

By: Representative Newman

To: Appropriations

HOUSE BILL NO. 455

1 AN ACT TO CREATE A SEPARATE RETIREMENT SYSTEM FOR LAW  
2 ENFORCEMENT OFFICERS AND FIREFIGHTERS, WHICH SHALL BE ADMINISTERED  
3 BY THE BOARD OF TRUSTEES OF THE PUBLIC EMPLOYEES' RETIREMENT  
4 SYSTEM; TO DEFINE ELIGIBILITY FOR MEMBERSHIP IN THE SYSTEM; TO  
5 PROVIDE FOR EMPLOYEE AND EMPLOYER CONTRIBUTIONS TO FUND THE  
6 SYSTEM; TO ESTABLISH BENEFITS FOR DISABILITY AND SUPERANNUATION  
7 RETIREMENT AND 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 firefighters and their  
14 beneficiaries. This retirement system shall be known as the "Law  
15 Enforcement Officers' and Firefighters' Retirement System." The  
16 retirement system shall go into operation on July 1, 2022, when  
17 contributions by members shall begin and benefits shall become  
18 payable. This retirement system is designed to supplement and is  
19 in addition to the provisions of Section 25-11-1 et seq. Under  
20 the terms of this act, law enforcement officers and firefighters



21 shall retain all social security benefits under Article I of the  
22 Public Employees' Retirement Law of 1952 but shall not be eligible  
23 for benefits under Article III of that law. This act is a  
24 substitute for and in lieu of Article III of that law, and is  
25 designed to provide more liberal benefits for law enforcement  
26 officers and firefighters by reason of the dangerous nature of and  
27 special risk involved in their employment.

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

31 (2) As used in this act:

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

34 (b) "Firefighter" means an individual who is trained  
35 for the prevention and control of loss of life and property from  
36 fire or other emergencies, who is assigned to fire-fighting  
37 activity and is required to respond to alarms and perform  
38 emergency actions at the location of a fire, hazardous materials  
39 or other emergency incident, and who has met the minimum  
40 educational and training standards established by the Mississippi  
41 Fire Personnel Minimum Standards and Certification Board for  
42 permanent, full-time firefighters and has received a certificate  
43 from that board.

44 (c) "Law enforcement officer" means municipal police  
45 officers and narcotics agents, sheriffs, deputy sheriffs,



46 constables, conservation officers, enforcement officers of the  
47 Department of Marine Resources, agents and inspectors of the  
48 Alcoholic Beverage Control Division of the Department of Revenue,  
49 inspection station employees, enforcement officers and inspectors  
50 of the Department of Public Safety, state correctional facility  
51 guards and enforcement officers of the Department of Corrections,  
52 and any other full-time officer or employee of the state or any  
53 agency, department, institution or county thereof who is  
54 authorized to carry a firearm while in the performance of his or  
55 her official duties and who has met the minimum educational and  
56 training standards established by the Board on Law Enforcement  
57 Officer Standards and Training for permanent, full-time law  
58 enforcement officers and has received a certificate from that  
59 board. However, the term "law enforcement officer" does not  
60 include any person who is an active member of the Mississippi  
61 Highway Safety Patrol Retirement System.

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

64 (e) "Retirement system" or "system" means the Law  
65 Enforcement Officers' and Firefighters' Retirement System  
66 established by Section 1 of this act.

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



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

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

77 (4) At least once in each two-year period following July 1,  
78 2022, the actuary shall make an actuarial investigation into the  
79 mortality, service, withdrawal and compensation experience of the  
80 members and beneficiaries of the system, and shall make a  
81 valuation of the assets and liabilities of the system. Taking  
82 into account the result of the investigation and valuation, the  
83 board shall adopt for the retirement system such mortality,  
84 service, and other tables as shall be deemed necessary. On the  
85 basis of those tables that the board adopts, the actuary shall  
86 make biennial valuations of the assets and liabilities of the  
87 funds of the system.

