

By: Representative Janus

To: Appropriations

HOUSE BILL NO. 338

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, 2002, when contributions by members shall
 18 begin and benefits shall become payable. This retirement system
 19 is designed to supplement and is in addition to the provisions of
 20 Section 25-11-1 et seq. Under the terms of this act, law
 21 enforcement officers shall retain all social security benefits
 22 under Article I of the Public Employees' Retirement Law of 1952
 23 but shall not be eligible for benefits under Article III of that
 24 law. This act is a substitute for and in lieu of Article III of
 25 that law, and is designed to provide more liberal benefits for law
 26 enforcement officers by reason of the dangerous nature of and
 27 special risk involved in their employment.

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



31 (2) As used in this act:

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

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

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

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

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

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

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



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

65 (4) At least once in each two-year period following July 1,
66 2002, the actuary shall make an actuarial investigation into the
67 mortality, service, withdrawal and compensation experience of the
68 members and beneficiaries of the system, and shall make a
69 valuation of the assets and liabilities of the system. Taking
70 into account the result of the investigation and valuation, the
71 board shall adopt for the retirement system such mortality,
72 service, and other tables as shall be deemed necessary. On the
73 basis of those tables that the board adopts, the actuary shall
74 make biennial valuations of the assets and liabilities of the
75 funds of the system.

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

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

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

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



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

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

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

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

114 (c) All duly elected constables.

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

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

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



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

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

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

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

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

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



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

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

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

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

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

187 (4) Except as otherwise provided for municipalities in
188 subsection (3) of this section, all law enforcement officers
189 eligible for membership in the system as provided in this section
190 who are serving in that capacity on July 1, 2002, shall become
191 members of the system on that date, unless they file with the
192 board before August 1, 2002, on a form prescribed by the board, a



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

197 (5) Except as otherwise provided for municipalities in
198 subsection (3) of this section, all law enforcement officers
199 eligible for membership in the system as provided in this section
200 who are elected or appointed after June 30, 2002, shall become
201 members of the system as a condition of their office or
202 employment.

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

207 **SECTION 5.** (1) Creditable service on which a member's
208 service or disability retirement benefit is based shall consist of
209 prior service and membership service. Except as otherwise
210 provided for municipalities in this subsection, prior service
211 means service performed before July 1, 2002, for which
212 contributions were made to the Public Employees' Retirement
213 System, and membership service means all service for which credit
214 may be allowed under this act after June 30, 2002, and all
215 lawfully credited unused leave as of the date of withdrawal from
216 service, as certified by the employer. For police officers and
217 narcotics agents of municipalities that have elected to include
218 those persons in the membership of the system, prior service means
219 service performed before the date that they became members of the
220 system for which contributions were made to the Public Employees'
221 Retirement System, and membership service means all service for
222 which credit may be allowed under this act on or after the date
223 that they became members of the system and all lawfully credited
224 unused leave as of the date of withdrawal from service, as
225 certified by the municipality.



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

250 (3) (a) Any member of the system whose membership service
251 is interrupted as a result of qualified military service within
252 the meaning of Section 414(u) (5) of the Internal Revenue Code, and
253 who has received the maximum service credit available under
254 subsection (2) of this section, shall receive creditable service
255 for the period of qualified military service that does not qualify
256 as creditable service under subsection (2) of this section upon
257 reentering membership service in an amount not to exceed five (5)
258 years if:



259 (i) The member pays the contributions he would
260 have made to the system if he had remained in membership service
261 for the period of qualified military service based upon his salary
262 at the time his membership service was interrupted;

263 (ii) The member returns to membership service
264 within ninety (90) days of the end of his qualified military
265 service; and

266 (iii) The employer at the time the member's
267 service was interrupted and to which employment the member returns
268 pays the contributions it would have made into the retirement
269 system for that period based on the member's salary at the time
270 the service was interrupted.

271 (b) The payments required to be made in paragraph
272 (a) (i) of this subsection may be made over a period beginning with
273 the date of return to membership service and not exceeding three
274 (3) times the member's qualified military service; however, in no
275 event shall that period exceed fifteen (15) years.

