

By: Representative Janus

To: Appropriations

HOUSE BILL NO. 489

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

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

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

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



31 (2) As used in this act:

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

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

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

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

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

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

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



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

65 (4) At least once in each two-year period following July 1,
66 2001, the actuary shall make an actuarial investigation into the
67 mortality, service, withdrawal and compensation experience of the
68 members and beneficiaries of the system, and shall make a
69 valuation of the assets and liabilities of the system. Taking
70 into account the result of the investigation and valuation, the
71 board shall adopt for the retirement system such mortality,
72 service, and other tables as shall be deemed necessary. On the
73 basis of those tables that the board adopts, the actuary shall
74 make biennial valuations of the assets and liabilities of the
75 funds of the system.

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

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

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

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



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

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

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

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

114 (c) All duly elected constables.

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

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

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



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

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

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

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

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

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



160 Section 21-29-201 et seq., by adopting a resolution to that effect
161 and transmitting the resolution to the board.

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

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

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

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

187 (4) Except as otherwise provided for municipalities in
188 subsection (3) of this section, all law enforcement officers
189 eligible for membership in the system as provided in this section
190 who are serving in that capacity on July 1, 2001, shall become
191 members of the system on that date, unless they file with the
192 board before August 1, 2001, on a form prescribed by the board, a



193 notice of election not to be covered in the membership of the
194 system and a duly executed waiver of all present and prospective
195 benefits that otherwise would inure to them on account of their
196 membership in the system.

197 (5) Except as otherwise provided for municipalities in
198 subsection (3) of this section, all law enforcement officers
199 eligible for membership in the system as provided in this section
200 who are elected or appointed after June 30, 2001, shall become
201 members of the system as a condition of their office or
202 employment.

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

207 SECTION 5. (1) Creditable service on which a member's
208 service or disability retirement benefit is based shall consist of
209 prior service and membership service. Except as otherwise
210 provided for municipalities in this subsection, prior service
211 means service performed before July 1, 2001, for which
212 contributions were made to the Public Employees' Retirement
213 System, and membership service means all service for which credit
214 may be allowed under this act after June 30, 2001, and all
215 lawfully credited unused leave as of the date of withdrawal from
216 service, as certified by the employer. For police officers and
217 narcotics agents of municipalities that have elected to include
218 those persons in the membership of the system, prior service means
219 service performed before the date that they became members of the
220 system for which contributions were made to the Public Employees'
221 Retirement System, and membership service means all service for
222 which credit may be allowed under this act on or after the date
223 that they became members of the system and all lawfully credited
224 unused leave as of the date of withdrawal from service, as
225 certified by the municipality.



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

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

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



259 basis of the liabilities of the system for the various allowances
260 and benefits as shown by actuarial valuation. From the funds
261 credited to this account, the board shall pay retirements,
262 disability benefits, survivors' benefits, expenses and shall
263 refund contributions as provided in this act. The funds of the
264 system shall be maintained as a separate fund, separate from all
265 other funds held by the board and shall be used only for the
266 payment of benefits provided for by this act or amendments to this
267 act.

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

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

281 SECTION 7. Each employer shall withhold the member
282 contributions required by Section 6 of this act from all
283 compensation earned after June 30, 2001, or in the case of police
284 officers and narcotics agents of municipalities that have elected
285 to include those persons in the membership of the system, from all
286 compensation earned on and after the date that they became members
287 of the system. The contributions so withheld shall be treated as
288 employer contributions in determining tax treatment under the
289 United States Internal Revenue Code and Mississippi Income Tax
290 Code. These contributions shall not be included as gross income
291 of the member until such time as they are distributed or made



292 available. The employer shall pay these member contributions from
293 the same source of funds that is used in paying earnings to the
294 member. The employer may withhold member contributions by a
295 reduction in the cash salary of the member, or by an offset
296 against a future salary increase, or by a combination of a
297 reduction in salary and offset against a future salary increase.
298 The member contributions so withheld shall be treated for all
299 purposes in the same manner and to the same extent as member
300 contributions.

301 SECTION 8. (1) Upon application of a member or his
302 employer, any active member who has not attained the age of
303 fifty-five (55) years may be retired by the board, not less than
304 thirty (30) and not more than ninety (90) days next following the
305 date of filing the application, on a disability retirement
306 allowance, if the medical board of the Public Employees'
307 Retirement System or other designated governmental agency, after a
308 medical examination, certifies that he is mentally or physically
309 incapacitated for the performance of duty, that the incapacity is
310 likely to be permanent, and that the sickness or injury was caused
311 or sustained as a direct result of duty as a law enforcement
312 officer after June 30, 2001, or in the case of a police officer or
313 narcotics agent of a municipality that has elected to include
314 those persons in the membership of the system, on or after the
315 date that the person became a member of the system.

