

By: Representative Bentz

To: Appropriations

## HOUSE BILL NO. 1125

1 AN ACT TO CREATE A SEPARATE RETIREMENT SYSTEM FOR LAW  
2 ENFORCEMENT OFFICERS, 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  
106 that has elected to include its police officers and narcotics  
107 agents in the membership of the system under subsection (3) of  
108 this section, who are actually engaged in the enforcement of the  
109 laws of this state and the municipality, except police officers  
110 and narcotic agents who are members of any retirement system  
111 created under Section 21-29-101 et seq. or Section 21-29-201 et  
112 seq., but not auxiliary officers or officers who are engaged only  
113 in administrative or civil duties.

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

119 (c) All duly elected constables.

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

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

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

132           (g) All duly appointed or employed inspection station  
133 employees, enforcement officers, field inspectors, railroad  
134 inspectors and other inspectors of the Mississippi Department of  
135 Transportation who are actually engaged in the enforcement of the  
136 laws specified in Section 27-5-71, the provisions of Sections  
137 77-7-1 et seq. or other laws of this state administered and  
138 enforced by the Department of Transportation.

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

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

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

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

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

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

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

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

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

188 (4) Except as otherwise provided for municipalities in  
189 subsection (3) of this section, all law enforcement officers  
190 eligible for membership in the system as provided in this section  
191 who are serving in that capacity on July 1, 2006, shall become  
192 members of the system on that date, unless they file with the  
193 board before August 1, 2006, on a form prescribed by the board, a

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

198 (5) Except as otherwise provided for municipalities in  
199 subsection (3) of this section, all law enforcement officers  
200 eligible for membership in the system as provided in this section  
201 who are elected or appointed after June 30, 2006, shall become  
202 members of the system as a condition of their office or  
203 employment.

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

208 **SECTION 5.** (1) Creditable service on which a member's  
209 service or disability retirement benefit is based shall consist of  
210 prior service and membership service. Except as otherwise  
211 provided for municipalities in this subsection, prior service  
212 means service performed before July 1, 2006, for which  
213 contributions were made to the Public Employees' Retirement  
214 System, and membership service means all service for which credit  
215 may be allowed under this act after June 30, 2006, and all  
216 lawfully credited unused leave as of the date of withdrawal from  
217 service, as certified by the employer. For police officers and  
218 narcotics agents of municipalities that have elected to include  
219 those persons in the membership of the system, prior service means  
220 service performed before the date that they became members of the  
221 system for which contributions were made to the Public Employees'  
222 Retirement System, and membership service means all service for  
223 which credit may be allowed under this act on or after the date  
224 that they became members of the system and all lawfully credited  
225 unused leave as of the date of withdrawal from service, as  
226 certified by the municipality.

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

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

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

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

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

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

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

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

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

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

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

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

313 **SECTION 7.** Each employer shall withhold the member  
314 contributions required by Section 6 of this act from all  
315 compensation earned after June 30, 2006, or in the case of police  
316 officers and narcotics agents of municipalities that have elected  
317 to include those persons in the membership of the system, from all  
318 compensation earned on and after the date that they became members  
319 of the system. The contributions so withheld shall be treated as  
320 employer contributions in determining tax treatment under the  
321 United States Internal Revenue Code and Mississippi Income Tax  
322 Code. These contributions shall not be included as gross income  
323 of the member until such time as they are distributed or made  
324 available. The employer shall pay these member contributions from

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

333 **SECTION 8.** (1) Upon application of a member or his  
334 employer, but in no event before termination of state service, any  
335 member who has not attained the age of fifty-five (55) years may  
336 be retired by the board, not less than thirty (30) and not more  
337 than ninety (90) days next following the date of filing the  
338 application, on a disability retirement allowance, if the medical  
339 board of the Public Employees' Retirement System, after an  
340 evaluation of medical evidence, which may include a physical  
341 examination by the medical board, certifies that he is mentally or  
342 physically incapacitated for the performance of duty, that the  
343 incapacity is likely to be permanent, and that the sickness or  
344 injury was caused or sustained as a direct result of duty as a law  
345 enforcement officer after June 30, 2006, or in the case of a  
346 police officer or narcotics agent of a municipality that has  
347 elected to include those persons in the membership of the system,  
348 on or after the date that the person became a member of the  
349 system.

