

By: Representative Fleming

To: Appropriations

HOUSE BILL NO. 146

1 AN ACT TO CREATE A SEPARATE RETIREMENT SYSTEM FOR LAW
2 ENFORCEMENT OFFICERS, WHICH SHALL BE ADMINISTERED BY THE BOARD OF
3 TRUSTEES OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; TO DEFINE
4 ELIGIBILITY FOR MEMBERSHIP IN THE SYSTEM; TO PROVIDE FOR EMPLOYEE
5 AND EMPLOYER CONTRIBUTIONS TO FUND THE SYSTEM; TO ESTABLISH
6 BENEFITS FOR DISABILITY AND SUPERANNUATION RETIREMENT AND
7 ESTABLISH DEATH BENEFITS; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** There is established and placed under the
10 management of the Board of Trustees of the Public Employees'
11 Retirement System a retirement system for the purpose of providing
12 retirement allowances and other benefits under the provisions of
13 this act for law enforcement officers and their beneficiaries.
14 This retirement system shall be known as the "Law Enforcement
15 Officers' Retirement System." The retirement system shall go into
16 operation on July 1, 2006, when contributions by members shall
17 begin and benefits shall become payable. This retirement system
18 is designed to supplement and is in addition to the provisions of
19 Section 25-11-1 et seq. Under the terms of this act, law
20 enforcement officers shall retain all social security benefits
21 under Article I of the Public Employees' Retirement Law of 1952
22 but shall not be eligible for benefits under Article III of that
23 law. This act is a substitute for and in lieu of Article III of
24 that law, and is designed to provide more liberal benefits for law
25 enforcement officers by reason of the dangerous nature of and
26 special risk involved in their employment.

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

30 (2) As used in this act:

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

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

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

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

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

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

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

63 (4) At least once in each two-year period following July 1,
64 2006, the actuary shall make an actuarial investigation into the
65 mortality, service, withdrawal and compensation experience of the
66 members and beneficiaries of the system, and shall make a
67 valuation of the assets and liabilities of the system. Taking
68 into account the result of the investigation and valuation, the
69 board shall adopt for the retirement system such mortality,
70 service, and other tables as shall be deemed necessary. On the
71 basis of those tables that the board adopts, the actuary shall
72 make biennial valuations of the assets and liabilities of the
73 funds of the system.

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

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

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

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

91 (9) The board shall keep a record of all its proceedings
92 under this act. All books, accounts and records shall be kept in
93 the general office of the Public Employees' Retirement System and
94 shall be public records except for individual member records. The
95 Public Employees' Retirement System shall not disclose the name,

96 address or contents of any individual member records without the
97 prior written consent of the individual to whom the record
98 pertains.

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

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

104 (a) All duly elected or appointed police officers and
105 narcotics agents in the full-time employment of a municipality who
106 are actually engaged in the enforcement of the laws of this state
107 and the municipality, except police officers and narcotic agents
108 who are members of any retirement system created under Section
109 21-29-101 et seq. or Section 21-29-201 et seq., but not auxiliary
110 officers or officers who are engaged only in administrative or
111 civil duties.

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

117 (c) All duly elected constables.

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

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

126 (f) All duly appointed agents and inspectors of the
127 Alcoholic Beverage Control Division of the State Tax Commission

128 who are actually engaged in the enforcement of the alcoholic
129 beverage control laws of this state (Section 67-1-1 et seq.).

130 (g) All duly appointed or employed inspection station
131 employees, enforcement officers, field inspectors, railroad
132 inspectors and other inspectors of the Mississippi Department of
133 Transportation who are actually engaged in the enforcement of the
134 laws specified in Section 27-5-71, the provisions of Sections
135 77-7-1 et seq. or other laws of this state administered and
136 enforced by the Department of Transportation.

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

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

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

152 (3) All law enforcement officers eligible for membership in
153 the system as provided in this section who are serving in that
154 capacity on July 1, 2006, shall become members of the system on
155 that date, unless they file with the board before August 1, 2006,
156 on a form prescribed by the board, a notice of election not to be
157 covered in the membership of the system and a duly executed waiver
158 of all present and prospective benefits that otherwise would inure
159 to them on account of their membership in the system.

160 (4) All law enforcement officers eligible for membership in
161 the system as provided in this section who are elected or
162 appointed after June 30, 2006, shall become members of the system
163 as a condition of their office or employment.

