 percent (100%) of the average compensation regardless of the years  
312 of service.

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

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

322 (2) Retired members who on December 1 of each year are  
323 receiving a retirement allowance for service or disability  
324 retirement, or their beneficiaries, may receive, in addition to



325 the cumulative percentage provided in subsection (1) of this  
326 section, a payment as determined by the board, calculated in  
327 increments of one-quarter of one percent ( $1/4$  of 1%), not to  
328 exceed one and one-half percent ( $1-1/2\%$ ) of the annual retirement  
329 allowance, for each full fiscal year of retirement, but any such  
330 payment shall be contingent upon the reserve for annuities in  
331 force for retired members and beneficiaries providing sufficient  
332 investment gains in excess of the accrued actuarial liabilities  
333 for the previous fiscal year as certified by the actuary and  
334 determined by the board.

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

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

350 (5) Persons eligible to receive the payments provided in  
351 this section shall receive the payments in one (1) additional  
352 payment, except that the person may elect by an irrevocable  
353 agreement on a form prescribed by the board to receive the  
354 payments in not less than equal monthly installments not to exceed  
355 six (6) months during the remaining months of the current fiscal  
356 year. In the event of death of a retiree receiving monthly  
357 benefits, any remaining amounts shall be paid in a lump sum to the



358 beneficiary designated on the retirement application, or if none,  
359 according to Section 15(1). Any similar remaining payments of  
360 additional benefit payable under this section to a deceased  
361 beneficiary who was receiving a monthly benefit shall be payable  
362 according to Section 15(2).

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

380 SECTION 11. (1) Upon the death of any member who has  
381 retired for service or disability and who has not elected any  
382 other option under Section 12 of this act, the member's spouse  
383 shall receive one-half (1/2) the benefit that the member was  
384 receiving and each child not having attained the age of nineteen  
385 (19) years shall receive one-fourth (1/4) of the member's benefit,  
386 but not more than one-half (1/2) of the benefits shall be paid for  
387 the support and maintenance of two (2) or more children. Upon  
388 each child's attaining the age of nineteen (19) years, the child  
389 shall no longer be eligible for the benefit, and when all of the  
390 children have attained the age of nineteen (19) years, only the



391 spouse shall be eligible for one-half (1/2) of the amount of the  
392 member's benefit. The spouse shall continue to be eligible for  
393 the benefit in the amount of fifty percent (50%) of the member's  
394 retirement benefit as long as the spouse may live or until  
395 remarriage. Upon remarriage of the spouse at any time, the  
396 spouse's eligibility for the fifty percent (50%) benefits shall  
397 end, but the spouse will be eligible to continue to receive  
398 benefits for their children until the last child attains the age  
399 of nineteen (19) years.

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

408 (3) The spouse and/or the dependent children of an active  
409 member who is killed in the line of performance of duty or dies as  
410 a direct result of an accident occurring in the line of  
411 performance of duty shall qualify, on approval of the board, for a  
412 retirement allowance on the first of the month following the date  
413 of the member's death, but not before receipt of application by  
414 the board. The spouse shall receive a retirement allowance equal  
415 to one-half (1/2) of the average compensation of the deceased  
416 member. In addition to the retirement allowance for the spouse,  
417 or if there is no surviving spouse, a retirement allowance shall  
418 be paid in the amount of one-fourth (1/4) of the average  
419 compensation for the support and maintenance of one (1) child or  
420 in the amount of one-half (1/2) of the average compensation for  
421 the support and maintenance of two (2) or more children. Those  
422 benefits shall cease to be paid for the support and maintenance of  
423 each child upon the child attaining the age of nineteen (19)



424 years; however, the spouse shall continue to be eligible for the  
425 retirement allowance provided for the spouse. Benefits may be  
426 paid to a surviving parent or lawful custodian of the children for  
427 the use and benefit of the children without the necessity of  
428 appointment as guardian. That retirement allowance shall cease to  
429 the spouse upon remarriage but continue to be payable for each  
430 dependent child until the age of nineteen (19) years.

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

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



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

468 (7) All benefits paid to a spouse or child due to the death  
469 of a member before or after retirement shall be paid in accordance  
470 with the statutory provisions existing on the date of death.

