SENATE BILL NO. 2371

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

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

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

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

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

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

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

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

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

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

(3) The board shall designate an actuary who shall be the technical advisor of the board on matters regarding the operation of the system and shall perform such other duties as are required in connection therewith.
(4) At least once in each two-year period following July 1, 2001, the actuary shall make an actuarial investigation into the mortality, service, withdrawal and compensation experience of the members and beneficiaries of the system, and shall make a valuation of the assets and liabilities of the system. Taking into account the result of the investigation and valuation, the board shall adopt for the retirement system such mortality, service, and other tables as shall be deemed necessary. On the basis of those tables that the board adopts, the actuary shall make biennial valuations of the assets and liabilities of the funds of the system.

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

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

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

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

(9) The Executive Director of the Public Employees' Retirement System shall serve as the executive director of this system.
SECTION 4. (1) The membership of the system shall be composed as follows:

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

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

(c) All duly elected constables.

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

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

(f) All duly appointed or employed inspection station employees, field inspectors and railroad inspectors of the Mississippi Department of Transportation who are actually engaged in the enforcement of the laws specified in Section 27-5-71 or other laws of this state administered and enforced by the Department of Transportation.
(g) All duly appointed or employed state correctional facility guards and enforcement officers of the Department of Corrections whose official duties are to insure the custody, security and control of any offenders under their supervision.

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

(i) All full-time officers and employees of the state or any department, institution, agency or county thereof who are authorized to carry firearms while in the performance of their official duties and who have met the minimum educational and training standards established by the Board on Law Enforcement Officer Standards and Training for permanent, full-time law enforcement officers and have received a certificate from that board.

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

(3) (a) The governing authorities of any municipality are authorized, in their discretion, to elect to include in the membership of the system the full-time police officers and narcotics agents of the municipality who are actually engaged in the enforcement of the laws of this state and the municipality, except police officers and narcotics agents who are members of any retirement system created under Section 21-29-101 et seq. or Section 21-29-201 et seq., by adopting a resolution to that effect and transmitting the resolution to the board.

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

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

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

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

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

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

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

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

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

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

(2) The employers shall deduct each month from the salary of each member seven and one-fourth percent (7-1/4%) thereof, and shall pay the amount so deducted to the board to be credited to the system. However, for any member who had fifteen (15) or more years of creditable service on the date that he became a member of the system, the employer shall deduct each month from the salary of each such member eight percent (8%) thereof, and shall pay the amount so deducted to the board to be credited to the system. Notwithstanding the employee contribution rates specified in this subsection, the board may vary the percentage of employee contributions biennially on the basis of the liabilities of the system for the various allowances and benefits as shown by actuarial valuation. From the funds credited to this account, the board shall pay retirements, disability benefits, survivors benefits, expenses and shall refund contributions as provided in this act. The funds of the system shall be maintained as a separate fund, separate from all other funds held by the board and
shall be used only for the payment of benefits provided for by this act or amendments thereto.

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

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

SECTION 7. The employers shall pick up the member contributions required by Section 6 of this act for all compensation earned after June 30, 2001, or in the case of police officers and narcotics agents of municipalities that have elected to include those persons in the membership of the system, for all compensation earned on and after the date that they became members of the system. The contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and Mississippi Income Tax Code. However, the employer shall continue to withhold federal and state income taxes based upon these contributions until the Internal Revenue Service or federal courts rule that pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the member until such time as they are distributed or made available. The employer shall pay these member contributions from the same source of funds that is used in paying earnings to the member. The employer may pick up these contributions by a reduction in the
cash salary of the member or by an offset against a future salary increase or by a combination of a reduction in salary and offset against a future salary increase. If member contributions are picked up, they shall be treated for all purposes of this act in the same manner and to the same extent as member contributions made before to the date picked up.

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

Upon the application of a member or his employer, any member who is not yet eligible for service retirement benefits and who has had at least ten (10) years of creditable service may be retired by the board, not less than thirty (30) and not more than ninety (90) days next following the date of filing the application, on a disability retirement allowance, if the medical board or other designated governmental agency, after a medical examination, certifies that he is mentally or physically incapacitated for the further performance of duty, that the incapacity is likely to be permanent, and that he should be retired. This disability need not be service connected.
(2) Upon retirement for disability, a member shall receive a disability benefit equal to fifty percent (50%) of his average compensation for the two (2) years immediately preceding his retirement, but not less than any retirement benefits for which he may be eligible at the date he is granted disability.