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

168 **SECTION 5.** (1) Creditable service on which a member's
169 service or disability retirement benefit is based shall consist of
170 prior service and membership service. Prior service means service
171 performed before July 1, 2006, for which contributions were made
172 to the Public Employees' Retirement System, and membership service
173 means all service for which credit may be allowed under this act
174 after June 30, 2006, and all lawfully credited unused leave as of
175 the date of withdrawal from service, as certified by the employer.

176 (2) In computing the period of service of a member of the
177 system, any member who served on active duty in the Armed Forces
178 of the United States, or who served in maritime service during
179 periods of hostility in World War II, shall be entitled to
180 creditable service at no cost for his service on active duty in
181 the Armed Forces or in such maritime service, provided he entered
182 state service after his discharge from the Armed Forces or entered
183 state service after he completed such maritime service. The
184 maximum period for creditable service for all military service as
185 defined in this subsection (2) shall not exceed four (4) years
186 unless positive proof can be furnished by the person that he was
187 retained in the Armed Forces during World War II or in maritime
188 service during World War II by causes beyond his control and
189 without opportunity of discharge. The member shall furnish proof
190 satisfactory to the board of certification of military service or
191 maritime service records showing dates of entrance into service
192 and the date of discharge. No creditable service shall be granted

193 for any military service or maritime service to a member who
194 qualifies for a retirement allowance in another public retirement
195 system administered by the board based in whole or in part on that
196 military or maritime service. In no case shall the member receive
197 creditable service if the member received a dishonorable discharge
198 from the Armed Forces of the United States.

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

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

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

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

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

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

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

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

249 (3) On account of each member, the employers shall pay
250 monthly into the system from funds available an amount equal to a
251 certain percentage of the compensation of each member to be known
252 as the "normal contributions," and an additional amount equal to a
253 percentage of his compensation to be known as the "accrued
254 liability contribution." The percentage rate of those
255 contributions shall be fixed biennially by the board on the basis
256 of the liabilities of the system for the various allowances and
257 benefits as shown by the actuarial valuation.

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

262 **SECTION 7.** Each employer shall withhold the member
263 contributions required by Section 6 of this act from all
264 compensation earned after June 30, 2006, and the contributions so
265 withheld shall be treated as employer contributions in determining
266 tax treatment under the United States Internal Revenue Code and
267 Mississippi Income Tax Code. These contributions shall not be
268 included as gross income of the member until such time as they are
269 distributed or made available. The employer shall pay these
270 member contributions from the same source of funds that is used in
271 paying earnings to the member. The employer may withhold member
272 contributions by a reduction in the cash salary of the member, or
273 by an offset against a future salary increase, or by a combination
274 of a reduction in salary and offset against a future salary
275 increase. The member contributions so withheld shall be treated
276 for all purposes in the same manner and to the same extent as
277 member contributions.

278 **SECTION 8.** (1) Upon application of a member or his
279 employer, but in no event before termination of state service, any
280 member who has not attained the age of fifty-five (55) years may
281 be retired by the board, not less than thirty (30) and not more
282 than ninety (90) days next following the date of filing the
283 application, on a disability retirement allowance, if the medical
284 board of the Public Employees' Retirement System, after an
285 evaluation of medical evidence, which may include a physical
286 examination by the medical board, certifies that he is mentally or
287 physically incapacitated for the performance of duty, that the
288 incapacity is likely to be permanent, and that the sickness or
289 injury was caused or sustained as a direct result of duty as a law
290 enforcement officer after June 30, 2006.

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

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

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

322 (4) If the medical board reports and certifies to the board
323 that the disability retiree is engaged in, or is able to engage

324 in, a gainful occupation paying more than the difference between
325 his disability benefit and his average compensation, and if the
326 board concurs in the report, the disability benefit shall be
327 reduced to an amount that, together with the amount earnable by
328 him, equals the amount of his average compensation. If his
329 earning capacity is later changed, the amount of the benefit may
330 be further modified. However, the revised benefit shall not
331 exceed the amount originally granted or an amount that, when added
332 to the amount earnable by the retiree, together with the member's
333 annuity, equals the amount of his average compensation.

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

345 **SECTION 9.** (1) Any member upon withdrawal from service upon
346 or after attainment of the age of fifty-five (55) years who has
347 completed at least four (4) years of creditable service, or any
348 member upon withdrawal from service upon or after attainment of
349 the age of forty-five (45) years who has completed at least twenty
350 (20) years of creditable service, or any member upon withdrawal
351 from service regardless of age who has completed at least
352 twenty-five (25) years of creditable service, shall be entitled to
353 receive a retirement allowance that shall be payable the first of
354 the month following receipt of the member's application in the
355 office of the executive director of the system, but in no event
356 before withdrawal from service.