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



325 incapacity is likely to be permanent, and that he should be
326 retired. This disability need not be service connected.

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

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

347 (4) If the medical board or other designated governmental
348 agency reports and certifies to the board, after a comparable job
349 analysis or other similar study, that the disability retiree is
350 engaged in, or is able to engage in, a gainful occupation paying
351 more than the difference between his disability benefit and his
352 average compensation, and if the board concurs in the report, the
353 disability benefit shall be reduced to an amount that, together
354 with the amount earnable by him, equals the amount of his average
355 compensation. If his earning capacity is later changed, the
356 amount of the benefit may be further modified, but the revised
357 benefit shall not exceed the amount originally granted or an



358 amount that, when added to the amount earnable by the retiree,
359 together with the member's annuity, equals the amount of his
360 average compensation.

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

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

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



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

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

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

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

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

412 (e) Upon retiring for service, a member shall be
413 eligible to obtain retirement benefits, as computed above, for
414 life, except that the aggregate amount of the employer's annuity
415 and prior service annuity shall not exceed more than one hundred
416 percent (100%) of the average compensation regardless of the years
417 of service.

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

420 SECTION 10. (1) Retired members who on December 1 of each
421 year, or July 1 of each year as provided for in subsection (6) of
422 this section, are receiving a retirement allowance for service or
423 disability retirement, or their beneficiaries, shall receive in



424 one (1) additional payment an amount equal to two and one-half
425 percent (2-1/2%) of the annual retirement allowance for each full
426 fiscal year of retirement.

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

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

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

455 (5) Persons eligible to receive the payments provided in
456 this section shall receive the payments in one (1) additional



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

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

485 SECTION 11. (1) Upon the death of any member who has
486 retired for service or disability and who has not elected any
487 other option under Section 12 of this act, the member's spouse
488 shall receive one-half (1/2) the benefit that the member was
489 receiving and each child not having attained the age of nineteen



490 (19) years shall receive one-fourth (1/4) of the member's benefit,
491 but not more than one-half (1/2) of the benefits shall be paid for
492 the support and maintenance of two (2) or more children. Upon
493 each child's attaining the age of nineteen (19) years, the child
494 shall no longer be eligible for the benefit, and when all of the
495 children have attained the age of nineteen (19) years, only the
496 spouse shall be eligible for one-half (1/2) of the amount of the
497 member's benefit. The spouse shall continue to be eligible for
498 the benefit in the amount of fifty percent (50%) of the member's
499 retirement benefit as long as the spouse may live or until
500 remarriage. Upon remarriage of the spouse at any time, the
501 spouse's eligibility for the fifty percent (50%) benefits shall
502 end, but the spouse will be eligible to continue to receive
503 benefits for their children until the last child attains the age
504 of nineteen (19) years.

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

513 (3) The spouse and/or the dependent children of an active
514 member who is killed in the line of performance of duty or dies as
515 a direct result of an accident occurring in the line of
516 performance of duty shall qualify, on approval of the board, for a
517 retirement allowance on the first of the month following the date
518 of the member's death, but not before receipt of application by
519 the board. The spouse shall receive a retirement allowance equal
520 to one-half (1/2) of the average compensation of the deceased
521 member. In addition to the retirement allowance for the spouse,
522 or if there is no surviving spouse, a retirement allowance shall



523 be paid in the amount of one-fourth (1/4) of the average
524 compensation for the support and maintenance of one (1) child or
525 in the amount of one-half (1/2) of the average compensation for
526 the support and maintenance of two (2) or more children. Those
527 benefits shall cease to be paid for the support and maintenance of
528 each child upon the child attaining the age of nineteen (19)
529 years; however, the spouse shall continue to be eligible for the
530 retirement allowance provided for the spouse. Benefits may be
531 paid to a surviving parent or lawful custodian of the children for
532 the use and benefit of the children without the necessity of
533 appointment as guardian. That retirement allowance shall cease to
534 the spouse upon remarriage but continue to be payable for each
535 dependent child until the age of nineteen (19) years.

