

By: Representative Evans

To: Appropriations

HOUSE BILL NO. 1007

1 AN ACT TO CREATE A SEPARATE RETIREMENT SYSTEM FOR LAW
 2 ENFORCEMENT OFFICERS AND EMERGENCY SERVICES PERSONNEL; TO PROVIDE
 3 THAT THE SYSTEM SHALL BE ADMINISTERED BY THE BOARD OF TRUSTEES OF
 4 THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; TO DEFINE ELIGIBILITY FOR
 5 MEMBERSHIP IN THE SYSTEM; TO PROVIDE FOR EMPLOYEE AND EMPLOYER
 6 CONTRIBUTIONS TO FUND THE SYSTEM; TO ESTABLISH BENEFITS FOR
 7 DISABILITY AND SUPERANNUATION RETIREMENT AND ESTABLISH DEATH
 8 BENEFITS; TO AMEND SECTION 25-13-11, MISSISSIPPI CODE OF 1972, TO
 9 DECREASE THE NUMBER OF YEARS OF CREDITABLE SERVICE NECESSARY FOR A
 10 MEMBER OF THE HIGHWAY SAFETY PATROL RETIREMENT SYSTEM TO RETIRE
 11 REGARDLESS OF AGE FROM 25 TO 20 YEARS; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** There is established and placed under the
 14 management of the Board of Trustees of the Public Employees'
 15 Retirement System a retirement system for the purpose of providing
 16 retirement allowances and other benefits under the provisions of
 17 this act for law enforcement officers and emergency services
 18 personnel and their beneficiaries. This retirement system shall
 19 be known as the "Law Enforcement Officers' and Emergency Services
 20 Personnel Retirement System." The retirement system shall go into
 21 operation on July 1, 2003, when contributions by members shall
 22 begin and benefits shall become payable. This retirement system
 23 is designed to supplement and is in addition to the provisions of
 24 Section 25-11-1 et seq. Under the terms of this act, law
 25 enforcement officers and emergency services personnel shall retain
 26 all social security benefits under Article I of the Public
 27 Employees' Retirement Law of 1952 but shall not be eligible for
 28 benefits under Article III of that law. This act is a substitute
 29 for and in lieu of Article III of that law, and is designed to
 30 provide more liberal benefits for law enforcement officers and



31 emergency services personnel by reason of the dangerous nature of
32 and special risk involved in their employment.

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

36 (2) As used in this act:

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

39 (b) "Emergency services personnel" means fire fighters
40 and emergency medical technicians.

41 (c) "Emergency medical technician" means a person
42 licensed under Section 41-59-1 et seq. to provide emergency
43 medical services as an emergency medical technician-ambulance,
44 emergency medical technical-intermediate, emergency medical
45 technician-paramedic, or emergency medical
46 technical-nurse-paramedic.

47 (d) "Fire fighter" means a person who is assigned to
48 fire fighting activities and is required to respond to alarms and
49 perform emergency actions at the location of a fire, hazardous
50 materials or other emergency incident, except fire fighters who
51 are members of any retirement system created under Section
52 21-19-101 et seq. or Section 21-29-201 et seq., but not fire
53 fighters who are engaged only in administrative or civil duties.

54 (e) "Law enforcement officer" means municipal police
55 officers and narcotics agents, sheriffs, deputy sheriffs,
56 constables, conservation officers, enforcement officers of the
57 Department of Marine Resources, agents and inspectors of the
58 Alcoholic Beverage Control Division of the State Tax Commission,
59 inspection station employees and field inspectors of the
60 Mississippi Department of Transportation, state correctional
61 facility guards and enforcement officers of the Department of
62 Corrections, enforcement officers of the Public Service
63 Commission, and any other full-time officer or employee of the



64 state or any agency, department, institution or county thereof who
65 is authorized to carry a firearm while in the performance of his
66 official duties and who has met the minimum educational and
67 training standards established by the Board on Law Enforcement
68 Officer Standards and Training for permanent, full-time law
69 enforcement officers and has received a certificate from that
70 board.

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

73 (g) "System" means the Law Enforcement Officers' and
74 Emergency Services Personnel Retirement System established by
75 Section 1 of this act.

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

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

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

86 (4) At least once in each two-year period following July 1,
87 2003, the actuary shall make an actuarial investigation into the
88 mortality, service, withdrawal and compensation experience of the
89 members and beneficiaries of the system, and shall make a
90 valuation of the assets and liabilities of the system. Taking
91 into account the result of the investigation and valuation, the
92 board shall adopt for the retirement system such mortality,
93 service, and other tables as shall be deemed necessary. On the
94 basis of those tables that the board adopts, the actuary shall
95 make biennial valuations of the assets and liabilities of the
96 funds of the system.