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

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

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

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

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

377 (d) In the case of retirement of any member before
378 attaining the age of fifty-five (55) years, the retirement
379 allowance shall be computed in accordance with the formula set
380 forth above in this section, except that the employer's annuity
381 and prior service annuity shall be reduced by three percent (3%)
382 for each year of age below fifty-five (55) years, or three percent
383 (3%) for each year of service below twenty-five (25) years of
384 creditable service, whichever is lesser.

385 (e) Upon retiring from service, a member shall be
386 eligible to obtain retirement benefits, as computed above, for
387 life, except that the aggregate amount of the employer's annuity
388 and prior service annuity shall not exceed more than one hundred

389 percent (100%) of the average compensation regardless of the years
390 of service.

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

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

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

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

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

411 (3) If a retiree who is receiving a retirement allowance
412 that will terminate upon the retiree's death is receiving the
413 additional benefit in one (1) payment and dies on or after July 1
414 but before December 1, the beneficiary designated on the
415 retirement application, if any, shall receive in a single payment
416 a fractional part of the additional benefit based on the number of
417 months in which a retirement allowance was received during the
418 fiscal year. If there is no surviving beneficiary, payment shall
419 be made in accordance with Section 15(1) of this act. Any similar
420 remaining payments of the additional benefit payable under this
421 section to a deceased beneficiary who was receiving a monthly

422 benefit shall be payable in accordance with the provisions of
423 Section 15(2) of this act. If the additional benefit is being
424 received in one (1) payment each year, the additional benefit
425 shall be prorated based on the number of months in which a
426 retirement allowance was received during the fiscal year when (i)
427 the monthly benefit payable to a beneficiary terminates due to the
428 expiration of an option, remarriage or cessation of dependent
429 status or due to the retiree's return to covered employment, and
430 (ii) the monthly benefit terminates on or after July 1 and before
431 December 1.

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

443 (5) Retired members or beneficiaries thereof who are
444 receiving a retirement allowance may elect by an irrevocable
445 agreement in writing filed in the office of the Public Employees'
446 Retirement System no less than thirty (30) days before July 1 of
447 any year, to begin receiving the additional benefit provided in
448 this section in twelve (12) equal monthly installments beginning
449 on July 1 of the year. This irrevocable agreement shall be
450 binding on the member and subsequent beneficiaries. Payment of
451 those monthly installments shall not extend beyond the month in
452 which a retirement allowance is due and payable. Any retired
453 member or beneficiary thereof who previously elected to receive
454 the additional annual payment in monthly installments may elect,

455 upon application on a form prescribed by the board, to have that
456 payment made in one (1) payment in December of each year. This
457 written election must be filed in the Office of the Public
458 Employees' Retirement System before June 1, 2006, and shall be
459 effective for the fiscal year beginning July 1, 2006. The board,
460 in its discretion, may allow a retired member or a beneficiary
461 thereof who is receiving the additional benefit in monthly
462 installments to have the additional benefit paid in one (1)
463 payment in December of each year if the retired member or
464 beneficiary submits satisfactory documentation that the continued
465 receipt of the additional benefit in monthly installments will
466 cause financial hardship to the retired member or beneficiary.

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

469 (7) When a member retires after July 1 and has previously
470 received a retirement allowance for one or more full fiscal years,
471 the retired member shall be eligible immediately for the
472 additional benefit. The additional benefit shall be based on the
473 current retirement allowance and the number of full fiscal years
474 in retirement and shall be prorated and paid in monthly
475 installments based on the number of months a retirement allowance
476 is paid during the fiscal year.

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

480
$$[(1.03)^n - 1] \times [\text{annual retirement allowance}],$$

481 where n is the number of full fiscal years in retirement beginning
482 with the fiscal year in which the member reaches age fifty-five
483 (55).

484 **SECTION 11.** (1) Upon the death of any member who has
485 retired for service or disability and who has not elected any
486 other option under Section 12 of this act, the member's spouse
487 shall receive one-half (1/2) the benefit that the member was

488 receiving and each child not having attained the age of nineteen
489 (19) years shall receive one-fourth (1/4) of the member's benefit,
490 but not more than one-half (1/2) of the benefits shall be paid for
491 the support and maintenance of two (2) or more children. Upon
492 each child's attaining the age of nineteen (19) years, the child
493 shall no longer be eligible for the benefit, and when all of the
494 children have attained the age of nineteen (19) years, only the
495 spouse shall be eligible for one-half (1/2) of the amount of the
496 member's benefit. The spouse shall continue to be eligible for
497 the benefit in the amount of fifty percent (50%) of the member's
498 retirement benefit as long as the spouse may live.