471 SECTION 12. (1) Upon application for superannuation or  
472 disability retirement, any member may elect to receive his benefit  
473 under the provisions of Section 8 or 9 of this act, or he may  
474 elect, upon retirement or upon becoming eligible for retirement,  
475 to receive the actuarial equivalent, subject to the provisions of  
476 subsection (4) of this section, of his retirement allowance in a  
477 reduced retirement allowance payable throughout life with the  
478 provision that:

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

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



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

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

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

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

515           **Option 6.** Any member who is eligible to retire with an  
516 unreduced benefit may select the maximum retirement benefit or an  
517 optional benefit as provided in this subsection together with a  
518 partial lump sum distribution. The amount of the lump sum  
519 distribution under this option shall be equal to the maximum  
520 monthly benefit multiplied by twelve (12), twenty-four (24) or  
521 thirty-six (36) as selected by the member. The maximum retirement



522 benefit shall be actuarially reduced to reflect the amount of the  
523 lump sum distribution selected and further reduced for any other  
524 optional benefit selected. The annuity and lump sum distribution  
525 shall be computed to result in no actuarial loss to the system.  
526 The lump sum distribution shall be made as a single payment  
527 payable at the time the first monthly annuity payment is paid to  
528 the retiree. The amount of the lump sum distribution shall be  
529 deducted from the member's annuity savings account in computing  
530 what contributions remain at the death of the retiree and/or a  
531 beneficiary. The lump sum distribution option may be elected only  
532 once by a member upon initial retirement, and may not be elected  
533 by a retiree, by members applying for a disability retirement  
534 annuity, by survivors or by a member selecting Option 4-C.

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

545 (3) 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, except as provided in subsections (4) and  
548 (5) of this section and in Section 18 of this act. If a member  
549 retired on disability is returned to active service, the option  
550 previously selected shall be null and void, and upon subsequent  
551 retirement a new option may be selected by the member.

552 (4) Any retired member who is receiving a reduced retirement  
553 allowance under Option 2 or Option 4-A whose designated  
554 beneficiary predeceases him, or whose marriage to a spouse who is



555 his designated beneficiary is terminated by divorce or other  
556 dissolution, may elect to cancel his reduced retirement allowance  
557 and receive the maximum retirement allowance for life in an amount  
558 equal to the amount that would have been payable if the member had  
559 not elected Option 2 or Option 4-A. The election must be made in  
560 writing to the office of the executive director of the system on a  
561 form prescribed by the board. Any such election shall be  
562 effective the first of the month following the date the election  
563 is received by the system.

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

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



588 beneficiary, the difference, if any, shall be paid according to  
589 Section 15(1).

590       SECTION 13. (1) All persons who are covered under the terms  
591 of this act on July 1, 2001, and who become members of the  
592 retirement system established by this act shall cease to be  
593 members of the Public Employees' Retirement System under the  
594 provisions of Section 25-11-101 et seq. upon July 1, 2001, and  
595 shall become members of this retirement system with full credit  
596 for all prior service performed before July 1, 2001, for which  
597 contributions were made to the Public Employees' Retirement  
598 System.

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

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



621 Under the Unemployment Compensation Amendments of 1992  
622 (Public Law 102-218(UCA)), a member or eligible beneficiary  
623 eligible for a refund under this section may elect on a form  
624 prescribed by the board under rules and regulations established by  
625 the board, to have an eligible roll over distribution of  
626 accumulated contributions payable under this section paid directly  
627 to an eligible retirement plan or individual retirement account.  
628 If the member or eligible beneficiary makes that election and  
629 specifies the eligible retirement plan or individual retirement  
630 account to which the distribution is to be paid, the distribution  
631 will be made in the form of a direct trustee to trustee transfer  
632 to the specified eligible retirement plan. Flexible roll overs  
633 under this paragraph shall not be considered assignments under  
634 Section 19 of this act.

635 If any member who receives a refund reenters service as a  
636 municipal or county law enforcement officer and again becomes a  
637 member of the system, he may repay all amounts previously received  
638 by him as a refund, together with regular interest covering the  
639 period from the date of refund to the date of repayment; however,  
640 the amounts that are repaid by the member and the creditable  
641 service related thereto shall not be used in any benefit  
642 calculation or determination until the member has remained a  
643 contributor to the system for a period of at least four (4) years  
644 after such member's reentry into service as a municipal or county  
645 law enforcement officer. Repayment for that time shall be made in  
646 increments of not less than one-quarter (1/4) year of creditable  
647 service beginning with the most recent service for which refund  
648 has been made. Upon the repayment of all or part of that refund  
649 and interest, the member shall again receive credit for the period  
650 of creditable service for which full repayment has been made to  
651 the system.