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

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

104 (7) The board shall make payments of retirement benefits
105 under this act to members, and to the beneficiaries of those
106 members, by means of direct deposit to an account with a financial
107 institution that is a participant of the Automated Clearing House
108 designated by the member or beneficiary, unless the member or
109 beneficiary can demonstrate that payment by means of direct
110 deposit will cause the member or beneficiary undue hardship.

111 (8) Subject to the limitations of this act, the board from
112 time to time shall establish rules and regulations for the
113 administration of the system and for the transaction of business.

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

122 (10) The Executive Director of the Public Employees'
123 Retirement System shall serve as the executive director of this
124 system.

125 **SECTION 4.** (1) The membership of the system shall be
126 composed as follows:

127 (a) All duly elected or appointed police officers and
128 narcotics agents in the full-time employment of a municipality who
129 are actually engaged in the enforcement of the laws of this state



130 and the municipality, except police officers and narcotic agents
131 who are members of any retirement system created under Section
132 21-29-101 et seq. or Section 21-29-201 et seq., but not auxiliary
133 officers or officers who are engaged only in administrative or
134 civil duties.

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

140 (c) All duly elected constables.

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

145 (e) All duly appointed enforcement officers of the
146 Department of Marine Resources who are actually engaged in the
147 enforcement of the seafood laws of this state (Section 49-15-1 et
148 seq.).

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

153 (g) All duly appointed or employed inspection station
154 employees, field inspectors and railroad inspectors of the
155 Mississippi Department of Transportation who are actually engaged
156 in the enforcement of the laws specified in Section 27-5-71 or
157 other laws of this state administered and enforced by the
158 Department of Transportation.

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



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

168 (j) All full-time officers and employees of the state
169 or any agency, department, institution or county thereof, not
170 listed in paragraphs (a) through (i) of this subsection, who are
171 authorized to carry firearms while in the performance of their
172 official duties and who have met the minimum educational and
173 training standards established by the Board on Law Enforcement
174 Officer Standards and Training for permanent, full-time law
175 enforcement officers and have received a certificate from that
176 board.

177 (k) All duly appointed or employed fire fighters in the
178 full-time employment of a municipality, county or other political
179 subdivision of this state who are actually engaged in providing
180 fire-fighting services in the political subdivision, but not
181 volunteer fire fighters.

182 (l) All duly appointed or employed emergency medical
183 technicians in the full-time employment of a municipality, county
184 or other political subdivision of this state who are actually
185 engaged in providing emergency medical services.

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

188 (3) All law enforcement officers and emergency services
189 personnel eligible for membership in the system as provided in
190 this section who are serving in that capacity on July 1, 2003,
191 shall become members of the system on that date, unless they file
192 with the board before August 1, 2003, on a form prescribed by the
193 board, a notice of election not to be covered in the membership of
194 the system and a duly executed waiver of all present and



195 prospective benefits that otherwise would inure to them on account
196 of their membership in the system.

197 (4) All law enforcement officers and emergency services
198 personnel eligible for membership in the system as provided in
199 this section who are elected or appointed after June 30, 2003,
200 shall become members of the system as a condition of their office
201 or employment.

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

206 **SECTION 5.** (1) Creditable service on which a member's
207 service or disability retirement benefit is based shall consist of
208 prior service and membership service. Prior service means service
209 performed before July 1, 2003, for which contributions were made
210 to the Public Employees' Retirement System, and membership service
211 means all service for which credit may be allowed under this act
212 after June 30, 2003, and all lawfully credited unused leave as of
213 the date of withdrawal from service, as certified by the employer.

214 (2) In computing the period of service of a member of the
215 system, any member who served on active duty in the Armed Forces
216 of the United States, or who served in maritime service during
217 periods of hostility in World War II, shall be entitled to
218 creditable service at no cost for his service on active duty in
219 the Armed Forces or in such maritime service, provided he entered
220 state service after his discharge from the Armed Forces or entered
221 state service after he completed such maritime service. The
222 maximum period for creditable service for all military service as
223 defined in this subsection (2) shall not exceed four (4) years
224 unless positive proof can be furnished by the person that he was
225 retained in the Armed Forces during World War II or in maritime
226 service during World War II by causes beyond his control and
227 without opportunity of discharge. The member shall furnish proof



228 satisfactory to the board of certification of military service or
229 maritime service records showing dates of entrance into service
230 and the date of discharge. No creditable service shall be granted
231 for any military service or maritime service to a member who
232 qualifies for a retirement allowance in another public retirement
233 system administered by the board based in whole or in part on that
234 military or maritime service. In no case shall the member receive
235 creditable service if the member received a dishonorable discharge
236 from the Armed Forces of the United States.