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

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

93 (7) The board shall make payments of retirement benefits  
94 under this act to members, and to the beneficiaries of those  
95 members, by means of direct deposit to an account with a financial



96 institution that is a participant of the Automated Clearing House  
97 designated by the member or beneficiary, unless the member or  
98 beneficiary can demonstrate that payment by means of direct  
99 deposit will cause the member or beneficiary undue hardship.

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

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

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

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

116 (a) All duly elected or appointed police officers and  
117 narcotics agents in the full-time employment of a municipality who  
118 are actually engaged in the enforcement of the laws of this state  
119 and the municipality, except police officers and narcotic agents  
120 who are members of any retirement system created under Section



121 21-29-101 et seq. or Section 21-29-201 et seq., but not auxiliary  
122 officers or officers who are engaged only in administrative or  
123 civil duties.

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

129 (c) All duly elected constables.

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

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

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

142 (g) All duly appointed or employed inspection station  
143 employees, enforcement officers, field inspectors, railroad  
144 inspectors and other inspectors of the Department of Public Safety  
145 who are actually engaged in the enforcement of the laws specified



146 in Section 27-5-71, the provisions of Sections 77-7-1 et seq. or  
147 other laws of this state administered and enforced by the  
148 Department of Public Safety.

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

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

162 (j) All duly appointed or employed firefighters in the  
163 full-time employment of the State of Mississippi or a county or  
164 municipality who are actually engaged in firefighting activities.

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

167 (3) All law enforcement officers and firefighters eligible  
168 for membership in the system as provided in this section who are  
169 serving in that capacity on July 1, 2022, shall become members of  
170 the system on that date, unless they file with the board before



171 August 1, 2022, on a form prescribed by the board, a notice of  
172 election not to be covered in the membership of the system and a  
173 duly executed waiver of all present and prospective benefits that  
174 otherwise would inure to them on account of their membership in  
175 the system.

176 (4) All law enforcement officers and firefighters eligible  
177 for membership in the system as provided in this section who are  
178 elected or appointed after June 30, 2022, shall become members of  
179 the system as a condition of their office or employment.

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

184 **SECTION 5.** (1) Creditable service on which a member's  
185 service or disability retirement benefit is based shall consist of  
186 prior service and membership service. Except as otherwise  
187 provided for municipalities in this subsection, prior service  
188 means service performed before July 1, 2022, for which  
189 contributions were made to the Public Employees' Retirement  
190 System, and membership service means all service for which credit  
191 may be allowed under this act after June 30, 2022, and all  
192 lawfully credited unused leave as of the date of withdrawal from  
193 service, as certified by the employer.

194 (2) In computing the period of service of a member of the  
195 system, any member who served on active duty in the Armed Forces





196 of the United States shall be entitled to creditable service at no  
197 cost for his or her service on active duty in the Armed Forces,  
198 provided that the member entered state service after his or her  
199 discharge from the Armed Forces. The maximum period for  
200 creditable service for all military service as defined in this  
201 subsection (2) shall not exceed four (4) years. The member shall  
202 furnish proof satisfactory to the board of certification of  
203 military service records showing dates of entrance into service  
204 and the date of discharge. No creditable service shall be granted  
205 for any military service to a member who qualifies for a  
206 retirement allowance in another public retirement system  
207 administered by the board based in whole or in part on that  
208 military service. In no case shall the member receive creditable  
209 service if the member received a dishonorable discharge from the  
210 Armed Forces of the United States.

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



220 (i) The member pays the contributions that he or  
221 she would have made to the system if the member had remained in  
222 membership service for the period of qualified military service  
223 based upon his or her salary at the time his or her membership  
224 service was interrupted;

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

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

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

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

243 **SECTION 6.** (1) The board shall act as custodian of the  
244 system, and shall receive to the credit of the system all



245 appropriations and other funds available as an employer's  
246 contribution to the system, from any source whatsoever.