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

(4) If the medical board or other designated governmental agency reports and certifies to the board, after a comparable job analysis or other similar study, that the disability retiree is engaged in, or is able to engage in, a gainful occupation paying more than the difference between his disability benefit and his average compensation, and if the board concurs in the report, the disability benefit shall be reduced to an amount that, together with the amount earnable by him, equals the amount of his average compensation. If his earning capacity is later changed, the amount of the benefit may be further modified, but the revised benefit shall not exceed the amount originally granted nor an amount that, when added to the amount earnable by the retiree,
together with the member's annuity, equals the amount of his average compensation.

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

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

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

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

(b) An employer's annuity, which, together with the member's annuity provided above, shall be equal to two and one-half percent (2-1/2%) of the average compensation for each year of membership service. However, for any member who was an active member of the system for less than three (3) years before he withdrew from service and began receiving a retirement allowance, the employer's annuity for the member, together with the member's annuity provided above, shall be equal to one and seven-eighths percent (1-7/8%) of the average compensation for each year of membership service.

(c) A prior service annuity equal to two and one-half percent (2-1/2%) of the average compensation for each year of prior service for which the member is allowed credit. However, for any member who was an active member of the system for less than three (3) years before he withdrew from service and began receiving a retirement allowance, the prior service annuity for the member shall be equal to one and seven-eighths percent (1-7/8%) of the average compensation for each year of prior service for which the member is allowed credit.

(d) In the case of retirement of any member before attaining the age of fifty-five (55) years, the retirement allowance shall be computed in accordance with the formula set forth above in this section, except that the employer's annuity and prior service annuity shall be reduced by three percent (3%) for each year of age below fifty-five (55) years, or three percent (3%) for each year of service below twenty-five (25) years of creditable service, whichever is lesser.
(e) Upon retiring from service, a member shall be eligible to obtain retirement benefits, as computed above, for life, except that the aggregate amount of the employer’s annuity and prior service annuity shall not exceed more than eighty-five percent (85%) of the average compensation regardless of the years of service.

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

SECTION 10. (1) Retired members who on December 1 of each year, or July 1 of each year as provided for in subsection (5) of this section, are receiving a retirement allowance for service or disability retirement, or their beneficiaries, shall receive in one (1) additional payment an amount equal to a cumulative percentage of the annual percentage increase in the Consumer Price Index set by the United States government for the calendar year ending each fiscal year for each full fiscal year of retirement, not exceeding two and one-half percent (2-1/2%) for any fiscal year, times the amount of the annual retirement allowance. The cumulative percentage provided in this subsection for any particular year shall not be less than the cumulative percentage provided for the previous year.

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

(3) The percentages in this section shall be based on each
full fiscal year that the retired member or beneficiary has
actually drawn retirement payments from the date of retirement, or
the date of last retirement if there is more than one (1)
retirement date.

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

(5) Retired members or beneficiaries thereof who on July 1
of any fiscal year are receiving a retirement allowance may elect
by an irrevocable agreement in writing filed in the office of the
Public Employees' Retirement System no less than thirty (30) days
before July 1 of the appropriate year, to begin receiving the
payments provided for in subsection (1) of this section in twelve
(12) equal installments beginning on July 1. This irrevocable
agreement shall be binding on the member and subsequent
beneficiaries. The cumulative percentage provided in subsection
(1) of this section and paid in twelve (12) equal installments for
any particular year shall not be less than the cumulative
percentage provided for the previous year. However, payment of
the installments shall not extend beyond the month in which a
retirement allowance is due and payable. Any additional amounts
approved by the board under subsection (2) of this section shall
be paid in one (1) lump sum payment to retirees and beneficiaries
in accordance with subsection (2) of this section.
SECTION 11. (1) Upon the death of any member who has retired for service or disability and who has not elected any other option under Section 12 of this act, the member's spouse shall receive one-half (1/2) the benefit that the member was receiving and each child not having attained the age of nineteen (19) years shall receive one-fourth (1/4) of the member's benefit, but not more than one-half (1/2) of the benefits shall be paid for the support and maintenance of two (2) or more children. Upon each child's attaining the age of nineteen (19) years, the child shall no longer be eligible for the benefit, and when all of the children have attained the age of nineteen (19) years, only the spouse shall be eligible for one-half (1/2) of the amount of the member's benefit. The spouse shall continue to be eligible for the benefit in the amount of fifty percent (50%) of the member's retirement benefit as long as the spouse may live or until remarriage. Upon remarriage of the spouse at any time, the spouse's eligibility for the fifty percent (50%) benefits shall end, but the spouse will be eligible to continue to receive benefits for their children until the last child attains the age of nineteen (19) years.