499 (2) Upon the death of any member who has served the minimum
500 period required for eligibility for retirement, the member's
501 spouse and family shall receive all the benefits payable to the
502 member's beneficiaries as if the member had retired at the time of
503 death. Those benefits shall continue to be paid to the spouse for
504 life. The benefits are payable on a monthly basis.

505 (3) The spouse and/or the dependent children of an active
506 member who is killed in the line of performance of duty or dies as
507 a direct result of an accident occurring in the line of
508 performance of duty shall qualify, on approval of the board, for a
509 retirement allowance on the first of the month following the date
510 of the member's death, but not before receipt of application by
511 the board. The spouse shall receive a retirement allowance equal
512 to one-half (1/2) of the average compensation of the deceased
513 member. In addition to the retirement allowance for the spouse,
514 or if there is no surviving spouse, a retirement allowance shall
515 be paid in the amount of one-fourth (1/4) of the average
516 compensation for the support and maintenance of one (1) child or
517 in the amount of one-half (1/2) of the average compensation for
518 the support and maintenance of two (2) or more children. Those
519 benefits shall cease to be paid for the support and maintenance of
520 each child upon the child attaining the age of nineteen (19)

521 years; however, the spouse shall continue to be eligible for the
522 retirement allowance provided for the spouse. Benefits may be
523 paid to a surviving parent or lawful custodian of the children for
524 the use and benefit of the children without the necessity of
525 appointment as guardian. The retirement allowance shall continue
526 to the spouse for life.

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

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

552 (6) If all the annuities provided for in this section
553 payable on the account of the death of a member terminate before

554 there has been paid an aggregate amount equal to the member's
555 accumulated contributions standing to the member's credit in the
556 annuity savings account at the time of the member's death, the
557 difference between the accumulated contributions and the aggregate
558 amount of annuity payments shall be paid to the person as the
559 member has nominated by written designation duly executed and
560 filed with the system. If there is no designated beneficiary
561 surviving at termination of benefits, the difference shall be
562 payable according to Section 15(1) of this act.

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

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

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

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

584 **Option 3.** Upon his death, one-half (1/2) of his reduced
585 retirement allowance shall be continued throughout the life of,
586 and paid to, such person as he has nominated by written

587 designation duly acknowledged and filed with the board at the time
588 of his retirement, and the other one-half (1/2) of his reduced
589 retirement allowance to some other designated beneficiary; or

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

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

603 **Option 6.** Any member who is eligible to retire with an
604 unreduced benefit may select the maximum retirement benefit or an
605 optional benefit as provided in this subsection together with a
606 partial lump sum distribution. The amount of the lump sum
607 distribution under this option shall be equal to the maximum
608 monthly benefit multiplied by twelve (12), twenty-four (24) or
609 thirty-six (36) as selected by the member. The maximum retirement
610 benefit shall be actuarially reduced to reflect the amount of the
611 lump sum distribution selected and further reduced for any other
612 optional benefit selected. The annuity and lump sum distribution
613 shall be computed to result in no actuarial loss to the system.
614 The lump sum distribution shall be made as a single payment
615 payable at the time the first monthly annuity payment is paid to
616 the retiree. The amount of the lump sum distribution shall be
617 deducted from the member's annuity savings account in computing
618 what contributions remain at the death of the retiree and/or a
619 beneficiary. The lump sum distribution option may be elected only

620 once by a member upon initial retirement, and may not be elected
621 by a retiree, by members applying for a disability retirement
622 annuity or by survivors.

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

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

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

652 (5) Any retired member who is receiving the maximum
653 retirement allowance for life, or a retirement allowance under
654 Option 1, and who marries after his retirement may elect to cancel
655 his maximum retirement allowance or Option 1 retirement allowance
656 and receive a reduced retirement allowance under Option 2 or
657 Option 4-A to provide continuing lifetime benefits to his spouse.
658 The election must be made in writing to the office of the
659 executive director of the system on a form prescribed by the board
660 not earlier than the date of the marriage. Any such election
661 shall be effective the first of the month following the date the
662 election is received by the system. However, if a retiree marries
663 or remarries after retirement and elects either Option 2 or Option
664 4-A as provided in subsection (3) or (5) of this section, the
665 actuarial equivalent factor used to compute the reduced retirement
666 allowance shall be the factor for the age of the retiree and his
667 or her beneficiary at the time that the election for recalculation
668 of benefits is made.