247 (2) The employers shall deduct each month from the salary of  
248 each member nine percent (9%) of earned compensation, and shall  
249 pay the amount so deducted to the board to be credited to the  
250 system. Notwithstanding the employee contribution rates specified  
251 in this subsection, the board may vary the percentage of employee  
252 contribution biennially on the basis of the liabilities of the  
253 system for the various allowances and benefits as shown by  
254 actuarial valuation. From the funds credited to this account, the  
255 board shall pay retirements, disability benefits, survivors'  
256 benefits, expenses and shall refund contributions as provided in  
257 this act. The funds of the system shall be maintained as a  
258 separate fund, separate from all other funds held by the board and  
259 shall be used only for the payment of benefits provided for by  
260 this act or amendments to this act.

261 (3) On account of each member, the employers shall pay  
262 monthly into the system from funds available an amount equal to a  
263 certain percentage of the compensation of each member to be known  
264 as the "normal contributions," and an additional amount equal to a  
265 percentage of his or her compensation to be known as the "accrued  
266 liability contribution." The percentage rate of those  
267 contributions shall be fixed biennially by the board on the basis  
268 of the liabilities of the system for the various allowances and  
269 benefits as shown by the actuarial valuation.



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

274 **SECTION 7.** Each employer shall withhold the member  
275 contributions required by Section 6 of this act from all  
276 compensation earned after June 30, 2022. The contributions so  
277 withheld shall be treated as employer contributions in determining  
278 tax treatment under the United States Internal Revenue Code and  
279 Mississippi Income Tax Code. These contributions shall not be  
280 included as gross income of the member until such time as they are  
281 distributed or made available. The employer shall pay these  
282 member contributions from the same source of funds that is used in  
283 paying earnings to the member. The employer may withhold member  
284 contributions by a reduction in the cash salary of the member, or  
285 by an offset against a future salary increase, or by a combination  
286 of a reduction in salary and offset against a future salary  
287 increase. The member contributions so withheld shall be treated  
288 for all purposes in the same manner and to the same extent as  
289 member contributions.

290 **SECTION 8.** (1) Upon application of a member or his or her  
291 employer, but in no event before termination of state service, any  
292 member who has not attained the age of fifty-five (55) years may  
293 be retired by the board, not less than thirty (30) and not more  
294 than ninety (90) days next following the date of filing the



295 application, on a disability retirement allowance, if the medical  
296 board of the Public Employees' Retirement System, after an  
297 evaluation of medical evidence, which may include a physical  
298 examination by the medical board, certifies that he or she is  
299 mentally or physically incapacitated for the performance of duty,  
300 that the incapacity is likely to be permanent, and that the  
301 sickness or injury was caused or sustained as a direct result of  
302 duty as a law enforcement officer or firefighter after June 30,  
303 2022.

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

316       (2) Upon retirement for disability, a member shall receive a  
317 disability benefit equal to fifty percent (50%) of his or her  
318 average compensation for the two (2) years immediately preceding  
319 the member's retirement, but not less than any retirement benefits



320 for which the member may be eligible at the date that he or she is  
321 granted disability.

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

337 (4) If the medical board reports and certifies to the board  
338 that the disability retiree is engaged in, or is able to engage  
339 in, a gainful occupation paying more than the difference between  
340 his or her disability benefit and his or her average compensation,  
341 and if the board concurs in the report, the disability benefit  
342 shall be reduced to an amount that, together with the amount  
343 earnable by the retirees, equals the amount of his or her average  
344 compensation. If the retiree's earning capacity is later changed,



345 the amount of the benefit may be further modified. However, the  
346 revised benefit shall not exceed the amount originally granted or  
347 an amount that, when added to the amount earnable by the retiree,  
348 together with the member's annuity, equals the amount of his or  
349 her average compensation.

