

By: Senator(s) Posey

To: Finance

SENATE BILL NO. 2371

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

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

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

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

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

60 (3) The board shall designate an actuary who shall be the
61 technical advisor of the board on matters regarding the operation
62 of the system and shall perform such other duties as are required
63 in connection therewith.



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

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

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

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

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

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



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

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

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

113 (c) All duly elected constables.

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

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

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



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

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

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

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

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

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

158 (i) All such persons serving in that capacity on
159 the date that the governing authorities adopt the resolution,
160 except police officers and narcotics agents who are members of any



161 retirement system created under Section 21-29-101 et seq. or
162 Section 21-29-201 et seq., shall become members of the system on
163 the first day of the month following the date that the board
164 receives the resolution, unless they file with the board within
165 thirty (30) days after the date that the board receives the
166 resolution, on a form prescribed by the board, a notice of
167 election not to be covered in the membership of the system and a
168 duly executed waiver of all present and prospective benefits that
169 would otherwise inure to them on account of their membership in
170 the system; and

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

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

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

191 (5) Except as otherwise provided for municipalities in
192 subsection (3) of this section, all law enforcement officers
193 eligible for membership in the system as provided in this section



194 who are elected or appointed after June 30, 2001, shall become
195 members of the system as a condition of their office or
196 employment.

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

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

220 (2) In computing the period of service of a member of the
221 system, anything in this act to the contrary notwithstanding, any
222 member who served on active duty in the Armed Forces of the United
223 States, or who served in maritime service during periods of
224 hostility in World War II, shall be entitled to creditable service
225 for his service on active duty in the Armed Forces or in such
226 maritime service, provided he entered state service after his



227 discharge from the Armed Forces or entered state service after he
228 completed such maritime service. The maximum period for
229 creditable service for all military service shall not exceed four
230 (4) years unless positive proof can be furnished by the person
231 that he was retained in the Armed Forces during World War II or in
232 maritime service during World War II by causes beyond his control
233 and without opportunity of discharge. The member shall furnish
234 proof satisfactory to the board of certification of military
235 service or maritime service records showing dates of entrance into
236 service and the date of discharge. In no case shall the member
237 receive creditable service if the member received a dishonorable
238 discharge from the Armed Forces of the United States.

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

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



260 shall be used only for the payment of benefits provided for by
261 this act or amendments thereto.

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

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

275 SECTION 7. The employers shall pick up the member
276 contributions required by Section 6 of this act for all
277 compensation earned after June 30, 2001, or in the case of police
278 officers and narcotics agents of municipalities that have elected
279 to include those persons in the membership of the system, for all
280 compensation earned on and after the date that they became members
281 of the system. The contributions so picked up shall be treated as
282 employer contributions in determining tax treatment under the
283 United States Internal Revenue Code and Mississippi Income Tax
284 Code. However, the employer shall continue to withhold federal
285 and state income taxes based upon these contributions until the
286 Internal Revenue Service or federal courts rule that pursuant to
287 Section 414(h) of the United States Internal Revenue Code, these
288 contributions shall not be included as gross income of the member
289 until such time as they are distributed or made available. The
290 employer shall pay these member contributions from the same source
291 of funds that is used in paying earnings to the member. The
292 employer may pick up these contributions by a reduction in the



293 cash salary of the member or by an offset against a future salary
294 increase or by a combination of a reduction in salary and offset
295 against a future salary increase. If member contributions are
296 picked up, they shall be treated for all purposes of this act in
297 the same manner and to the same extent as member contributions
298 made before to the date picked up.

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

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



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

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

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



357 together with the member's annuity, equals the amount of his
358 average compensation.

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

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

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



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

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

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

405 (c) A prior service annuity equal to two and one-half
406 percent (2-1/2%) of the average compensation for each year of
407 prior service for which the member is allowed credit. However,
408 for any member who was an active member of the system for less
409 than three (3) years before he withdrew from service and began
410 receiving a retirement allowance, the prior service annuity for
411 the member shall be equal to one and seven-eighths percent
412 (1-7/8%) of the average compensation for each year of prior
413 service for which the member is allowed credit.

