

By: Representatives Rushing, Felsher,
Scoggin, Owen

To: Appropriations

HOUSE BILL NO. 18

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, 2022, 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 Department of Revenue,
38 inspection station employees, enforcement officers and inspectors
39 of the Department of Public Safety, state correctional facility
40 guards and enforcement officers of the Department of Corrections,
41 and any other full-time officer or employee of the state or any
42 agency, department, institution or county thereof who is
43 authorized to carry a firearm while in the performance of his or
44 her official duties and who has met the minimum educational and
45 training standards established by the Board on Law Enforcement



46 Officer Standards and Training for permanent, full-time law
47 enforcement officers and has received a certificate from that
48 board. However, the term "law enforcement officer" does not
49 include any person who is an active member of the Mississippi
50 Highway Safety Patrol Retirement System.

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

53 (d) "Retirement system" or "system" means the Law
54 Enforcement Officers' Retirement System established by Section 1
55 of this act.

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

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

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

66 (4) At least once in each two-year period following July 1,
67 2022, the actuary shall make an actuarial investigation into the
68 mortality, service, withdrawal and compensation experience of the
69 members and beneficiaries of the system, and shall make a
70 valuation of the assets and liabilities of the system. Taking



71 into account the result of the investigation and valuation, the
72 board shall adopt for the retirement system such mortality,
73 service, and other tables as shall be deemed necessary. On the
74 basis of those tables that the board adopts, the actuary shall
75 make biennial valuations of the assets and liabilities of the
76 funds of the system.

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

80 (6) The board shall determine from time to time the rate of
81 regular interest for use in all calculations.

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

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

92 (9) The board shall keep a record of all its proceedings
93 under this act. All books, accounts and records shall be kept in
94 the general office of the Public Employees' Retirement System and
95 shall be public records except for individual member records. The



96 Public Employees' Retirement System shall not disclose the name,
97 address or contents of any individual member records without the
98 prior written consent of the individual to whom the record
99 pertains.

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

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

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

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

118 (c) All duly elected constables.

119 (d) All duly appointed conservation officers of the
120 Department of Wildlife, Fisheries and Parks who are actually



121 engaged in the enforcement of the game and fish laws of this state
122 (Section 49-7-1 et seq.).

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

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

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

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

142 (i) All full-time officers and employees of the state
143 or any agency, department, institution or county thereof, not
144 listed in paragraphs (a) through (h) of this subsection, who are
145 authorized to carry firearms while in the performance of their



146 official duties and who have met the minimum educational and
147 training standards established by the Board on Law Enforcement
148 Officer Standards and Training for permanent, full-time law
149 enforcement officers and have received a certificate from that
150 board.

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

153 (3) All law enforcement officers eligible for membership in
154 the system as provided in this section who are serving in that
155 capacity on July 1, 2022, shall become members of the system on
156 that date, unless they file with the board before August 1, 2022,
157 on a form prescribed by the board, a notice of election not to be
158 covered in the membership of the system and a duly executed waiver
159 of all present and prospective benefits that otherwise would inure
160 to them on account of their membership in the system.

161 (4) All law enforcement officers eligible for membership in
162 the system as provided in this section who are elected or
163 appointed after June 30, 2022, shall become members of the system
164 as a condition of their office or employment.

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

169 **SECTION 5.** (1) Creditable service on which a member's
170 service or disability retirement benefit is based shall consist of



171 prior service and membership service. Except as otherwise
172 provided for municipalities in this subsection, prior service
173 means service performed before July 1, 2022, for which
174 contributions were made to the Public Employees' Retirement
175 System, and membership service means all service for which credit
176 may be allowed under this act after June 30, 2022, and all
177 lawfully credited unused leave as of the date of withdrawal from
178 service, as certified by the employer.