350 Upon the application of a member or his employer, any member  
351 who is not yet eligible for service retirement benefits and who  
352 has had at least five (5) years of creditable service may be  
353 retired by the board, not less than thirty (30) and not more than  
354 ninety (90) days next following the date of filing the  
355 application, on a disability retirement allowance, if the medical  
356 board, after an evaluation of medical evidence, which may include  
357 a physical examination by the medical board, certifies that he is

358 mentally or physically incapacitated for the further performance  
359 of duty, that the incapacity is likely to be permanent, and that  
360 he should be retired. This disability need not be service  
361 connected.

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

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

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

391 to the amount earnable by the retiree, together with the member's  
392 annuity, equals the amount of his average compensation.

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

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

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

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

422 (a) A member's annuity, which shall be the actuarial  
423 equivalent of the accumulated contributions of the member at the

424 time of retirement, computed according to the actuarial table in  
425 use by the system.

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

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

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

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

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

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

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

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

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

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

489 the additional benefit in one (1) payment each year will cause a  
490 financial hardship to the retired member or beneficiary.

491 (5) Retired members or beneficiaries thereof who are  
492 receiving a retirement allowance may elect by an irrevocable  
493 agreement in writing filed in the office of the Public Employees'  
494 Retirement System no less than thirty (30) days before July 1 of  
495 any year, to begin receiving the additional benefit provided in  
496 this section in twelve (12) equal monthly installments beginning  
497 on July 1 of the year. This irrevocable agreement shall be  
498 binding on the member and subsequent beneficiaries. Payment of  
499 those monthly installments shall not extend beyond the month in  
500 which a retirement allowance is due and payable. The board, in  
501 its discretion, may allow a retired member or a beneficiary  
502 thereof who is receiving the additional benefit in monthly  
503 installments to have the additional benefit paid in one (1)  
504 payment in December of each year if the retired member or  
505 beneficiary submits satisfactory documentation that the continued  
506 receipt of the additional benefit in monthly installments will  
507 cause financial hardship to the retired member or beneficiary.

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

510 (7) When a member retires after July 1 and has previously  
511 received a retirement allowance for one or more full fiscal years,  
512 the retired member shall be eligible immediately for the  
513 additional benefit. The additional benefit shall be based on the  
514 current retirement allowance and the number of full fiscal years  
515 in retirement and shall be prorated and paid in monthly  
516 installments based on the number of months a retirement allowance  
517 is paid during the fiscal year.

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

521  $[(1.03)^n - 1] \times [\text{annual retirement allowance}],$

522 where n is the number of full fiscal years in retirement beginning  
523 with the fiscal year in which the member reaches age fifty-five  
524 (55).

525         **SECTION 11.** (1) Upon the death of any member who has  
526 retired from service or disability and who has not elected any  
527 other option under Section 12 of this act, the member's spouse  
528 shall receive one-half (1/2) the benefit that the member was  
529 receiving and each child not having attained the age of nineteen  
530 (19) years shall receive one-fourth (1/4) of the member's benefit,  
531 but not more than one-half (1/2) of the benefits shall be paid for  
532 the support and maintenance of two (2) or more children. Upon  
533 each child's attaining the age of nineteen (19) years, the child  
534 shall no longer be eligible for the benefit, and when all of the  
535 children have attained the age of nineteen (19) years, only the  
536 spouse shall be eligible for one-half (1/2) of the amount of the  
537 member's benefit. The spouse shall continue to be eligible for  
538 the benefit in the amount of fifty percent (50%) of the member's  
539 retirement benefit as long as the spouse may live.