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

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

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

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

SECTION 12. (1) Upon application for superannuation or disability retirement, any member may elect to receive his benefit pursuant to the provisions of Sections 9 and 11 of this act or may elect to receive his benefit in a retirement allowance payable throughout life with no further payments to anyone at his death, except that if his total retirement payments under this act do not equal his total contributions under this act, his named beneficiary shall receive the difference in cash at his death. As an alternative, he may elect upon retirement, or upon becoming eligible for retirement, to receive the actuarial equivalent of his retirement allowance in a reduced retirement allowance payable throughout life with the provision that:

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

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

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

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

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

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

(3) No change in the option selected shall be permitted after the member's death or after the member has received his first retirement check, except as provided in subsections (4) and (5) of this section and in Section 16 of this act.

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

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

(6) If the election of an optional benefit is made after the
member has attained the age of sixty-five (65) years, the
actuarial equivalent factor shall be used to compute the reduced
retirement allowance as if the election had been made on his
sixty-fifth birthday. However, if a retiree marries or remarries
after retirement, and elects either Option 2 or Option 4-A as
provided in subsection (5) of this section, the actuarial
equivalent factor used to compute the reduced retirement allowance
shall be the factor for the age of the retiree and his or her
beneficiary at the time that the election for recalculation of
benefits is made.

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

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

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

SECTION 14. If a member of the retirement system ceases to work as a law enforcement officer for any reason other than occupational disease contracted or for any accident sustained by the member by reason of his service or discharge of his duties as a law enforcement officer, and if the member is not eligible for retirement either for service or disability, he shall be refunded the amount of his total contributions under the provisions of this act, including any credit transferred to his account in this system from any other system, at his request, and if he dies before retirement, those funds shall be refunded to any beneficiary that he has named.

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

SECTION 15. Regular interest shall be credited annually to
the mean amount of the employee reserve account for the preceding
year. This credit shall be made annually from interest and other
earnings on the invested assets of the system. Any additional
amount required to meet the regular interest on the funds of the
system shall be charged to the employer's accumulation account,
and any excess of earnings over the regular interest required
shall be credited to the employer’s accumulation account. Regular
interest shall mean such percentage rate of interest compounded
annually as determined by the board on the basis of the interest
earnings of the system for the preceding year. Once that interest
is credited it shall be added to the sum of all amounts deducted
from the compensation of a member and shall be included in
determining his total contributions.

SECTION 16. Any member who has been retired under the
provisions of this act and who is later reemployed in service
covered by this act shall cease to receive benefits under this act
and shall become a contributing member of the retirement system
again. Upon retiring again, if the member’s reemployment exceeds
six (6) months, he shall have his benefit recomputed, including
service after becoming a member again. However, the total
retirement allowance paid to the retired member in his previous
retirement shall be deducted from his retirement reserve and taken
into consideration in recalculating the retirement allowance under
a new option selected.

SECTION 17. The right of a person to an annuity, a
retirement allowance or benefit, or to the return of
contributions, or to any optional benefits or any other right accrued or accruing to any person under the provisions of this act, the system and the monies in the system created by this act, are exempt from any state, county or municipal ad valorem taxes, income taxes, premium taxes, privilege taxes, property taxes, sales and use taxes or other taxes not so named, notwithstanding any other provision of law to the contrary, and exempt from levy and sale, garnishment, attachment, or any other process whatsoever, and shall be unassignable except as specifically provided otherwise in this act.

SECTION 18. (1) The maintenance of actuarial reserves for the various allowances and benefits under this act, and the payment of all annuities, retirement allowances, refunds and other benefits granted under this act are made obligations of the system. All income, interest and dividends derived from deposits and investments authorized by this act shall be used for the payment of the obligations of the system.

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

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

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

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

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

SECTION 19. This act shall take effect and be in force from and after July 1, 2001.