276 (c) The member shall furnish proof satisfactory to the
277 board of certification of military service showing dates of
278 entrance into qualified service and the date of discharge, as well
279 as proof that the member has returned to active employment within
280 the time specified.

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

285 (2) The employers shall deduct each month from the salary of
286 each member seven and one-fourth percent (7-1/4%) of earned
287 compensation, and shall pay the amount so deducted to the board to
288 be credited to the system. Notwithstanding the employee
289 contribution rates specified in this subsection, the board may
290 vary the percentage of employee contribution biennially on the
291 basis of the liabilities of the system for the various allowances



292 and benefits as shown by actuarial valuation. From the funds
293 credited to this account, the board shall pay retirements,
294 disability benefits, survivors' benefits, expenses and shall
295 refund contributions as provided in this act. The funds of the
296 system shall be maintained as a separate fund, separate from all
297 other funds held by the board and shall be used only for the
298 payment of benefits provided for by this act or amendments to this
299 act.

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

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

313 **SECTION 7.** Each employer shall withhold the member
314 contributions required by Section 6 of this act from all
315 compensation earned after June 30, 2002, or in the case of police
316 officers and narcotics agents of municipalities that have elected
317 to include those persons in the membership of the system, from all
318 compensation earned on and after the date that they became members
319 of the system. The contributions so withheld shall be treated as
320 employer contributions in determining tax treatment under the
321 United States Internal Revenue Code and Mississippi Income Tax
322 Code. These contributions shall not be included as gross income
323 of the member until such time as they are distributed or made
324 available. The employer shall pay these member contributions from



325 the same source of funds that is used in paying earnings to the
326 member. The employer may withhold member contributions by a
327 reduction in the cash salary of the member, or by an offset
328 against a future salary increase, or by a combination of a
329 reduction in salary and offset against a future salary increase.
330 The member contributions so withheld shall be treated for all
331 purposes in the same manner and to the same extent as member
332 contributions.

333 **SECTION 8.** (1) Upon application of a member or his
334 employer, but in no event before termination of state service, any
335 member who has not attained the age of fifty-five (55) years may
336 be retired by the board, not less than thirty (30) and not more
337 than ninety (90) days next following the date of filing the
338 application, on a disability retirement allowance, if the medical
339 board of the Public Employees' Retirement System, after a medical
340 examination, certifies that he is mentally or physically
341 incapacitated for the performance of duty, that the incapacity is
342 likely to be permanent, and that the sickness or injury was caused
343 or sustained as a direct result of duty as a law enforcement
344 officer after June 30, 2002, or in the case of a police officer or
345 narcotics agent of a municipality that has elected to include
346 those persons in the membership of the system, on or after the
347 date that the person became a member of the system.

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



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

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

377 (4) If the medical board reports and certifies to the board,
378 after a comparable job analysis or other similar study, that the
379 disability retiree is engaged in, or is able to engage in, a
380 gainful occupation paying more than the difference between his
381 disability benefit and his average compensation, and if the board
382 concurs in the report, the disability benefit shall be reduced to
383 an amount that, together with the amount earnable by him, equals
384 the amount of his average compensation. If his earning capacity
385 is later changed, the amount of the benefit may be further
386 modified. However, the revised benefit shall not exceed the
387 amount originally granted or an amount that, when added to the
388 amount earnable by the retiree, together with the member's
389 annuity, equals the amount of his average compensation.



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

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

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

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



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

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

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

433 (d) In the case of retirement of any member before
434 attaining the age of fifty-five (55) years, the retirement
435 allowance shall be computed in accordance with the formula set
436 forth above in this section, except that the employer's annuity
437 and prior service annuity shall be reduced by three percent (3%)
438 for each year of age below fifty-five (55) years, or three percent
439 (3%) for each year of service below twenty-five (25) years of
440 creditable service, whichever is lesser.