179 (2) In computing the period of service of a member of the
180 system, any member who served on active duty in the Armed Forces
181 of the United States shall be entitled to creditable service at no
182 cost for his or her service on active duty in the Armed Forces,
183 provided that the member entered state service after his or her
184 discharge from the Armed Forces. The maximum period for
185 creditable service for all military service as defined in this
186 subsection (2) shall not exceed four (4) years. The member shall
187 furnish proof satisfactory to the board of certification of
188 military service records showing dates of entrance into service
189 and the date of discharge. No creditable service shall be granted
190 for any military service to a member who qualifies for a
191 retirement allowance in another public retirement system
192 administered by the board based in whole or in part on that
193 military service. In no case shall the member receive creditable
194 service if the member received a dishonorable discharge from the
195 Armed Forces of the United States.



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

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

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

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

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



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

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

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

232 (2) The employers shall deduct each month from the salary of
233 each member nine percent (9%) of earned compensation, and shall
234 pay the amount so deducted to the board to be credited to the
235 system. Notwithstanding the employee contribution rates specified
236 in this subsection, the board may vary the percentage of employee
237 contribution biennially on the basis of the liabilities of the
238 system for the various allowances and benefits as shown by
239 actuarial valuation. From the funds credited to this account, the
240 board shall pay retirements, disability benefits, survivors'
241 benefits, expenses and shall refund contributions as provided in
242 this act. The funds of the system shall be maintained as a
243 separate fund, separate from all other funds held by the board and
244 shall be used only for the payment of benefits provided for by
245 this act or amendments to this act.



246 (3) On account of each member, the employers shall pay
247 monthly into the system from funds available an amount equal to a
248 certain percentage of the compensation of each member to be known
249 as the "normal contributions," and an additional amount equal to a
250 percentage of his or her compensation to be known as the "accrued
251 liability contribution." The percentage rate of those
252 contributions shall be fixed biennially by the board on the basis
253 of the liabilities of the system for the various allowances and
254 benefits as shown by the actuarial valuation. However, the
255 percentage rate of those contributions shall not be more than
256 three percent (3%) above the percentage rate for employers on
257 account of members of the Public Employees' Retirement System. If
258 the percentage rate of those contributions exceeds the percentage
259 rate for employers on account of members of the Public Employees'
260 Retirement System the State of Mississippi shall pay the amount of
261 those excess contributions on behalf of municipalities and
262 counties who are employers of members of the system as provided
263 under Section 4(1)(a), (b), (c) and (i).

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

268 **SECTION 7.** Each employer shall withhold the member
269 contributions required by Section 6 of this act from all
270 compensation earned after June 30, 2022. The contributions so



271 withheld shall be treated as employer contributions in determining
272 tax treatment under the United States Internal Revenue Code and
273 Mississippi Income Tax Code. These contributions shall not be
274 included as gross income of the member until such time as they are
275 distributed or made available. The employer shall pay these
276 member contributions from the same source of funds that is used in
277 paying earnings to the member. The employer may withhold member
278 contributions by a reduction in the cash salary of the member, or
279 by an offset against a future salary increase, or by a combination
280 of a reduction in salary and offset against a future salary
281 increase. The member contributions so withheld shall be treated
282 for all purposes in the same manner and to the same extent as
283 member contributions.

284 **SECTION 8.** (1) Upon application of a member or his or her
285 employer, but in no event before termination of state service, any
286 member who has not attained the age of fifty-five (55) years may
287 be retired by the board, not less than thirty (30) and not more
288 than ninety (90) days next following the date of filing the
289 application, on a disability retirement allowance, if the medical
290 board of the Public Employees' Retirement System, after an
291 evaluation of medical evidence, which may include a physical
292 examination by the medical board, certifies that he or she is
293 mentally or physically incapacitated for the performance of duty,
294 that the incapacity is likely to be permanent, and that the



295 sickness or injury was caused or sustained as a direct result of
296 duty as a law enforcement officer after June 30, 2022.

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

309 (2) Upon retirement for disability, a member shall receive a
310 disability benefit equal to fifty percent (50%) of his or her
311 average compensation for the two (2) years immediately preceding
312 the member's retirement, but not less than any retirement benefits
313 for which the member may be eligible at the date that he or she is
314 granted disability.