237 (3) (a) Any member of the system whose membership service
238 is interrupted as a result of qualified military service within
239 the meaning of Section 414(u)(5) of the Internal Revenue Code, and
240 who has received the maximum service credit available under
241 subsection (2) of this section, shall receive creditable service
242 for the period of qualified military service that does not qualify
243 as creditable service under subsection (2) of this section upon
244 reentering membership service in an amount not to exceed five (5)
245 years if:

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

250 (ii) The member returns to membership service
251 within ninety (90) days of the end of his qualified military
252 service; and

253 (iii) The employer at the time the member's
254 service was interrupted and to which employment the member returns
255 pays the contributions it would have made into the retirement
256 system for that period based on the member's salary at the time
257 the service was interrupted.

258 (b) The payments required to be made in paragraph
259 (a)(i) of this subsection may be made over a period beginning with
260 the date of return to membership service and not exceeding three



261 (3) times the member's qualified military service; however, in no
262 event shall that period exceed five (5) years.

263 (c) The member shall furnish proof satisfactory to the
264 board of certification of military service showing dates of
265 entrance into qualified service and the date of discharge, as well
266 as proof that the member has returned to active employment within
267 the time specified.

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

272 (2) The employers shall deduct each month from the salary of
273 each member seven and one-fourth percent (7-1/4%) of earned
274 compensation, and shall pay the amount so deducted to the board to
275 be credited to the system. Notwithstanding the employee
276 contribution rates specified in this subsection, the board may
277 vary the percentage of employee contribution biennially on the
278 basis of the liabilities of the system for the various allowances
279 and benefits as shown by actuarial valuation. From the funds
280 credited to this account, the board shall pay retirements,
281 disability benefits, survivors' benefits, expenses and shall
282 refund contributions as provided in this act. The funds of the
283 system shall be maintained as a separate fund, separate from all
284 other funds held by the board and shall be used only for the
285 payment of benefits provided for by this act or amendments to this
286 act.

287 (3) On account of each member the employers shall pay
288 monthly into the system from funds available an amount equal to a
289 certain percentage of the compensation of each member to be known
290 as the "normal contributions," and an additional amount equal to a
291 percentage of his compensation to be known as the "accrued
292 liability contribution." The percentage rate of those
293 contributions shall be fixed biennially by the board on the basis



294 of the liabilities of the system for the various allowances and
295 benefits as shown by the actuarial valuation.

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

300 **SECTION 7.** Each employer shall withhold the member
301 contributions required by Section 6 of this act from all
302 compensation earned after June 30, 2003, and the contributions so
303 withheld shall be treated as employer contributions in determining
304 tax treatment under the United States Internal Revenue Code and
305 Mississippi Income Tax Code. These contributions shall not be
306 included as gross income of the member until such time as they are
307 distributed or made available. The employer shall pay these
308 member contributions from the same source of funds that is used in
309 paying earnings to the member. The employer may withhold member
310 contributions by a reduction in the cash salary of the member, or
311 by an offset against a future salary increase, or by a combination
312 of a reduction in salary and offset against a future salary
313 increase. The member contributions so withheld shall be treated
314 for all purposes in the same manner and to the same extent as
315 member contributions.

316 **SECTION 8.** (1) Upon application of a member or his
317 employer, but in no event before termination of state service, any
318 member who has not attained the age of fifty-five (55) years may
319 be retired by the board, not less than thirty (30) and not more
320 than ninety (90) days next following the date of filing the
321 application, on a disability retirement allowance, if the medical
322 board of the Public Employees' Retirement System, after an
323 evaluation of medical evidence, which may include a physical
324 examination by the medical board, certifies that he is mentally or
325 physically incapacitated for the performance of duty, that the
326 incapacity is likely to be permanent, and that the sickness or



327 injury was caused or sustained as a direct result of duty as a law
328 enforcement officer or emergency services personnel after June 30,
329 2003.

330 Upon the application of a member or his employer, any member
331 who is not yet eligible for service retirement benefits and who
332 has had at least five (5) years of creditable service may be
333 retired by the board, not less than thirty (30) and not more than
334 ninety (90) days next following the date of filing the
335 application, on a disability retirement allowance, if the medical
336 board, after an evaluation of medical evidence, which may include
337 a physical examination by the medical board, certifies that he is
338 mentally or physically incapacitated for the further performance
339 of duty, that the incapacity is likely to be permanent, and that
340 he should be retired. This disability need not be service
341 connected.

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

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



359 part of the disability benefit provided by employer contributions
360 shall be revoked by the board.

