HOUSE BILL NO. 1007

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

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

SECTION 1. There is established and placed under the
management of the Board of Trustees of the Public Employees'
Retirement System a retirement system for the purpose of providing
retirement allowances and other benefits under the provisions of
this act for law enforcement officers and emergency services
personnel and their beneficiaries. This retirement system shall
be known as the "Law Enforcement Officers' and Emergency Services
Personnel Retirement System." The retirement system shall go into
operation on July 1, 2003, when contributions by members shall
begin and benefits shall become payable. This retirement system
is designed to supplement and is in addition to the provisions of
Section 25-11-1 et seq. Under the terms of this act, law
enforcement officers and emergency services personnel shall retain
all social security benefits under Article I of the Public
Employees' Retirement Law of 1952 but shall not be eligible for
benefits under Article III of that law. This act is a substitute
for and in lieu of Article III of that law, and is designed to
provide more liberal benefits for law enforcement officers and
emergency services personnel by reason of the dangerous nature of
and special risk involved in their employment.

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

(2) As used in this act:

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

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

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

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

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

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

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

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

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

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

(4) At least once in each two-year period following July 1, 2003, the actuary shall make an actuarial investigation into the mortality, service, withdrawal and compensation experience of the members and beneficiaries of the system, and shall make a valuation of the assets and liabilities of the system. Taking into account the result of the investigation and valuation, the board shall adopt for the retirement system such mortality, service, and other tables as shall be deemed necessary. On the basis of those tables that the board adopts, the actuary shall make biennial valuations of the assets and liabilities of the funds of the system.
(5) The board shall keep such data as necessary for the actuarial valuation of the contingent assets and liabilities of the system and for checking the experience of the system.

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

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

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

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

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

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

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

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

(c) All duly elected constables.

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

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

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

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

(h) All duly appointed or employed state correctional facility guards and enforcement officers of the Department of Corrections whose official duties are to insure the custody, security and control of any offenders under their supervision.
(i) All duly appointed or employed enforcement officers and inspectors of the Public Service Commission who are actually engaged in the enforcement of the provisions of Section 77-7-1 et seq. or other laws of this state administered and enforced by the Public Service Commission.

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

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

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

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

(3) All law enforcement officers and emergency services personnel eligible for membership in the system as provided in this section who are serving in that capacity on July 1, 2003, shall become members of the system on that date, unless they file with the board before August 1, 2003, on a form prescribed by the board, a notice of election not to be covered in the membership of the system and a duly executed waiver of all present and
prospective benefits that otherwise would inure to them on account
of their membership in the system.

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

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

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

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

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

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

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

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

(b) The payments required to be made in paragraph (a)(i) of this subsection may be made over a period beginning with the date of return to membership service and not exceeding three
(3) times the member's qualified military service; however, in no event shall that period exceed five (5) years.

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

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

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

(3) On account of each member the employers shall pay monthly into the system from funds available an amount equal to a certain percentage of the compensation of each member to be known as the "normal contributions," and an additional amount equal to a percentage of his compensation to be known as the "accrued liability contribution." The percentage rate of those contributions shall be fixed biennially by the board on the basis
(4) The board is authorized to deduct two percent (2%) of
all employer contributions paid into the system to be transferred
to the expense fund of the Public Employees' Retirement System to
defray the cost of administering the system.

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

SECTION 8. (1) Upon application of a member or his
employer, but in no event before termination of state service, any
member who has not attained the age of fifty-five (55) years may
be retired by the board, not less than thirty (30) and not more
than ninety (90) days next following the date of filing the
application, on a disability retirement allowance, if the medical
board of the Public Employees' Retirement System, after an
evaluation of medical evidence, which may include a physical
examination by the medical board, certifies that he is mentally or
physically incapacitated for the performance of duty, that the
incapacity is likely to be permanent, and that the sickness or
injury was caused or sustained as a direct result of duty as a law
enforcement officer or emergency services personnel after June 30,
2003.

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 10. (1) Any member who is receiving a retirement allowance for service or disability retirement, or any beneficiary thereof, who has received a monthly benefit for at least one (1)
full fiscal year, shall be eligible to receive an additional
benefit, on December 1 or July 1 of the year as provided in
subsection (4) or (5) of this section, equal to the sum of:

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

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

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

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

(ii) the monthly benefit terminates on or after July 1 and before December 1.