315 (3) Once each year during the first five (5) years following
316 retirement of a member on a disability retirement allowance, and
317 once in every period of three (3) years thereafter, the board may,
318 and upon his or her application shall, require any disability
319 retiree who has not yet attained the age of fifty-five (55) years



320 to undergo a medical examination. The examination shall be made
321 at the place of residence of the retiree or other place mutually
322 agreed upon by the medical board. If any disability retiree who
323 has not yet attained the age of fifty-five (55) years refuses to
324 submit to any medical examination provided for in this subsection,
325 the retiree's allowance may be discontinued until his or her
326 withdrawal of that refusal, and if the retiree's refusal continues
327 for one (1) year, all his or her rights in that part of the
328 disability benefit provided by employer contributions shall be
329 revoked by the board.

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

343 (5) If a disability retiree under the age of fifty-five (55)
344 years is restored to active service at a compensation not less



345 than the retiree's average compensation, his or her disability
346 benefit shall cease, the retiree shall again become a member of
347 the retirement system, and he or she shall contribute thereafter
348 at the same rate that he or she paid before disability. Any such
349 prior service certificate on the basis of which his or her service
350 was computed at the time of retirement shall be restored to full
351 force and effect. In addition, upon his or her subsequent
352 retirement the retiree shall be credited with all creditable
353 service as a member, including the period for which he or she was
354 paid disability benefits.

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

364 (2) Any member whose withdrawal from service occurs before
365 attaining the age of fifty-five (55) years who has completed four
366 (4) or more years of creditable service and has not received a
367 refund of the member's accumulated contributions shall be entitled
368 to receive a retirement allowance of the amount earned and accrued



369 at the date of withdrawal from service, beginning upon his or her
370 attaining the age of fifty-five (55) years.

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

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

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

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

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

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

392 **SECTION 10.** (1) Any member who is receiving a retirement
393 allowance for service or disability retirement, or any beneficiary



394 thereof, who has received a monthly benefit for at least one (1)
395 full fiscal year, shall be eligible to receive an additional
396 benefit, on December 1 or July 1 of the year as provided in
397 subsection (4) or (5) of this section, equal to the sum of:

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

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

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

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



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

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

442 (5) Retired members or beneficiaries thereof who are
443 receiving a retirement allowance may elect by an irrevocable



444 agreement in writing filed in the office of the Public Employees'
445 Retirement System no less than thirty (30) days before July 1 of
446 any year, to begin receiving the additional benefit provided in
447 this section in twelve (12) equal monthly installments beginning
448 on July 1 of the year. This irrevocable agreement shall be
449 binding on the member and subsequent beneficiaries. Payment of
450 those monthly installments shall not extend beyond the month in
451 which a retirement allowance is due and payable. The board, in
452 its discretion, may allow a retired member or a beneficiary
453 thereof who is receiving the additional benefit in monthly
454 installments to have the additional benefit paid in one (1)
455 payment in December of each year if the retired member or
456 beneficiary submits satisfactory documentation that the continued
457 receipt of the additional benefit in monthly installments will
458 cause financial hardship to the retired member or beneficiary.

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

461 (7) When a member retires after July 1 and has previously
462 received a retirement allowance for one or more full fiscal years,
463 the retired member shall be eligible immediately for the
464 additional benefit. The additional benefit shall be based on the
465 current retirement allowance and the number of full fiscal years
466 in retirement and shall be prorated and paid in monthly
467 installments based on the number of months a retirement allowance
468 is paid during the fiscal year.



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

472 $[(1.03)^n - 1] \times [\text{annual retirement allowance}]$,
473 where n is the number of full fiscal years in retirement beginning
474 with the fiscal year in which the member reaches age fifty-five
475 (55).

476 **SECTION 11.** (1) Upon the death of any member who has
477 retired from service or disability and who has not elected any
478 other option under Section 12 of this act, the member's spouse
479 shall receive one-half (1/2) the benefit that the member was
480 receiving and each child not having attained the age of nineteen
481 (19) years shall receive one-fourth (1/4) of the member's benefit,
482 but not more than one-half (1/2) of the benefits shall be paid for
483 the support and maintenance of two (2) or more children. Upon
484 each child's attaining the age of nineteen (19) years, the child
485 shall no longer be eligible for the benefit, and when all of the
486 children have attained the age of nineteen (19) years, only the
487 spouse shall be eligible for one-half (1/2) of the amount of the
488 member's benefit. The spouse shall continue to be eligible for
489 the benefit in the amount of fifty percent (50%) of the member's
490 retirement benefit as long as the spouse may live.