361 (4) If the medical board reports and certifies to the board
362 that the disability retiree is engaged in, or is able to engage
363 in, a gainful occupation paying more than the difference between
364 his disability benefit and his average compensation, and if the
365 board concurs in the report, the disability benefit shall be
366 reduced to an amount that, together with the amount earnable by
367 him, equals the amount of his average compensation. If his
368 earning capacity is later changed, the amount of the benefit may
369 be further modified. However, the revised benefit shall not
370 exceed the amount originally granted or an amount that, when added
371 to the amount earnable by the retiree, together with the member's
372 annuity, equals the amount of his average compensation.

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

384 **SECTION 9.** (1) Any member upon withdrawal from service upon
385 or after attainment of the age of fifty-five (55) years who has
386 completed at least four (4) years of creditable service, or any
387 member upon withdrawal from service regardless of age who has
388 completed at least twenty (20) years of creditable service, shall
389 be entitled to receive a retirement allowance that shall be
390 payable the first of the month following receipt of the member's



391 application in the office of the executive director of the system,
392 but in no event before withdrawal from service.

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

400 (3) The annual amount of the retirement allowance shall
401 consist of:

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

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

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

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

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

421 **SECTION 10.** (1) Any member who is receiving a retirement
422 allowance for service or disability retirement, or any beneficiary
423 thereof, who has received a monthly benefit for at least one (1)



424 full fiscal year, shall be eligible to receive an additional
425 benefit, on December 1 or July 1 of the year as provided in
426 subsection (4) or (5) of this section, equal to the sum of:

427 (a) An amount equal to three percent (3%) of the annual
428 retirement allowance multiplied by the number of full fiscal years
429 in retirement before the fiscal year in which the member reaches
430 age fifty-five (55), plus

431 (b) An additional amount equal to three percent (3%)
432 compounded by the number of full fiscal years in retirement
433 beginning with the fiscal year in which the member reaches age
434 fifty-five (55), multiplied by the amount of the annual retirement
435 allowance.

436 (2) The calculation of the beneficiary's additional benefit
437 provided in this section shall be based on the member's age and
438 full fiscal years in retirement as if the member had lived.

439 (3) If a retiree who is receiving a retirement allowance
440 that will terminate upon the retiree's death is receiving the
441 additional benefit in one (1) payment and dies on or after July 1
442 but before December 1, the beneficiary designated on the
443 retirement application, if any, shall receive in a single payment
444 a fractional part of the additional benefit based on the number of
445 months in which a retirement allowance was received during the
446 fiscal year. If there is no surviving beneficiary, payment shall
447 be made in accordance with Section 15(1) of this act. Any similar
448 remaining payments of the additional benefit payable under this
449 section to a deceased beneficiary who was receiving a monthly
450 benefit shall be payable in accordance with the provisions of
451 Section 15(2) of this act. If the additional benefit is being
452 received in one (1) payment each year, the additional benefit
453 shall be prorated based on the number of months in which a
454 retirement allowance was received during the fiscal year when (i)
455 the monthly benefit payable to a beneficiary terminates due to the
456 expiration of an option, remarriage or cessation of dependent



457 status or due to the retiree's return to covered employment, and
458 (ii) the monthly benefit terminates on or after July 1 and before
459 December 1.

460 (4) The additional benefit provided in this section shall be
461 paid in one (1) payment in December of each year to those persons
462 who are receiving a retirement allowance on December 1 of that
463 year, unless an election is made under subsection (5) of this
464 section. The board, in its discretion, may allow a retired member
465 or a beneficiary thereof who is receiving the additional benefit
466 in one (1) payment each year to have the additional benefit paid
467 in monthly installments if the retired member or beneficiary
468 submits satisfactory documentation that the continued receipt of
469 the additional benefit in one (1) payment each year will cause a
470 financial hardship to the retired member or beneficiary.

471 (5) Retired members or beneficiaries thereof who are
472 receiving a retirement allowance may elect by an irrevocable
473 agreement in writing filed in the Office of the Public Employees'
474 Retirement System no less than thirty (30) days before July 1 of
475 any year, to begin receiving the additional benefit provided in
476 this section in twelve (12) equal monthly installments beginning
477 on July 1 of the year. This irrevocable agreement shall be
478 binding on the member and subsequent beneficiaries. Payment of
479 those monthly installments shall not extend beyond the month in
480 which a retirement allowance is due and payable. Any retired
481 member or beneficiary thereof who previously elected to receive
482 the additional annual payment in monthly installments may elect,
483 upon application on a form prescribed by the board, to have that
484 payment made in one (1) payment in December of each year. This
485 written election must be filed in the Office of the Public
486 Employees' Retirement System before June 1, 2004, and shall be
487 effective for the fiscal year beginning July 1, 2004. The board,
488 in its discretion, may allow a retired member or a beneficiary
489 thereof who is receiving the additional benefit in monthly



490 installments to have the additional benefit paid in one (1)
491 payment in December of each year if the retired member or
492 beneficiary submits satisfactory documentation that the continued
493 receipt of the additional benefit in monthly installments will
494 cause financial hardship to the retired member or beneficiary.