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

(5) Retired members or beneficiaries thereof who are receiving a retirement allowance may elect by an irrevocable agreement in writing filed in the Office of the Public Employees' Retirement System no less than thirty (30) days before July 1 of any year, to begin receiving the additional benefit provided in this section in twelve (12) equal monthly installments beginning on July 1 of the year. This irrevocable agreement shall be binding on the member and subsequent beneficiaries. Payment of those monthly installments shall not extend beyond the month in which a retirement allowance is due and payable. Any retired member or beneficiary thereof who previously elected to receive the additional annual payment in monthly installments may elect, upon application on a form prescribed by the board, to have that payment made in one (1) payment in December of each year. This written election must be filed in the Office of the Public Employees' Retirement System before June 1, 2004, and shall be effective for the fiscal year beginning July 1, 2004. The board, in its discretion, may allow a retired member or a beneficiary thereof who is receiving the additional benefit in monthly...
installments to have the additional benefit paid in one (1) payment in December of each year if the retired member or beneficiary submits satisfactory documentation that the continued receipt of the additional benefit in monthly installments will cause financial hardship to the retired member or beneficiary.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) Any retired member who is receiving the maximum
retirement allowance for life, or a retirement allowance under
Option 1, and who marries after his retirement may elect to cancel
his maximum retirement allowance or Option 1 retirement allowance
and receive a reduced retirement allowance under Option 2 or
Option 4-A to provide continuing lifetime benefits to his spouse.
The election must be made in writing to the office of the
executive director of the system on a form prescribed by the board
not earlier than the date of the marriage. Any such election
shall be effective the first of the month following the date the
election is received by the system. However, if a retiree marries
or remarries after retirement and elects either Option 2 or Option
4-A as provided in subsection (3) or (5) of this section, the
actuarial equivalent factor used to compute the reduced retirement
allowance shall be the factor for the age of the retiree and his
or her beneficiary at the time that the election for recalculation
of benefits is made.

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

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

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

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

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

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

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

(a) The surviving spouse of the member or retiree;
(b) The children of the member or retiree or their descendants, per stirpes;
(c) The brothers and sisters of the member or retiree or their descendants, per stirpes;
(d) The parents of the member or retiree;
(e) The executor or administrator on behalf of the member or retiree’s estate;
(f) The persons entitled by law to distribution of the member or retiree’s estate.

(2) Any monthly benefits payable to a beneficiary who dies before cashing his or her final check(s) and/or any additional benefits payable under Section 10 of this act still payable at the death of a beneficiary receiving monthly benefits shall be paid as follows:
(a) The surviving spouse of the beneficiary;
(b) The children of the beneficiary or their descendants, per stirpes;
(c) The brothers and sisters of the beneficiary or their descendants, per stirpes;
(d) The parents of the beneficiary;
(e) The executor or administrator on behalf of the beneficiary’s estate;
(f) The persons entitled by law to distribution of the beneficiary’s estate.

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

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

SECTION 16. Subject to the rules adopted by the board, the system shall accept an eligible rollover distribution or a direct transfer of funds from another eligible retirement plan, as defined under applicable federal law, or an individual retirement
account, in payment of all or a portion of the cost to purchase
optional service credit or to reinstate previously withdrawn
service credit as permitted by the system. The system may only
accept roll over payments in an amount equal to or less than the
balance due for purchase or reinstatement of service credit. The
rules adopted by the board shall condition the acceptance of a
roll over or transfer from another eligible retirement plan or an
individual retirement account on the receipt of information
necessary to enable the system to determine the eligibility of any
transferred funds for tax-free roll over treatment or other
treatment under federal income tax law.

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

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

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

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

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

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

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

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

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

(6) Notwithstanding any other provision of this plan, the maximum compensation that can be considered for all plan purposes shall not be greater than that allowed under Section 401(a)(17) of the Internal Revenue Code.
SECTION 21. Section 25-13-11, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

(c) A prior service annuity equal to two and one-half percent (2-1/2%) of the average compensation, based on the four
(4) highest consecutive years, for each year of prior service for which the member is allowed credit.

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

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

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

(7) In no case shall any retired member who has completed at least fifteen (15) years of creditable service receive less than Five Hundred Dollars ($500.00) per month; in no case shall any retired member who has completed ten (10) or more years of creditable service, but less than fifteen (15) years of creditable service, receive less than Three Hundred Dollars ($300.00) per
month; and in no case shall any retired member who has completed
less than ten (10) years of creditable service receive less than
Two Hundred Fifty Dollars ($250.00) per month. In no case shall a
beneficiary who is receiving a retirement allowance receive less
than Two Hundred Fifty Dollars ($250.00) per month or Three
Thousand Dollars ($3,000.00) per year.

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

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