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

546         (3) The spouse and/or the dependent children of an active  
547 member who is killed in the line of performance of duty or dies as  
548 a direct result of an accident occurring in the line of  
549 performance of duty shall qualify, on approval of the board, for a  
550 retirement allowance on the first of the month following the date  
551 of the member's death, but not before receipt of application by  
552 the board. The spouse shall receive a retirement allowance equal  
553 to one-half (1/2) of the average compensation of the deceased  
554 member. In addition to the retirement allowance for the spouse,

555 or if there is no surviving spouse, a retirement allowance shall  
556 be paid in the amount of one-fourth (1/4) of the average  
557 compensation for the support and maintenance of one (1) child or  
558 in the amount of one-half (1/2) of the average compensation for  
559 the support and maintenance of two (2) or more children. Those  
560 benefits shall cease to be paid for the support and maintenance of  
561 each child upon the child attaining the age of nineteen (19)  
562 years; however, the spouse shall continue to be eligible for the  
563 retirement allowance provided for the spouse. Benefits may be  
564 paid to a surviving parent or lawful custodian of the children for  
565 the use and benefit of the children without the necessity of  
566 appointment as guardian. The retirement allowance shall continue  
567 to be paid to the spouse for life.

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

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

588 weeks, per academic year or other applicable period with a subject  
589 load sufficient, if successfully completed, to attain the  
590 educational or training objective within the period generally  
591 accepted as minimum for completion, by a full-time day student, of  
592 the academic or training program concerned.

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

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

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

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

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

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

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

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

644           **Option 6.** Any member who is eligible to retire with an  
645 unreduced benefit may select the maximum retirement benefit or an  
646 optional benefit as provided in this subsection together with a  
647 partial lump sum distribution. The amount of the lump sum  
648 distribution under this option shall be equal to the maximum  
649 monthly benefit multiplied by twelve (12), twenty-four (24) or  
650 thirty-six (36) as selected by the member. The maximum retirement  
651 benefit shall be actuarially reduced to reflect the amount of the  
652 lump sum distribution selected and further reduced for any other

653 optional benefit selected. The annuity and lump sum distribution  
654 shall be computed to result in no actuarial loss to the system.  
655 The lump sum distribution shall be made as a single payment  
656 payable at the time the first monthly annuity payment is paid to  
657 the retiree. The amount of the lump sum distribution shall be  
658 deducted from the member's annuity savings account in computing  
659 what contributions remain at the death of the retiree and/or a  
660 beneficiary. The lump sum distribution option may be elected only  
661 once by a member upon initial retirement, and may not be elected  
662 by a retiree, by members applying for a disability retirement  
663 annuity or by survivors.

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

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

681 (4) Any retired member who is receiving a reduced retirement  
682 allowance under Option 2 or Option 4-A whose designated  
683 beneficiary predeceases him, or whose marriage to a spouse who is  
684 his designated beneficiary is terminated by divorce or other  
685 dissolution, may elect to cancel his reduced retirement allowance

686 and receive the maximum retirement allowance for life in an amount  
687 equal to the amount that would have been payable if the member had  
688 not elected Option 2 or Option 4-A. The election must be made in  
689 writing to the office of the executive director of the system on a  
690 form prescribed by the board. Any such election shall be  
691 effective the first of the month following the date the election  
692 is received by the system.

693 (5) Any retired member who is receiving the maximum  
694 retirement allowance for life, or a retirement allowance under  
695 Option 1, and who marries after his retirement may elect to cancel  
696 his maximum retirement allowance or Option 1 retirement allowance  
697 and receive a reduced retirement allowance under Option 2 or  
698 Option 4-A to provide continuing lifetime benefits to his spouse.  
699 The election must be made in writing to the office of the  
700 executive director of the system on a form prescribed by the board  
701 not earlier than the date of the marriage. Any such election  
702 shall be effective the first of the month following the date the  
703 election is received by the system. However, if a retiree marries  
704 or remarries after retirement and elects either Option 2 or Option  
705 4-A as provided in subsection (3) or (5) of this section, the  
706 actuarial equivalent factor used to compute the reduced retirement  
707 allowance shall be the factor for the age of the retiree and his  
708 or her beneficiary at the time that the election for recalculation  
709 of benefits is made.