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

539 (5) Children receiving the benefits provided in this section
540 who are permanently or totally disabled shall continue to receive
541 the benefits for as long as the medical board or other designated
542 governmental agency certifies that the disability continues. The
543 age limitation for benefits payable to a child under any provision
544 of this section shall be extended beyond age nineteen (19), but in
545 no event beyond the attainment of age twenty-three (23), as long
546 as the child is a student regularly pursuing a full-time course of
547 resident study or training in an accredited high school, trade
548 school, technical or vocational institute, junior or community
549 college, college, university or comparable recognized educational
550 institution duly licensed by a state. A student child whose
551 birthday falls during the school year (September 1 through June
552 30) is considered not to reach age twenty-three (23) until the
553 July 1 following the actual twenty-third birthday. A full-time
554 course of resident study or training means a day or evening
555 noncorrespondence course that includes school attendance at the



556 rate of a least thirty-six (36) weeks, per academic year or other
557 applicable period with a subject load sufficient, if successfully
558 completed, to attain the educational or training objective within
559 the period generally accepted as minimum for completion, by a
560 full-time day student, of the academic or training program
561 concerned.

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

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

576 SECTION 12. (1) Upon application for superannuation or
577 disability retirement, any member may elect to receive his benefit
578 under the provisions of Section 8 or 9 of this act, or he may
579 elect, upon retirement or upon becoming eligible for retirement,
580 to receive the actuarial equivalent, subject to the provisions of
581 subsection (4) of this section, of his retirement allowance in a
582 reduced retirement allowance payable throughout life with the
583 provision that:

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



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

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

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

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

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

620 **Option 6.** Any member who is eligible to retire with an
621 unreduced benefit may select the maximum retirement benefit or an



622 optional benefit as provided in this subsection together with a
623 partial lump sum distribution. The amount of the lump sum
624 distribution under this option shall be equal to the maximum
625 monthly benefit multiplied by twelve (12), twenty-four (24) or
626 thirty-six (36) as selected by the member. The maximum retirement
627 benefit shall be actuarially reduced to reflect the amount of the
628 lump sum distribution selected and further reduced for any other
629 optional benefit selected. The annuity and lump sum distribution
630 shall be computed to result in no actuarial loss to the system.
631 The lump sum distribution shall be made as a single payment
632 payable at the time the first monthly annuity payment is paid to
633 the retiree. The amount of the lump sum distribution shall be
634 deducted from the member's annuity savings account in computing
635 what contributions remain at the death of the retiree and/or a
636 beneficiary. The lump sum distribution option may be elected only
637 once by a member upon initial retirement, and may not be elected
638 by a retiree, by members applying for a disability retirement
639 annuity, by survivors or by a member selecting Option 4-C.

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

650 (3) No change in the option selected shall be permitted
651 after the member's death or after the member has received his
652 first retirement check, except as provided in subsections (4) and
653 (5) of this section and in Section 18 of this act. If a member
654 retired on disability is returned to active service, the option



655 previously selected shall be null and void, and upon subsequent
656 retirement a new option may be selected by the member.

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

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

684 (6) If a retiree and his eligible beneficiary, if any, both
685 die before they have received in annuity payments a total amount
686 equal to the accumulated contributions standing to the retirant's
687 credit in the annuity savings account at the time of his



688 retirement, the difference between the accumulated contributions
689 and the total amount of annuities received by them shall be paid
690 to such persons as the retirant has nominated by written
691 designation duly executed and filed in the office of the executive
692 director. If no designated person survives the retirant and his
693 beneficiary, the difference, if any, shall be paid according to
694 Section 15(1).

695 SECTION 13. (1) Except as otherwise provided in this
696 subsection for municipalities, all persons who are covered under
697 the terms of this act on July 1, 2001, and who become members of
698 the retirement system established by this act shall cease to be
699 members of the Public Employees' Retirement System under the
700 provisions of Section 25-11-101 et seq. upon July 1, 2001, and
701 shall become members of this retirement system with full credit
702 for all prior service performed before July 1, 2001, for which
703 contributions were made to the Public Employees' Retirement
704 System. All police officers and narcotics agents of
705 municipalities that have elected to include those persons in the
706 membership of the retirement system established by this act who
707 become members of this retirement system shall cease to be members
708 of the Public Employees' Retirement System under the provisions of
709 Section 25-11-101 et seq. upon the date that they become members
710 of this retirement system, and shall become members of this
711 retirement system with full credit for all prior service performed
712 before the date that they become members of this retirement system
713 for which contributions were made to the Public Employees'
714 Retirement System.

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



721 act, and shall be considered an asset to the credit of that person
722 in this retirement system.