491 (2) Upon the death of any member who has served the minimum
492 period required for eligibility for retirement, the member's
493 spouse and family shall receive all the benefits payable to the



494 member's beneficiaries as if the member had retired at the time of
495 death. Those benefits shall continue to be paid to the spouse for
496 life. The benefits are payable on a monthly basis.

497 (3) The spouse and/or the dependent children of an active
498 member who is killed in the line of performance of duty or dies as
499 a direct result of an accident occurring in the line of
500 performance of duty shall qualify, on approval of the board, for a
501 retirement allowance on the first of the month following the date
502 of the member's death, but not before receipt of application by
503 the board. The spouse shall receive a retirement allowance equal
504 to one-half (1/2) of the average compensation of the deceased
505 member. In addition to the retirement allowance for the spouse,
506 or if there is no surviving spouse, a retirement allowance shall
507 be paid in the amount of one-fourth (1/4) of the average
508 compensation for the support and maintenance of one (1) child or
509 in the amount of one-half (1/2) of the average compensation for
510 the support and maintenance of two (2) or more children. Those
511 benefits shall cease to be paid for the support and maintenance of
512 each child upon the child attaining the age of nineteen (19)
513 years; however, the spouse shall continue to be eligible for the
514 retirement allowance provided for the spouse. Benefits may be
515 paid to a surviving parent or lawful custodian of the children for
516 the use and benefit of the children without the necessity of
517 appointment as guardian. The retirement allowance shall continue
518 to be paid to the spouse for life.



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

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



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

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

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

566 **Option 1.** If the member dies before he or she has received
567 an annuity payment the value of the member's annuity savings
568 account as it was at the time of his or her retirement, the



569 balance shall be paid to the member's legal representative or to
570 such person as he or she has nominated by written designation duly
571 acknowledged and filed with the board; or

572 **Option 2.** Upon the member's death, his or her reduced
573 retirement allowance shall be continued throughout the life of,
574 and paid to, such person as the member has nominated by written
575 designation duly acknowledged and filed with the board at the time
576 of his or her retirement; or

577 **Option 3.** Upon the member's death, one-half (1/2) of his or
578 her reduced retirement allowance shall be continued throughout the
579 life of, and paid to, such person as the member has nominated by
580 written designation duly acknowledged and filed with the board at
581 the time of his or her retirement, and the other one-half (1/2) of
582 his or her reduced retirement allowance to some other designated
583 beneficiary; or

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

590 **Option 4-B.** A reduced retirement allowance shall be
591 continued throughout the life of the retirant, but with the
592 further guarantee of payments to the named beneficiary,
593 beneficiaries or to the estate for a specified number of years



594 certain. If the retired member or the last designated beneficiary
595 receiving annuity payments dies before receiving all guaranteed
596 payments due, the actuarial equivalent of the remaining payments
597 shall be paid according to Section 15(1) of this act; or

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



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

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

635 (4) Any retired member who is receiving a reduced retirement
636 allowance under Option 2 or Option 4-A whose designated
637 beneficiary predeceases him or her, or whose marriage to a spouse
638 who is his or her designated beneficiary is terminated by divorce
639 or other dissolution, may elect to cancel his or her reduced
640 retirement allowance and receive the maximum retirement allowance
641 for life in an amount equal to the amount that would have been
642 payable if the member had not elected Option 2 or Option 4-A. The



643 election must be made in writing to the office of the executive
644 director of the system on a form prescribed by the board. Any
645 such election shall be effective the first of the month following
646 the date the election is received by the system.

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

664 (6) If a retiree and his or her eligible beneficiary, if
665 any, both die before they have received in annuity payments a
666 total amount equal to the accumulated contributions standing to
667 the retirant's credit in the annuity savings account at the time



668 of his or her retirement, the difference between the accumulated
669 contributions and the total amount of annuities received by them
670 shall be paid to such persons as the retirant has nominated by
671 written designation duly executed and filed in the office of the
672 executive director. If no designated person survives the retirant
673 and his or her beneficiary, the difference, if any, shall be paid
674 according to Section 15(1) of this act.