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

719 beneficiary, the difference, if any, shall be paid according to  
720 Section 15(1) of this act.

721       **SECTION 13.** (1) Except as otherwise provided in this  
722 subsection for municipalities, all persons who are covered under  
723 the terms of this act on July 1, 2006, and who become members of  
724 the retirement system established by this act shall cease to be  
725 members of the Public Employees' Retirement System under the  
726 provisions of Section 25-11-101 et seq. upon July 1, 2006, and  
727 shall become members of this retirement system with full credit  
728 for all prior service performed before July 1, 2006, for which  
729 contributions were made to the Public Employees' Retirement  
730 System. All police officers and narcotics agents of  
731 municipalities that have elected to include those persons in the  
732 membership of the retirement system established by this act who  
733 become members of this retirement system shall cease to be members  
734 of the Public Employees' Retirement System under the provisions of  
735 Section 25-11-101 et seq. upon the date that they become members  
736 of this retirement system, and shall become members of this  
737 retirement system with full credit for all prior service performed  
738 before the date that they become members of this retirement system  
739 for which contributions were made to the Public Employees'  
740 Retirement System.

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

749       **SECTION 14.** If a member of the retirement system ceases to  
750 work as a law enforcement officer for any reason other than  
751 occupational disease contracted or for any accident sustained by

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

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

779 If any member who receives a refund reenters service as a law  
780 enforcement officer and again becomes a member of the system, he  
781 may repay all amounts previously received by him as a refund,  
782 together with regular interest covering the period from the date  
783 of refund to the date of repayment; however, the amounts that are  
784 repaid by the member and the creditable service related thereto

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

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

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

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

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

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

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

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

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

- 818           (a) The surviving spouse of the beneficiary;
- 819           (b) The children of the beneficiary or their  
820 descendants, per stirpes;
- 821           (c) The brothers and sisters of the beneficiary or  
822 their descendants, per stirpes;
- 823           (d) The parents of the beneficiary;
- 824           (e) The executor or administrator on behalf of the  
825 beneficiary's estate;
- 826           (f) The persons entitled by law to distribution of the  
827 beneficiary's estate.

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

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

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

850 transferred funds for tax-free roll over treatment or other  
851 treatment under federal income tax law.

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

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

879 **SECTION 19.** (1) The right of a person to an annuity, a  
880 retirement allowance or benefit, or to the return of  
881 contributions, or to any optional benefits or any other right  
882 accrued or accruing to any person under the provisions of this

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

891 (2) Any retired member or beneficiary receiving a retirement  
892 allowance or benefit under this act may authorize the Public  
893 Employees' Retirement System to make deductions from the  
894 retirement allowance or benefit for the payment of employer or  
895 system sponsored group life or health insurance. The deductions  
896 authorized under this subsection shall be subject to rules and  
897 regulations adopted by the board.

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

905 (2) If the system is terminated, all members of the system  
906 as of the date of termination of the system shall be deemed to  
907 have a vested right to benefits to the extent and in the same  
908 manner that rights would be vested under the laws existing as of  
909 the date of termination of the system. However, any member who  
910 has not fulfilled the requirements for length of service because  
911 of a termination of the system shall be entitled to compensation  
912 as of the date that the member would otherwise be eligible. That  
913 compensation shall be computed on the basis of the time he was  
914 actually a member of the system and the compensation he actually

915 earned during the time he was a member, in the manner provided by  
916 this act.

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

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

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

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

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

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