652 SECTION 15. (1) Except as otherwise provided in subsection  
653 (2) of this section, where benefits are payable to a designated



654 beneficiary or beneficiaries under this article and the designated  
655 beneficiary or beneficiaries as provided by the member on the most  
656 recent form filed with the system are deceased or otherwise  
657 disqualified at the time such benefits become payable, the  
658 following persons, in descending order of precedence, shall be  
659 eligible to receive such benefits:

660 (a) The surviving spouse of the member or retiree;

661 (b) The children of the member or retiree or their  
662 descendants, per stirpes;

663 (c) The brothers and sisters of the member or retiree  
664 or their descendants, per stirpes;

665 (d) The parents of the member or retiree;

666 (e) The executor or administrator on behalf of the  
667 member or retiree's estate;

668 (f) The persons entitled by law to distribution of the  
669 member or retiree's estate.

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

675 (a) The surviving spouse of the beneficiary;

676 (b) The children of the beneficiary or their  
677 descendants, per stirpes;

678 (c) The brothers and sisters of the beneficiary or  
679 their descendants, per stirpes;

680 (d) The parents of the beneficiary;

681 (e) The executor or administrator on behalf of the  
682 beneficiary's estate;

683 (f) The persons entitled by law to distribution of the  
684 beneficiary's estate.



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

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

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

707           SECTION 17. Regular interest shall be credited annually to  
708 the mean amount of the employee reserve account for the preceding  
709 year. This credit shall be made annually from interest and other  
710 earnings on the invested assets of the system. Any additional  
711 amount required to meet the regular interest on the funds of the  
712 system shall be charged to the employer's accumulation account,  
713 and any excess of earnings over the regular interest required  
714 shall be credited to the employer's accumulation account. Regular  
715 interest shall mean such percentage rate of interest compounded  
716 annually as determined by the board on the basis of the interest  
717 earnings of the system for the preceding year. Once that interest



718 is credited it shall be added to the sum of all amounts deducted  
719 from the compensation of a member and shall be included in  
720 determining his total contributions.

721 SECTION 18. No person who is being paid a retirement  
722 allowance under this act shall serve or be paid for any service as  
723 a municipal or county law enforcement officer. Any member who has  
724 been retired under this act and who is later elected or appointed  
725 as a municipal or county law enforcement officer shall cease to  
726 receive benefits under this act and shall become a contributing  
727 member of the retirement system again. Upon retiring again, if  
728 the member's reemployment exceeds six (6) months, he shall have  
729 his benefit recomputed, including service after becoming a member  
730 again. However, the total retirement allowance paid to the  
731 retired member in his previous retirement shall be deducted from  
732 his retirement reserve and taken into consideration in  
733 recalculating the retirement allowance under a new option  
734 selected.

735 SECTION 19. The right of a person to an annuity, a  
736 retirement allowance or benefit, or to the return of  
737 contributions, or to any optional benefits or any other right  
738 accrued or accruing to any person under the provisions of this  
739 act, the system and the moneys in the system created by this act,  
740 are exempt from any state, county or municipal ad valorem taxes,  
741 income taxes, premium taxes, privilege taxes, property taxes,  
742 sales and use taxes or other taxes not so named, notwithstanding  
743 any other provision of law to the contrary, and exempt from levy  
744 and sale, garnishment, attachment, or any other process  
745 whatsoever, and shall be unassignable except as specifically  
746 provided otherwise in this act.

747 SECTION 20. (1) The maintenance of actuarial reserves for  
748 the various allowances and benefits under this act, and the  
749 payment of all annuities, retirement allowances, refunds and other  
750 benefits granted under this act are made obligation of the system.



751 All income, interest and dividends derived from deposits and  
752 investments authorized by this act shall be used for the payment  
753 of the obligations of the system.

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

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

770 (3) Notwithstanding any provisions of this section or this  
771 act to the contrary, the maximum annual retirement allowance  
772 attributable to the employer contributions payable by the system  
773 to a member shall be subject to the limitations set forth in  
774 Section 415 of the Internal Revenue Code and any regulations  
775 issued thereunder as applicable to governmental plans as that term  
776 is defined under Section 414(d) of the Internal Revenue Code. If  
777 a member is a participant in any qualified defined contribution  
778 plan required to be taken into account for purposes of applying  
779 the combined plan limitations contained in Section 415(e) of the  
780 Internal Revenue Code, then for any year the sum of the defined  
781 benefit plan fraction and the defined contribution plan fraction,  
782 as those terms are defined in Section 415(e), shall not exceed one  
783 (1.0). If for any year the foregoing combined plan limitation



784 would be exceeded, the benefit provided under this plan shall be  
785 reduced to the extent necessary to meet that limitation.

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

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

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

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