495 (6) The additional benefit or benefits provided in this
496 section are for the fiscal year in which they are paid.

497 (7) The amount of the additional benefit provided in
498 subsection (1)(b) of this section is calculated using the
499 following formula:

500 $[(1.03)^n - 1] \times [\text{annual retirement allowance}],$

501 where n is the number of full fiscal years in retirement beginning
502 with the fiscal year in which the member reaches age fifty-five
503 (55).

504 **SECTION 11.** (1) Upon the death of any member who has
505 retired for service or disability and who has not elected any
506 other option under Section 12 of this act, the member's spouse
507 shall receive one-half (1/2) the benefit that the member was
508 receiving and each child not having attained the age of nineteen
509 (19) years shall receive one-fourth (1/4) of the member's benefit,
510 but not more than one-half (1/2) of the benefits shall be paid for
511 the support and maintenance of two (2) or more children. Upon
512 each child's attaining the age of nineteen (19) years, the child
513 shall no longer be eligible for the benefit, and when all of the
514 children have attained the age of nineteen (19) years, only the
515 spouse shall be eligible for one-half (1/2) of the amount of the
516 member's benefit. The spouse shall continue to be eligible for
517 the benefit in the amount of fifty percent (50%) of the member's
518 retirement benefit as long as the spouse may live or until
519 remarriage. Upon remarriage of the spouse at any time, the
520 spouse's eligibility for the fifty percent (50%) benefits shall
521 end, but the spouse will be eligible to continue to receive



522 benefits for their children until the last child attains the age
523 of nineteen (19) years.

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

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



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

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

580 (6) If all the annuities provided for in this section
581 payable on the account of the death of a member terminate before
582 there has been paid an aggregate amount equal to the member's
583 accumulated contributions standing to the member's credit in the
584 annuity savings account at the time of the member's death, the
585 difference between the accumulated contributions and the aggregate
586 amount of annuity payments shall be paid to such person as the
587 member has nominated by written designation duly executed and



588 filed with the system. If there is no designated beneficiary
589 surviving at termination of benefits, the difference shall be
590 payable according to Section 15(1) of this act.

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

594 **SECTION 12.** (1) Upon application for superannuation or
595 disability retirement, any member may elect to receive his benefit
596 under the provisions of Section 8 or 9 of this act, or he may
597 elect, upon retirement or upon becoming eligible for retirement,
598 to receive the actuarial equivalent, subject to the provisions of
599 subsection (4) of this section, of his retirement allowance in a
600 reduced retirement allowance payable throughout life with the
601 provision that:

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

607 **Option 2.** Upon his death, his reduced retirement allowance
608 shall be continued throughout the life of, and paid to, such
609 person as he has nominated by written designation duly
610 acknowledged and filed with the board at the time of his
611 retirement; or

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

618 **Option 4-A.** Upon his death, one half (1/2) of his reduced
619 retirement allowance, or such other specified amount, shall be
620 continued throughout the life of, and paid to, such person as he



621 has nominated by written designation duly acknowledged and filed
622 with the board at the time of his retirement; or

623 **Option 4-B.** A reduced retirement allowance shall be
624 continued throughout the life of the retirant, but with the
625 further guarantee of payments to the named beneficiary,
626 beneficiaries or to the estate for a specified number of years
627 certain. If the retired member or the last designated beneficiary
628 receiving annuity payments dies before receiving all guaranteed
629 payments due, the actuarial equivalent of the remaining payments
630 shall be paid according to Section 15(1) of this act; or

631 **Option 6.** Any member who is eligible to retire with an
632 unreduced benefit may select the maximum retirement benefit or an
633 optional benefit as provided in this subsection together with a
634 partial lump sum distribution. The amount of the lump sum
635 distribution under this option shall be equal to the maximum
636 monthly benefit multiplied by twelve (12), twenty-four (24) or
637 thirty-six (36) as selected by the member. The maximum retirement
638 benefit shall be actuarially reduced to reflect the amount of the
639 lump sum distribution selected and further reduced for any other
640 optional benefit selected. The annuity and lump sum distribution
641 shall be computed to result in no actuarial loss to the system.
642 The lump sum distribution shall be made as a single payment
643 payable at the time the first monthly annuity payment is paid to
644 the retiree. The amount of the lump sum distribution shall be
645 deducted from the member's annuity savings account in computing
646 what contributions remain at the death of the retiree and/or a
647 beneficiary. The lump sum distribution option may be elected only
648 once by a member upon initial retirement, and may not be elected
649 by a retiree, by members applying for a disability retirement
650 annuity or by survivors.