441 (e) Upon retiring for service, a member shall be
442 eligible to obtain retirement benefits, as computed above, for
443 life, except that the aggregate amount of the employer's annuity
444 and prior service annuity shall not exceed more than one hundred
445 percent (100%) of the average compensation regardless of the years
446 of service.

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

449 **SECTION 10.** (1) Retired members who on December 1 of each
450 year, or July 1 of each year as provided for in subsection (6) of
451 this section, are receiving a retirement allowance for service or
452 disability retirement, or their beneficiaries, shall receive in
453 one (1) additional payment an amount equal to two and one-half



454 percent (2-1/2%) of the annual retirement allowance for each full
455 fiscal year of retirement.

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

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

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

484 (5) Persons eligible to receive the payments provided in
485 this section shall receive the payments in one (1) additional
486 payment, except that the person may elect by an irrevocable



487 agreement on a form prescribed by the board to receive the
488 payments in not less than equal monthly installments not to exceed
489 six (6) months during the remaining months of the current fiscal
490 year. In the event of death of a retiree receiving monthly
491 benefits, any remaining amounts shall be paid in a lump sum to the
492 beneficiary designated on the retirement application, or if none,
493 according to Section 15(1) of this act. Any similar remaining
494 payments of additional benefit payable under this section to a
495 deceased beneficiary who was receiving a monthly benefit shall be
496 payable according to Section 15(2) of this act.

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

514 **SECTION 11.** (1) Upon the death of any member who has
515 retired for service or disability and who has not elected any
516 other option under Section 12 of this act, the member's spouse
517 shall receive one-half (1/2) the benefit that the member was
518 receiving and each child not having attained the age of nineteen
519 (19) years shall receive one-fourth (1/4) of the member's benefit,



520 but not more than one-half (1/2) of the benefits shall be paid for
521 the support and maintenance of two (2) or more children. Upon
522 each child's attaining the age of nineteen (19) years, the child
523 shall no longer be eligible for the benefit, and when all of the
524 children have attained the age of nineteen (19) years, only the
525 spouse shall be eligible for one-half (1/2) of the amount of the
526 member's benefit. The spouse shall continue to be eligible for
527 the benefit in the amount of fifty percent (50%) of the member's
528 retirement benefit as long as the spouse may live or until
529 remarriage. Upon remarriage of the spouse at any time, the
530 spouse's eligibility for the fifty percent (50%) benefits shall
531 end, but the spouse will be eligible to continue to receive
532 benefits for their children until the last child attains the age
533 of nineteen (19) years.

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

542 (3) The spouse and/or the dependent children of an active
543 member who is killed in the line of performance of duty or dies as
544 a direct result of an accident occurring in the line of
545 performance of duty shall qualify, on approval of the board, for a
546 retirement allowance on the first of the month following the date
547 of the member's death, but not before receipt of application by
548 the board. The spouse shall receive a retirement allowance equal
549 to one-half (1/2) of the average compensation of the deceased
550 member. In addition to the retirement allowance for the spouse,
551 or if there is no surviving spouse, a retirement allowance shall
552 be paid in the amount of one-fourth (1/4) of the average



553 compensation for the support and maintenance of one (1) child or
554 in the amount of one-half (1/2) of the average compensation for
555 the support and maintenance of two (2) or more children. Those
556 benefits shall cease to be paid for the support and maintenance of
557 each child upon the child attaining the age of nineteen (19)
558 years; however, the spouse shall continue to be eligible for the
559 retirement allowance provided for the spouse. Benefits may be
560 paid to a surviving parent or lawful custodian of the children for
561 the use and benefit of the children without the necessity of
562 appointment as guardian. That retirement allowance shall cease to
563 the spouse upon remarriage but continue to be payable for each
564 dependent child until the age of nineteen (19) years.