675 **SECTION 13.** (1) All persons who are covered under the terms
676 of this act on July 1, 2022, and who become members of the
677 retirement system established by this act shall cease to be
678 members of the Public Employees' Retirement System under the
679 provisions of Section 25-11-101 et seq. upon July 1, 2022, and
680 shall become members of this retirement system with full credit
681 for all prior service performed before July 1, 2022, for which
682 contributions were made to the Public Employees' Retirement
683 System.

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



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

707 Under the Unemployment Compensation Amendments of 1992
708 (Public Law 102-218(UCA)), a member or the spouse of a member who
709 is an eligible beneficiary eligible for a refund under this
710 section may elect on a form prescribed by the board under rules
711 and regulations established by the board, to have an eligible roll
712 over distribution of accumulated contributions payable under this
713 section paid directly to an eligible retirement plan, as defined
714 under applicable federal law, or an individual retirement account.
715 If the member or the spouse of a member who is an eligible
716 beneficiary makes that election and specifies the eligible



717 retirement plan or individual retirement account to which the
718 distribution is to be paid, the distribution will be made in the
719 form of a direct trustee-to-trustee transfer to the specified
720 eligible retirement plan. Flexible roll overs under this
721 paragraph shall not be considered assignments under Section 19 of
722 this act.

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

739 **SECTION 15.** (1) Except as otherwise provided in subsection
740 (2) of this section, where benefits are payable to a designated
741 beneficiary or beneficiaries under this article and the designated



742 beneficiary or beneficiaries as provided by the member on the most
743 recent form filed with the system are deceased or otherwise
744 disqualified at the time such benefits become payable, the
745 following persons, in descending order of precedence, shall be
746 eligible to receive such benefits:

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

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

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

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

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

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

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

762 (a) The surviving spouse of the beneficiary;

763 (b) The children of the beneficiary or their
764 descendants, per stirpes;

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



767 (d) The parents of the beneficiary;
768 (e) The executor or administrator on behalf of the
769 beneficiary's estate;
770 (f) The persons entitled by law to distribution of the
771 beneficiary's estate.

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

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

781 **SECTION 16.** Subject to the rules adopted by the board, the
782 system shall accept an eligible rollover distribution or a direct
783 transfer of funds from another eligible retirement plan, as
784 defined under applicable federal law, or an individual retirement
785 account, in payment of all or a portion of the cost to purchase
786 optional service credit or to reinstate previously withdrawn
787 service credit as permitted by the system. The system may only
788 accept rollover payments in an amount equal to or less than the
789 balance due for purchase or reinstatement of service credit. The
790 rules adopted by the board shall condition the acceptance of a
791 rollover or transfer from another eligible retirement plan or an



792 individual retirement account on the receipt of information
793 necessary to enable the system to determine the eligibility of any
794 transferred funds for tax-free rollover treatment or other
795 treatment under federal income tax law.

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

810 **SECTION 18.** No person who is being paid a retirement
811 allowance under this act shall serve as or be paid for any service
812 as a law enforcement officer. Any member who has been retired
813 under this act and who is later elected, appointed or employed as
814 a law enforcement officer shall cease to receive benefits under
815 this act and shall become a contributing member of the retirement
816 system again. Upon retiring again, if the member's reemployment



817 exceeds six (6) months, he or she shall have his benefits
818 recomputed, including service after becoming a member again.
819 However, the total retirement allowance paid to the retired member
820 in his or her previous retirement shall be deducted from his or
821 her retirement reserve and taken into consideration in
822 recalculating the retirement allowance under a new option
823 selected.

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

836 (2) Any retired member or beneficiary receiving a retirement
837 allowance or benefit under this act may authorize the Public
838 Employees' Retirement System to make deductions from the
839 retirement allowance or benefit for the payment of employer or
840 system sponsored group life or health insurance. The deductions



841 authorized under this subsection shall be subject to rules and
842 regulations adopted by the board.

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

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

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



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

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

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

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



890 **SECTION 21.** This act shall take effect and be in force from
891 and after July 1, 2022.