651 (2) Any member in service who has qualified for retirement
652 benefits may select any optional method of settlement of
653 retirement benefits by notifying the executive director of the



654 system in writing, on a form prescribed by the board, of the
655 option he has selected and by naming the beneficiary of the option
656 and furnishing necessary proof of age. The option, once selected,
657 may be changed at any time before actual retirement or death, but
658 upon the death or retirement of the member, the optional
659 settlement shall be placed in effect upon proper notification to
660 the executive director.

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

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

680 (5) Any retired member who is receiving the maximum
681 retirement allowance for life, or a retirement allowance under
682 Option 1, and who marries after his retirement may elect to cancel
683 his maximum retirement allowance or Option 1 retirement allowance
684 and receive a reduced retirement allowance under Option 2 or
685 Option 4-A to provide continuing lifetime benefits to his spouse.
686 The election must be made in writing to the office of the



687 executive director of the system on a form prescribed by the board
688 not earlier than the date of the marriage. Any such election
689 shall be effective the first of the month following the date the
690 election is received by the system. However, if a retiree marries
691 or remarries after retirement and elects either Option 2 or Option
692 4-A as provided in subsection (3) or (5) of this section, the
693 actuarial equivalent factor used to compute the reduced retirement
694 allowance shall be the factor for the age of the retiree and his
695 or her beneficiary at the time that the election for recalculation
696 of benefits is made.

697 (6) If a retiree and his eligible beneficiary, if any, both
698 die before they have received in annuity payments a total amount
699 equal to the accumulated contributions standing to the retirant's
700 credit in the annuity savings account at the time of his
701 retirement, the difference between the accumulated contributions
702 and the total amount of annuities received by them shall be paid
703 to such persons as the retirant has nominated by written
704 designation duly executed and filed in the office of the executive
705 director. If no designated person survives the retirant and his
706 beneficiary, the difference, if any, shall be paid according to
707 Section 15(1) of this act.

708 **SECTION 13.** (1) All persons who are covered under the terms
709 of this act on July 1, 2003, and who become members of the
710 retirement system established by this act shall cease to be
711 members of the Public Employees' Retirement System under the
712 provisions of Section 25-11-101 et seq. upon July 1, 2003, and
713 shall become members of this retirement system with full credit
714 for all prior service performed before July 1, 2003, for which
715 contributions were made to the Public Employees' Retirement
716 System.

717 (2) For each law enforcement officer or emergency services
718 personnel who has been a member of the Public Employees'
719 Retirement System under Section 25-11-101 et seq. and has made



720 contributions thereto, all employee's contributions and interest
721 to the credit of that person shall be transferred by the Public
722 Employees' Retirement System to the credit of the person in the
723 retirement system established by this act, and shall be considered
724 an asset to the credit of that person in this retirement system.

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

740 Under the Unemployment Compensation Amendments of 1992
741 (Public Law 102-218(UCA)), a member or the spouse of a member who
742 is an eligible beneficiary eligible for a refund under this
743 section may elect on a form prescribed by the board under rules
744 and regulations established by the board, to have an eligible roll
745 over distribution of accumulated contributions payable under this
746 section paid directly to an eligible retirement plan, as defined
747 under applicable federal law, or an individual retirement account.
748 If the member or the spouse of a member who is an eligible
749 beneficiary makes that election and specifies the eligible
750 retirement plan or individual retirement account to which the
751 distribution is to be paid, the distribution will be made in the
752 form of a direct trustee to trustee transfer to the specified



753 eligible retirement plan. Flexible roll overs under this
754 paragraph shall not be considered assignments under Section 19 of
755 this act.

756 If any member who receives a refund reenters service as a law
757 enforcement officer or emergency services personnel and again
758 becomes a member of the system, he may repay all amounts
759 previously received by him as a refund, together with regular
760 interest covering the period from the date of refund to the date
761 of repayment; however, the amounts that are repaid by the member
762 and the creditable service related thereto shall not be used in
763 any benefit calculation or determination until the member has
764 remained a contributor to the system for a period of at least four
765 (4) years after the member's reentry into service as a law
766 enforcement officer or emergency services personnel. Repayment
767 for that time shall be made in increments of not less than
768 one-quarter (1/4) year of creditable service beginning with the
769 most recent service for which refund has been made. Upon the
770 repayment of all or part of that refund and interest, the member
771 shall again receive credit for the period of creditable service
772 for which full repayment has been made to the system.