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

736 Under the Unemployment Compensation Amendments of 1992
737 (Public Law 102-218(UCA)), a member or eligible beneficiary
738 eligible for a refund under this section may elect on a form
739 prescribed by the board under rules and regulations established by
740 the board, to have an eligible roll over distribution of
741 accumulated contributions payable under this section paid directly
742 to an eligible retirement plan or individual retirement account.
743 If the member or eligible beneficiary makes that election and
744 specifies the eligible retirement plan or individual retirement
745 account to which the distribution is to be paid, the distribution
746 will be made in the form of a direct trustee to trustee transfer
747 to the specified eligible retirement plan. Flexible roll overs
748 under this paragraph shall not be considered assignments under
749 Section 19 of this act.

750 If any member who receives a refund reenters service as a law
751 enforcement officer and again becomes a member of the system, he
752 may repay all amounts previously received by him as a refund,
753 together with regular interest covering the period from the date



754 of refund to the date of repayment; however, the amounts that are
755 repaid by the member and the creditable service related thereto
756 shall not be used in any benefit calculation or determination
757 until the member has remained a contributor to the system for a
758 period of at least four (4) years after such member's reentry into
759 service as a law enforcement officer. Repayment for that time
760 shall be made in increments of not less than one-quarter (1/4)
761 year of creditable service beginning with the most recent service
762 for which refund has been made. Upon the repayment of all or part
763 of that refund and interest, the member shall again receive credit
764 for the period of creditable service for which full repayment has
765 been made to the system.

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

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

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

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

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

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

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

784 (2) Any monthly benefits payable to a beneficiary who dies
785 before cashing his or her final check(s) and/or any additional
786 benefits payable under Section 10 of this act still payable at the



787 death of a beneficiary receiving monthly benefits shall be paid as
788 follows:

789 (a) The surviving spouse of the beneficiary;

790 (b) The children of the beneficiary or their
791 descendants, per stirpes;

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

794 (d) The parents of the beneficiary;

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

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

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

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

808 SECTION 16. Subject to the rules adopted by the board, the
809 system shall accept an eligible roll over distribution or a direct
810 transfer of funds from another qualified plan in payment of all or
811 a portion of the cost to purchase optional service credit or to
812 reinstate previously withdrawn service credit as permitted by the
813 system. The system may only accept roll over payments in an
814 amount equal to or less than the balance due for purchase or
815 reinstatement of service credit. The rules adopted by the board
816 shall condition the acceptance of a roll over or transfer from
817 another qualified plan on the receipt from the other plan of
818 information necessary to enable the system to determine the



819 eligibility of any transferred funds for tax-free roll over
820 treatment or other treatment under federal income tax law.

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

835 SECTION 18. No person who is being paid a retirement
836 allowance under this act shall serve as or be paid for any service
837 as a law enforcement officer. Any member who has been retired
838 under this act and who is later elected, appointed or employed as
839 a law enforcement officer shall cease to receive benefits under
840 this act and shall become a contributing member of the retirement
841 system again. Upon retiring again, if the member's reemployment
842 exceeds six (6) months, he shall have his benefit recomputed,
843 including service after becoming a member again. However, the
844 total retirement allowance paid to the retired member in his
845 previous retirement shall be deducted from his retirement reserve
846 and taken into consideration in recalculating the retirement
847 allowance under a new option selected.

848 SECTION 19. The right of a person to an annuity, a
849 retirement allowance or benefit, or to the return of
850 contributions, or to any optional benefits or any other right
851 accrued or accruing to any person under the provisions of this



852 act, the system and the moneys in the system created by this act,
853 are exempt from any state, county or municipal ad valorem taxes,
854 income taxes, premium taxes, privilege taxes, property taxes,
855 sales and use taxes or other taxes not so named, notwithstanding
856 any other provision of law to the contrary, and exempt from levy
857 and sale, garnishment, attachment, or any other process
858 whatsoever, and shall be unassignable except as specifically
859 provided otherwise in this act.

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

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

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

883 (3) Notwithstanding any provisions of this section or this
884 act to the contrary, the maximum annual retirement allowance



885 attributable to the employer contributions payable by the system
886 to a member shall be subject to the limitations set forth in
887 Section 415 of the Internal Revenue Code and any regulations
888 issued thereunder as applicable to governmental plans as that term
889 is defined under Section 414(d) of the Internal Revenue Code. If
890 a member is a participant in any qualified defined contribution
891 plan required to be taken into account for purposes of applying
892 the combined plan limitations contained in Section 415(e) of the
893 Internal Revenue Code, then for any year the sum of the defined
894 benefit plan fraction and the defined contribution plan fraction,
895 as those terms are defined in Section 415(e), shall not exceed one
896 (1.0). If for any year the foregoing combined plan limitation
897 would be exceeded, the benefit provided under this plan shall be
898 reduced to the extent necessary to meet that limitation.

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

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

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



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