414 (d) In the case of retirement of any member before
415 attaining the age of fifty-five (55) years, the retirement
416 allowance shall be computed in accordance with the formula set
417 forth above in this section, except that the employer's annuity
418 and prior service annuity shall be reduced by three percent (3%)
419 for each year of age below fifty-five (55) years, or three percent
420 (3%) for each year of service below twenty-five (25) years of
421 creditable service, whichever is lesser.



422 (e) Upon retiring from service, a member shall be eligible
423 to obtain retirement benefits, as computed above, for life, except
424 that the aggregate amount of the employer's annuity and prior
425 service annuity shall not exceed more than eighty-five percent
426 (85%) of the average compensation regardless of the years of
427 service.

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

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

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



454 for the previous fiscal year as certified by the actuary and
455 determined by the board.

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

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

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



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

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

515 (3) The spouse and/or the dependent children of an active
516 member who is killed in the line of performance of duty or dies as
517 a direct result of an accident occurring in the line of
518 performance of duty shall qualify, on approval of the board, for a
519 retirement allowance on the first of the month following the date



520 of the member's death, but not before receipt of application by
521 the board. The spouse shall receive a retirement allowance equal
522 to one-half (1/2) of the average compensation of the deceased
523 member. In addition to the retirement allowance for the spouse,
524 or if there is no surviving spouse, a retirement allowance shall
525 be paid in the amount of one-fourth (1/4) of the average
526 compensation for the support and maintenance of one (1) child or
527 in the amount of one-half (1/2) of the average compensation for
528 the support and maintenance of two (2) or more children. Those
529 benefits shall cease to be paid for the support and maintenance of
530 each child upon the child attaining the age of nineteen (19)
531 years; however, the spouse shall continue to be eligible for the
532 retirement allowance provided for the spouse. Benefits may be
533 paid to a surviving parent or lawful custodian of the children for
534 the use and benefit of the children without the necessity of
535 appointment as guardian. That retirement allowance shall cease to
536 the spouse upon remarriage but continue to be payable for each
537 dependent child until the age of nineteen (19) years.

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

541 (5) Children receiving the benefits provided in this section
542 who are permanently or totally disabled shall continue to receive
543 the benefits for as long as the medical board or other designated
544 governmental agency certifies that the disability continues. The
545 age limitation for benefits payable to a child under any provision
546 of this section shall be extended beyond age nineteen (19), but in
547 no event beyond the attainment of age twenty-three (23), as long
548 as the child is a student regularly pursuing a full-time course of
549 resident study or training in an accredited high school, trade
550 school, technical or vocational institute, junior or community
551 college, college, university or comparable recognized educational
552 institution duly licensed by a state. A student child whose



553 birthday falls during the school year (September 1 through June
554 30) is considered not to reach age twenty-three (23) until July 1
555 following the actual twenty-third birthday. A full-time course of
556 resident study or training means a day or evening
557 noncorrespondence course that includes school attendance at the
558 rate of at least thirty-six (36) weeks, per academic year or other
559 applicable period with a subject load sufficient, if successfully
560 completed, to attain the educational or training objective within
561 the period generally accepted as minimum for completion, by a
562 full-time day student, of the academic or training program
563 concerned.

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

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

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



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

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

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

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

614 (2) Any member in service who has qualified for retirement
615 benefits may select any optional method of settlement of
616 retirement benefits by notifying the executive director of the
617 system in writing, on a form prescribed by the board, of the
618 option he has selected and by naming the beneficiary of the option



619 and furnishing necessary proof of age. The option, once selected,
620 may be changed at any time before actual retirement or death, but
621 upon the death or retirement of the member, the optional
622 settlement shall be placed in effect upon proper notification to
623 the executive director.

