SENATE BILL NO. 2716

AN ACT TO AMEND SECTIONS 21-29-145 AND 21-29-147, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE SURVIVING SPOUSE OF A DECEASED MEMBER OF THE DISABILITY AND RELIEF FUND FOR FIREMEN AND POLICEMEN IN CERTAIN MUNICIPALITIES SHALL CONTINUE TO RECEIVE THE DECEASED MEMBER'S RETIREMENT BENEFITS FOR LIFE, NOT JUST UNTIL REMARRIAGE; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 21-29-145, Mississippi Code of 1972, is amended as follows:

21-29-145. (1) If any member of the fire or police department dies in active service, or dies in inactive service on account of disability approved for disability relief under the provisions of Section 21-29-133, as a result of injury received while in the discharge of duty in the service of the fire department or police department, or dies as a result of sickness or disease due to the discharge of duty while in service as a member of the fire or police department, or if the member dies while entitled to relief after retirement under Section 21-29-139, the amount of disability relief or retirement being paid, or which should have been properly paid, shall continue to be paid from the fund to the spouse of the deceased member for life for the use of the spouse and the child or children of the deceased member. If the deceased member is not survived by a spouse but there remains a child or children of the deceased member the payments shall be made to a parent or lawful custodian of the child or children without the necessity of appointment as guardian for the benefit of the child or children. After the death of the spouse, all payments to the spouse shall cease, and after the death of any child or children of the
deceased member, all payments to the child or children shall cease. If the deceased member is not survived by spouse or child or children, but is survived by a father, mother or an unmarried sister dependent upon him or her, the payments shall continue to be made to the dependent father or mother or both, so long as each lives. If there is no dependent father or mother surviving the deceased member, the payments shall continue to be made to the unmarried dependent sister or sisters of the deceased member, so long as the beneficiary or beneficiaries remain unmarried. Upon the death or marriage of any such sister, all payments shall cease to her. Payments to dependents under this section are for services rendered by the members of the fire and/or police department, and the amount of payment is within the discretion of the board of disability and relief, but in no event shall the amount payable under this section be in excess of the amount that would have been payable as disability and relief to a member of the department. If the father or mother or sisters are not wholly dependent, then they shall not receive any amount in excess of the difference between the income of the father, mother, sister or sisters and the amount that the deceased member would have been entitled to.

(2) For the purposes of this section:

(a) "Dependent" means wholly dependent upon the deceased member at the time of his or her death.

(b) "Child" or "children" means:

(i) Children of the deceased member under the age of eighteen (18);

(ii) Children of the deceased member who are eighteen (18) years of age or older, have not yet reached their twenty-third birthday and are pursuing a full-time education;

(iii) Children of the deceased member who, though eighteen (18) years of age or older, are wholly dependent upon the
(3) Any spouse who received a spouse retirement benefit under this section before July 1, 2003, and whose benefits were terminated because of remarriage, may again receive his or her spouse retirement benefit from and after making application with the board of trustees to reinstate the spouse retirement benefit. Any reinstatement of the spouse retirement benefit shall be prospective only from and after the first of the month following the date of application for reinstatement.

SECTION 2. Section 21-29-147, Mississippi Code of 1972, is amended as follows:

21-29-147. (1) If any member of a fire or police department dies while a member of the fire or police department and who has had not less than five (5) years' service with the department, there shall be paid from the firemen's and policemen's disability and relief fund benefits as follows:

(a) For each year's active service, not to exceed a period of twenty (20) years, one-fortieth (1/40) of the average monthly salary or compensation received by the member in the six-month period next preceding his death; and

(b) For each full year of active service in excess of twenty (20) years service, an additional payment in a sum equal to one and seven-tenths percent (1-7/10%) of the same average monthly base salary and longevity pay received by the member in the six-month period next preceding his death (provided that no such payment shall exceed sixty-six and two-thirds percent (66-2/3%) of the average monthly base salary and longevity pay received by a member for the six-month period next preceding his death) to the spouse of the deceased member for life for the use of the spouse and the child or children of the deceased member under the age of eighteen (18) years. If the deceased member is not survived by a spouse but there ** remains a child or children of the
deceased member still under the age of eighteen (18) years, the payments shall be made to a parent or lawful custodian of the child or children without the necessity of appointment as guardian for the benefit of the child or children, so long as the child or children are under the age of eighteen (18) years. After the death of the spouse, all payments to the spouse shall cease, and after the death or attainment of the age of eighteen years of any child or children of the deceased member, all payments to the child or children over eighteen (18) years of age shall cease. If the deceased member is not survived by a spouse or child or children under the age of eighteen (18) years, but is survived by a father, mother or unmarried sister dependent upon him or her, the payments shall continue to be made to the dependent father or mother or both, so long as each lives. If there is no dependent father or mother surviving the deceased member, the payments shall continue to be made to the dependent sister or sisters of the deceased member, or to dependent incurable children of the deceased member, so long as the beneficiary or beneficiaries remain unmarried. Upon the death or marriage of any such sisters, all payments shall cease to her. The word "dependent," as used in this section, means wholly dependent.

(2) It is the intention of the Legislature that the benefits authorized by paragraph (b) of subsection (1) of this section shall be paid to all qualified and eligible spouses whose deceased spouses died before the March 27, 1978.

(3) Any spouse who received a spouse retirement benefit under this section before July 1, 2003, and whose benefits were terminated because of remarriage, may again receive his or her spouse retirement benefit from and after making application with the board of trustees to reinstate the spouse retirement benefit.

Any reinstatement of the spouse retirement benefit shall be
prospective only from and after the first of the month following
the date of application for reinstatement.

SECTION 3. This act shall take effect and be in force from
and after July 1, 2003.