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

568 (5) Children receiving the benefits provided in this section
569 who are permanently or totally disabled shall continue to receive
570 the benefits for as long as the medical board certifies that the
571 disability continues. The age limitation for benefits payable to
572 a child under any provision of this section shall be extended
573 beyond age nineteen (19), but in no event beyond the attainment of
574 age twenty-three (23), as long as the child is a student regularly
575 pursuing a full-time course of resident study or training in an
576 accredited high school, trade school, technical or vocational
577 institute, junior or community college, college, university or
578 comparable recognized educational institution duly licensed by a
579 state. A student child whose birthday falls during the school
580 year (September 1 through June 30) is considered not to reach age
581 twenty-three (23) until the July 1 following the actual
582 twenty-third birthday. A full-time course of resident study or
583 training means a day or evening noncorrespondence course that
584 includes school attendance at the rate of a least thirty-six (36)
585 weeks, per academic year or other applicable period with a subject



586 load sufficient, if successfully completed, to attain the
587 educational or training objective within the period generally
588 accepted as minimum for completion, by a full-time day student, of
589 the academic or training program concerned.

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

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

604 **SECTION 12.** (1) Upon application for superannuation or
605 disability retirement, any member may elect to receive his benefit
606 under the provisions of Section 8 or 9 of this act, or he may
607 elect, upon retirement or upon becoming eligible for retirement,
608 to receive the actuarial equivalent, subject to the provisions of
609 subsection (4) of this section, of his retirement allowance in a
610 reduced retirement allowance payable throughout life with the
611 provision that:

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

617 **Option 2.** Upon his death, his reduced retirement allowance
618 shall be continued throughout the life of, and paid to, such



619 person as he has nominated by written designation duly
620 acknowledged and filed with the board at the time of his
621 retirement; or

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

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

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

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

648 **Option 6.** Any member who is eligible to retire with an
649 unreduced benefit may select the maximum retirement benefit or an
650 optional benefit as provided in this subsection together with a
651 partial lump sum distribution. The amount of the lump sum



652 distribution under this option shall be equal to the maximum
653 monthly benefit multiplied by twelve (12), twenty-four (24) or
654 thirty-six (36) as selected by the member. The maximum retirement
655 benefit shall be actuarially reduced to reflect the amount of the
656 lump sum distribution selected and further reduced for any other
657 optional benefit selected. The annuity and lump sum distribution
658 shall be computed to result in no actuarial loss to the system.
659 The lump sum distribution shall be made as a single payment
660 payable at the time the first monthly annuity payment is paid to
661 the retiree. The amount of the lump sum distribution shall be
662 deducted from the member's annuity savings account in computing
663 what contributions remain at the death of the retiree and/or a
664 beneficiary. The lump sum distribution option may be elected only
665 once by a member upon initial retirement, and may not be elected
666 by a retiree, by members applying for a disability retirement
667 annuity, by survivors or by a member selecting Option 4-C.

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

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



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

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

712 (6) If a retiree and his eligible beneficiary, if any, both
713 die before they have received in annuity payments a total amount
714 equal to the accumulated contributions standing to the retirant's
715 credit in the annuity savings account at the time of his
716 retirement, the difference between the accumulated contributions
717 and the total amount of annuities received by them shall be paid



718 to such persons as the retirant has nominated by written
719 designation duly executed and filed in the office of the executive
720 director. If no designated person survives the retirant and his
721 beneficiary, the difference, if any, shall be paid according to
722 Section 15(1) of this act.

723 **SECTION 13.** (1) Except as otherwise provided in this
724 subsection for municipalities, all persons who are covered under
725 the terms of this act on July 1, 2002, and who become members of
726 the retirement system established by this act shall cease to be
727 members of the Public Employees' Retirement System under the
728 provisions of Section 25-11-101 et seq. upon July 1, 2002, and
729 shall become members of this retirement system with full credit
730 for all prior service performed before July 1, 2002, for which
731 contributions were made to the Public Employees' Retirement
732 System. All police officers and narcotics agents of
733 municipalities that have elected to include those persons in the
734 membership of the retirement system established by this act who
735 become members of this retirement system shall cease to be members
736 of the Public Employees' Retirement System under the provisions of
737 Section 25-11-101 et seq. upon the date that they become members
738 of this retirement system, and shall become members of this
739 retirement system with full credit for all prior service performed
740 before the date that they become members of this retirement system
741 for which contributions were made to the Public Employees'
742 Retirement System.