773 **SECTION 15.** (1) Except as otherwise provided in subsection
774 (2) of this section, where benefits are payable to a designated
775 beneficiary or beneficiaries under this article and the designated
776 beneficiary or beneficiaries as provided by the member on the most
777 recent form filed with the system are deceased or otherwise
778 disqualified at the time such benefits become payable, the
779 following persons, in descending order of precedence, shall be
780 eligible to receive such benefits:

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

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

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



786 (d) The parents of the member or retiree;
787 (e) The executor or administrator on behalf of the
788 member or retiree's estate;
789 (f) The persons entitled by law to distribution of the
790 member or retiree's estate.

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

796 (a) The surviving spouse of the beneficiary;

797 (b) The children of the beneficiary or their
798 descendants, per stirpes;

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

801 (d) The parents of the beneficiary;

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

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

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

809 (4) Payment under the provisions of this section shall bar
810 recovery by any other person of the benefits distributed. Payment
811 of benefits made to one or more members of a class of individuals
812 are made on behalf of all members of the class. Any members of
813 the class coming forward after payment is made must look to those
814 who received the payment.

815 **SECTION 16.** Subject to the rules adopted by the board, the
816 system shall accept an eligible roll over distribution or a direct
817 transfer of funds from another eligible retirement plan, as
818 defined under applicable federal law, or an individual retirement



819 account, in payment of all or a portion of the cost to purchase
820 optional service credit or to reinstate previously withdrawn
821 service credit as permitted by the system. The system may only
822 accept roll over payments in an amount equal to or less than the
823 balance due for purchase or reinstatement of service credit. The
824 rules adopted by the board shall condition the acceptance of a
825 roll over or transfer from another eligible retirement plan or an
826 individual retirement account on the receipt of information
827 necessary to enable the system to determine the eligibility of any
828 transferred funds for tax-free roll over treatment or other
829 treatment under federal income tax law.

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

844 **SECTION 18.** No person who is being paid a retirement
845 allowance under this act shall serve as or be paid for any service
846 as a law enforcement officer or emergency services personnel. Any
847 member who has been retired under this act and who is later
848 elected, appointed or employed as a law enforcement officer or
849 emergency services personnel shall cease to receive benefits under
850 this act and shall become a contributing member of the retirement
851 system again. Upon retiring again, if the member's reemployment



852 exceeds six (6) months, he shall have his benefit recomputed,
853 including service after becoming a member again. However, the
854 total retirement allowance paid to the retired member in his
855 previous retirement shall be deducted from his retirement reserve
856 and taken into consideration in recalculating the retirement
857 allowance under a new option selected.

858 **SECTION 19.** The right of a person to an annuity, a
859 retirement allowance or benefit, or to the return of
860 contributions, or to any optional benefits or any other right
861 accrued or accruing to any person under the provisions of this
862 act, the system and the moneys in the system created by this act,
863 are exempt from any state, county or municipal ad valorem taxes,
864 income taxes, premium taxes, privilege taxes, property taxes,
865 sales and use taxes or other taxes not so named, notwithstanding
866 any other provision of law to the contrary, and exempt from levy
867 and sale, garnishment, attachment, or any other process
868 whatsoever, and shall be unassignable except as specifically
869 provided otherwise in this act.

870 **SECTION 20.** (1) The maintenance of actuarial reserves for
871 the various allowances and benefits under this act, and the
872 payment of all annuities, retirement allowances, refunds and other
873 benefits granted under this act are made obligation of the system.
874 All income, interest and dividends derived from deposits and
875 investments authorized by this act shall be used for the payment
876 of the obligations of the system.

877 (2) If the system is terminated, all members of the system
878 as of the date of termination of the system shall be deemed to
879 have a vested right to benefits to the extent and in the same
880 manner that rights would be vested under the laws existing as of
881 the date of termination of the system. However, any member who
882 has not fulfilled the requirements for length of service because
883 of a termination of the system shall be entitled to compensation
884 as of the date that the member would otherwise be eligible. That



885 compensation shall be computed on the basis of the time he was
886 actually a member of the system and the compensation he actually
887 earned during the time he was a member, in the manner provided by
888 this act.

889 If there is a deficit in the availability of funds for
890 payment due under the provisions of the system, an appropriation
891 shall be made that is sufficient for the payment thereof, as an
892 obligation of the State of Mississippi.

893 (3) Notwithstanding any provisions of this section or this
894 act to the contrary, the maximum annual retirement allowance
895 attributable to the employer contributions payable by the system
896 to a member shall be subject to the limitations set forth in
897 Section 415 of the Internal Revenue Code and any regulations
898 issued thereunder as applicable to governmental plans as that term
899 is defined under Section 414(d) of the Internal Revenue Code.