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

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

640 (5) Any retired member who is receiving the maximum
641 retirement allowance for life, or a retirement allowance under
642 Option 1, and who marries after his retirement may elect to cancel
643 his maximum retirement allowance or Option 1 retirement allowance
644 and receive a reduced retirement allowance under Option 2 or
645 Option 4-A to provide continuing lifetime benefits to his spouse.
646 The election must be made in writing to the office of the
647 executive director of the system on a form prescribed by the board
648 not earlier than the date of the marriage. Any such election
649 shall be effective the first of the month following the date the
650 election is received by the system. The amount of the reduced
651 retirement allowance shall be the actuarial equivalent, taking



652 into account that the member received the maximum retirement
653 allowance or Option 1 retirement allowance for a period of time
654 before electing to receive a reduced retirement allowance.

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

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

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



685 contributions were made to the Public Employees' Retirement
686 System. All police officers and narcotics agents of
687 municipalities that have elected to include those persons in the
688 membership of the retirement system established by this act who
689 become members of this retirement system shall cease to be members
690 of the Public Employees' Retirement System under the provisions of
691 Section 25-11-101 et seq. upon the date that they become members
692 of this retirement system, and shall become members of this
693 retirement system with full credit for all prior service performed
694 before the date that they become members of this retirement system
695 for which contributions were made to the Public Employees'
696 Retirement System.

697 (2) In any case in which a law enforcement officer has been
698 a member of the Public Employees' Retirement System under Section
699 25-11-101 et seq. and has made contributions thereto, all
700 employee's contributions, plus interest credited thereto, inuring
701 to the credit of that person shall be transferred by the Public
702 Employees' Retirement System to the credit of the person in the
703 retirement system established by this act, and shall be considered
704 an asset to the credit of that person in this retirement system.

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

716 If any member who receives a refund reenters service as a law
717 enforcement officer and again becomes a member of the system and



718 remains a contributor for four (4) years, he may repay all amounts
719 previously received by him as a refund, together with regular
720 interest covering the period from the date of refund to the date
721 of repayment. Upon that repayment, the member again shall receive
722 credit for the entire period of creditable service that he
723 forfeited upon the receipt of the refund.

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

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

749 SECTION 17. The right of a person to an annuity, a
750 retirement allowance or benefit, or to the return of



751 contributions, or to any optional benefits or any other right
752 accrued or accruing to any person under the provisions of this
753 act, the system and the monies in the system created by this act,
754 are exempt from any state, county or municipal ad valorem taxes,
755 income taxes, premium taxes, privilege taxes, property taxes,
756 sales and use taxes or other taxes not so named, notwithstanding
757 any other provision of law to the contrary, and exempt from levy
758 and sale, garnishment, attachment, or any other process
759 whatsoever, and shall be unassignable except as specifically
760 provided otherwise in this act.

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

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

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



784 (3) Notwithstanding any provisions of this section or this
785 act to the contrary, the maximum annual retirement allowance
786 attributable to the employer contributions payable by the system
787 to a member shall be subject to the limitations set forth in
788 Section 415 of the Internal Revenue Code and any regulations
789 issued thereunder as applicable to governmental plans as that term
790 is defined under Section 414(d) of the Internal Revenue Code. If
791 a member is a participant in any qualified defined contribution
792 plan required to be taken into account for purposes of applying
793 the combined plan limitations contained in Section 415(e) of the
794 Internal Revenue Code, then for any year the sum of the defined
795 benefit plan fraction and the defined contribution plan fraction,
796 as those terms are defined in Section 415(e), shall not exceed one
797 (1.0). If for any year the foregoing combined plan limitation
798 would be exceeded, the benefit provided under this plan shall be
799 reduced to the extent necessary to meet that limitation.

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

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

813 (6) Notwithstanding any other provision of this plan, the
814 maximum compensation that can be considered for all plan purposes
815 is One Hundred Fifty Thousand Dollars (\$150,000.00) per year,
816 adjusted annually to reflect changes in the cost of living to



817 conform to the regulations issued under Section 401(a)(17) of the
818 Internal Revenue Code.

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