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

680 **SECTION 13.** (1) All persons who are covered under the terms
681 of this act on July 1, 2006, and who become members of the
682 retirement system established by this act shall cease to be
683 members of the Public Employees' Retirement System under the
684 provisions of Section 25-11-101 et seq. upon July 1, 2006, and

685 shall become members of this retirement system with full credit
686 for all prior service performed before July 1, 2006, for which
687 contributions were made to the Public Employees' Retirement
688 System.

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

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

711 Under the Unemployment Compensation Amendments of 1992
712 (Public Law 102-218(UCA)), a member or the spouse of a member who
713 is an eligible beneficiary eligible for a refund under this
714 section may elect on a form prescribed by the board under rules
715 and regulations established by the board, to have an eligible roll
716 over distribution of accumulated contributions payable under this
717 section paid directly to an eligible retirement plan, as defined

718 under applicable federal law, or an individual retirement account.
719 If the member or the spouse of a member who is an eligible
720 beneficiary makes that election and specifies the eligible
721 retirement plan or individual retirement account to which the
722 distribution is to be paid, the distribution will be made in the
723 form of a direct trustee-to-trustee transfer to the specified
724 eligible retirement plan. Flexible roll overs under this
725 paragraph shall not be considered assignments under Section 19 of
726 this act.

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

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

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

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

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

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

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

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

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

766 (a) The surviving spouse of the beneficiary;

767 (b) The children of the beneficiary or their
768 descendants, per stirpes;

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

771 (d) The parents of the beneficiary;

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

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

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

779 (4) Payment under the provisions of this section shall bar
780 recovery by any other person of the benefits distributed. Payment
781 of benefits made to one or more members of a class of individuals
782 are made on behalf of all members of the class. Any members of

783 the class coming forward after payment is made must look to those
784 who received the payment.

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

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

814 **SECTION 18.** No person who is being paid a retirement
815 allowance under this act shall serve as or be paid for any service

816 as a law enforcement officer. Any member who has been retired
817 under this act and who is later elected, appointed or employed as
818 a law enforcement officer shall cease to receive benefits under
819 this act and shall become a contributing member of the retirement
820 system again. Upon retiring again, if the member's reemployment
821 exceeds six (6) months, he shall have his benefits recomputed,
822 including service after becoming a member again. However, the
823 total retirement allowance paid to the retired member in his
824 previous retirement shall be deducted from his retirement reserve
825 and taken into consideration in recalculating the retirement
826 allowance under a new option selected.

827 **SECTION 19.** (1) The right of a person to an annuity, a
828 retirement allowance or benefit, or to the return of
829 contributions, or to any optional benefits or any other right
830 accrued or accruing to any person under the provisions of this
831 act, the system and the monies in the system created by this act,
832 are exempt from any state, county or municipal ad valorem taxes,
833 income taxes, premium taxes, privilege taxes, property taxes,
834 sales and use taxes or other taxes not so named, notwithstanding
835 any other provision of law to the contrary, and exempt from levy
836 and sale, garnishment, attachment, or any other process
837 whatsoever, and shall be unassignable except as specifically
838 provided otherwise in this act.

839 (2) Any retired member or beneficiary receiving a retirement
840 allowance or benefit under this act may authorize the Public
841 Employees' Retirement System to make deductions from the
842 retirement allowance or benefit for the payment of employer or
843 system sponsored group life or health insurance. The deductions
844 authorized under this subsection shall be subject to rules and
845 regulations adopted by the board.

846 **SECTION 20.** (1) The maintenance of actuarial reserves for
847 the various allowances and benefits under this act, and the
848 payment of all annuities, retirement allowances, refunds and other

849 benefits granted under this act are made obligations of the
850 system. All income, interest and dividends derived from deposits
851 and investments authorized by this act shall be used for the
852 payment of the obligations of the system.

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

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

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

876 (4) Notwithstanding any other provision of this plan, all
877 distributions from this plan shall conform to the regulations
878 issued under Section 401(a)(9) of the Internal Revenue Code,
879 applicable to governmental plans, as defined in Section 414(d) of
880 the Internal Revenue Code, including the incidental death benefit
881 provisions of Section 401(a)(9)(G) of the Internal Revenue Code.

882 Further, those regulations shall override any plan provision that
883 is inconsistent with Section 401(a)(9) of the Internal Revenue
884 Code.

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

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

893 **SECTION 21.** This act shall take effect and be in force from
894 and after July 1, 2006.