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

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

913 (6) Notwithstanding any other provision of this plan, the
914 maximum compensation that can be considered for all plan purposes
915 shall not be greater than that allowed under Section 401(a)(17) of
916 the Internal Revenue Code.



917 **SECTION 21.** Section 25-13-11, Mississippi Code of 1972, is
918 amended as follows:

919 25-13-11. (1) Any member upon withdrawal from service upon
920 or after attainment of the age of fifty-five (55) years who has
921 completed at least five (5) years of creditable service, * * * or
922 any member upon withdrawal from service regardless of age who has
923 completed at least twenty (20) years of creditable service, shall
924 be entitled to receive a retirement allowance that shall be
925 payable the first of the month following receipt of the member's
926 application in the Office of the Executive Director of the Public
927 Employees' Retirement System, but in no event before withdrawal
928 from service.

929 (2) Any member whose withdrawal from service occurs before
930 attaining the age of fifty-five (55) years who has completed more
931 than five (5) years of creditable service and has not * * *
932 received a refund of the member's accumulated contributions shall
933 be entitled to receive a retirement allowance of the amount earned
934 and accrued at the date of withdrawal from service beginning upon
935 his attaining the age of fifty-five (55) years * * *.

936 (3) The annual amount of the retirement allowance shall
937 consist of:

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

942 (b) An employer's annuity, which, together with the
943 member's annuity provided above, shall be equal to two and
944 one-half percent (2-1/2%) of the average compensation, based on
945 the four (4) highest consecutive years, for each year of
946 membership service.

947 (c) A prior service annuity equal to two and one-half
948 percent (2-1/2%) of the average compensation, based on the four



949 (4) highest consecutive years, for each year of prior service for
950 which the member is allowed credit.

951 * * *

952 (4) Upon retiring from service, a member shall be eligible
953 to obtain retirement benefits, as computed above, for life, except
954 that the aggregate amount of the employer's annuity and prior
955 service annuity * * * shall not exceed more than one hundred
956 percent (100%) of the average compensation regardless of the years
957 of service.

958 (5) Any member in the service who has attained the age of
959 sixty (60) years shall be immediately retired * * *. However, any
960 member who has attained age sixty (60) may ask the Commissioner of
961 Public Safety to allow him to continue in service with the
962 Mississippi Highway Safety Patrol beyond age sixty (60). If the
963 commissioner determines that the member's continuance in service
964 would be advantageous to the Highway Safety Patrol because of his
965 expert knowledge, experience or qualifications, the member shall
966 be allowed to continue in service beyond age sixty (60) for a
967 period of one (1) year. After the initial one-year continuance,
968 the commissioner may authorize the member to continue in service
969 for additional periods of one (1) year until the member attains
970 age sixty-five (65), at which time retirement shall be mandatory.

971 (6) Notwithstanding any provision of this chapter pertaining
972 to the Mississippi Highway Safety Patrol Retirement System, no
973 payments may be made for a retirement allowance on a monthly basis
974 for a period of time in excess of that allowed by any applicable
975 federal law.

976 (7) In no case shall any retired member who has completed at
977 least fifteen (15) years of creditable service receive less than
978 Five Hundred Dollars (\$500.00) per month; in no case shall any
979 retired member who has completed ten (10) or more years of
980 creditable service, but less than fifteen (15) years of creditable
981 service, receive less than Three Hundred Dollars (\$300.00) per



982 month; and in no case shall any retired member who has completed
983 less than ten (10) years of creditable service receive less than
984 Two Hundred Fifty Dollars (\$250.00) per month. In no case shall a
985 beneficiary who is receiving a retirement allowance receive less
986 than Two Hundred Fifty Dollars (\$250.00) per month or Three
987 Thousand Dollars (\$3,000.00) per year.

988 (8) Any retired member who is receiving a retirement
989 allowance on July 1, 1999, shall receive an ad hoc increase in the
990 annual retirement allowance equal to Three Dollars and Fifty Cents
991 (\$3.50) per month for each full fiscal year through June 30, 1999,
992 that the member has actually drawn retirement payments from the
993 date of retirement, or the date of last retirement if there is
994 more than one (1) retirement date, plus an amount equal to One
995 Dollar (\$1.00) per month for each full year of creditable service
996 and proportionately for each quarter year of creditable service,
997 as documented by the system and on which benefits are being paid.
998 If there are multiple beneficiaries receiving a retirement
999 allowance from a deceased member's account, the ad hoc increase
1000 shall be divided proportionately.

1001 **SECTION 22.** This act shall take effect and be in force from
1002 and after July 1, 2003.