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



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

765 Under the Unemployment Compensation Amendments of 1992
766 (Public Law 102-218(UCA)), a member or the spouse of a member who
767 is an eligible beneficiary eligible for a refund under this
768 section may elect on a form prescribed by the board under rules
769 and regulations established by the board, to have an eligible roll
770 over distribution of accumulated contributions payable under this
771 section paid directly to an eligible retirement plan or individual
772 retirement account. If the member or the spouse of a member who
773 is an eligible beneficiary makes that election and specifies the
774 eligible retirement plan or individual retirement account to which
775 the distribution is to be paid, the distribution will be made in
776 the form of a direct trustee to trustee transfer to the specified
777 eligible retirement plan. Flexible roll overs under this
778 paragraph shall not be considered assignments under Section 19 of
779 this act.

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



784 of refund to the date of repayment; however, the amounts that are
785 repaid by the member and the creditable service related thereto
786 shall not be used in any benefit calculation or determination
787 until the member has remained a contributor to the system for a
788 period of at least four (4) years after such member's reentry into
789 service as a law enforcement officer. Repayment for that time
790 shall be made in increments of not less than one-quarter (1/4)
791 year of creditable service beginning with the most recent service
792 for which refund has been made. Upon the repayment of all or part
793 of that refund and interest, the member shall again receive credit
794 for the period of creditable service for which full repayment has
795 been made to the system.

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

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

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

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

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

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

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

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



817 death of a beneficiary receiving monthly benefits shall be paid as
818 follows:

819 (a) The surviving spouse of the beneficiary;

820 (b) The children of the beneficiary or their
821 descendants, per stirpes;

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

824 (d) The parents of the beneficiary;

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

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

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

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

838 **SECTION 16.** Subject to the rules adopted by the board, the
839 system shall accept an eligible roll over distribution or a direct
840 transfer of funds from another qualified plan in payment of all or
841 a portion of the cost to purchase optional service credit or to
842 reinstate previously withdrawn service credit as permitted by the
843 system. The system may only accept roll over payments in an
844 amount equal to or less than the balance due for purchase or
845 reinstatement of service credit. The rules adopted by the board
846 shall condition the acceptance of a roll over or transfer from
847 another qualified plan on the receipt from the other plan of
848 information necessary to enable the system to determine the



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

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

865 **SECTION 18.** No person who is being paid a retirement
866 allowance under this act shall serve as or be paid for any service
867 as a law enforcement officer. Any member who has been retired
868 under this act and who is later elected, appointed or employed as
869 a law enforcement officer shall cease to receive benefits under
870 this act and shall become a contributing member of the retirement
871 system again. Upon retiring again, if the member's reemployment
872 exceeds six (6) months, he shall have his benefit recomputed,
873 including service after becoming a member again. However, the
874 total retirement allowance paid to the retired member in his
875 previous retirement shall be deducted from his retirement reserve
876 and taken into consideration in recalculating the retirement
877 allowance under a new option selected.

878 **SECTION 19.** The right of a person to an annuity, a
879 retirement allowance or benefit, or to the return of
880 contributions, or to any optional benefits or any other right
881 accrued or accruing to any person under the provisions of this



882 act, the system and the moneys in the system created by this act,
883 are exempt from any state, county or municipal ad valorem taxes,
884 income taxes, premium taxes, privilege taxes, property taxes,
885 sales and use taxes or other taxes not so named, notwithstanding
886 any other provision of law to the contrary, and exempt from levy
887 and sale, garnishment, attachment, or any other process
888 whatsoever, and shall be unassignable except as specifically
889 provided otherwise in this act.

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

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

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

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



915 attributable to the employer contributions payable by the system
916 to a member shall be subject to the limitations set forth in
917 Section 415 of the Internal Revenue Code and any regulations
918 issued thereunder as applicable to governmental plans as that term
919 is defined under Section 414(d) of the Internal Revenue Code.

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

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

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

939 **SECTION 21.** This act shall take effect and be in force from
940 and after July 1, 2002.