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

362 **SECTION 9.** (1) Any member upon withdrawal from service upon  
363 or after attainment of the age of fifty-five (55) years who has  
364 completed at least twenty-five (25) years of creditable service  
365 shall be entitled to receive a retirement allowance that shall be  
366 payable the first of the month following receipt of the member's  
367 application in the office of the executive director of the system,  
368 but in no event before withdrawal from service.



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

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

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

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

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

389                 (d) Upon retiring from service, a member shall be  
390 eligible to obtain retirement benefits, as computed above, for  
391 life, except that the aggregate amount of the employer's annuity  
392 and prior service annuity shall not exceed more than one hundred





393 percent (100%) of the average compensation regardless of the years  
394 of service.

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

397 **SECTION 10.** (1) Any member who is receiving a retirement  
398 allowance for service or disability retirement, or any beneficiary  
399 thereof, who has received a monthly benefit for at least one (1)  
400 full fiscal year, shall be eligible to receive an additional  
401 benefit, on December 1 or July 1 of the year as provided in  
402 subsection (4) or (5) of this section, equal to three percent (3%)  
403 compounded by the number of full fiscal years in retirement,  
404 multiplied by the amount of the annual retirement allowance.

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

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



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

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

440 (5) Retired members or beneficiaries thereof who are  
441 receiving a retirement allowance may elect by an irrevocable  
442 agreement in writing filed in the office of the Public Employees'



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

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

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



467 (8) The amount of the additional benefit provided in this  
468 section is calculated using the following formula:

469  $[(1.03)^n - 1] \times [\text{annual retirement allowance}]$ ,

470 where n is the number of full fiscal years in retirement.

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

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



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

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



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

539 (6) If all the annuities provided for in this section  
540 payable on the account of the death of a member terminate before  
541 there has been paid an aggregate amount equal to the member's



542 accumulated contributions standing to the member's credit in the  
543 annuity savings account at the time of the member's death, the  
544 difference between the accumulated contributions and the aggregate  
545 amount of annuity payments shall be paid to the person as the  
546 member has nominated by written designation duly executed and  
547 filed with the system. If there is no designated beneficiary  
548 surviving at termination of benefits, the difference shall be  
549 payable according to Section 15(1) of this act.

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

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

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



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

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

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

585           **Option 4-B.** A reduced retirement allowance shall be  
586 continued throughout the life of the retirant, but with the  
587 further guarantee of payments to the named beneficiary,  
588 beneficiaries or to the estate for a specified number of years  
589 certain. If the retired member or the last designated beneficiary  
590 receiving annuity payments dies before receiving all guaranteed





591 payments due, the actuarial equivalent of the remaining payments  
592 shall be paid according to Section 15(1) of this act; or

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

613       (2) Any member in service who has qualified for retirement  
614 benefits may select any optional method of settlement of  
615 retirement benefits by notifying the executive director of the



616 system in writing, on a form prescribed by the board, of the  
617 option that he or she has selected and by naming the beneficiary  
618 of the option and furnishing necessary proof of age. The option,  
619 once selected, may be changed at any time before actual retirement  
620 or death, but upon the death or retirement of the member, the  
621 optional settlement shall be placed in effect upon proper  
622 notification to the executive director.

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

630 (4) Any retired member who is receiving a reduced retirement  
631 allowance under Option 2 or Option 4-A whose designated  
632 beneficiary predeceases him or her, or whose marriage to a spouse  
633 who is his or her designated beneficiary is terminated by divorce  
634 or other dissolution, may elect to cancel his or her reduced  
635 retirement allowance and receive the maximum retirement allowance  
636 for life in an amount equal to the amount that would have been  
637 payable if the member had not elected Option 2 or Option 4-A. The  
638 election must be made in writing to the office of the executive  
639 director of the system on a form prescribed by the board. Any



640 such election shall be effective the first of the month following  
641 the date the election is received by the system.

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

659 (6) If a retiree and his or her eligible beneficiary, if  
660 any, both die before they have received in annuity payments a  
661 total amount equal to the accumulated contributions standing to  
662 the retirant's credit in the annuity savings account at the time  
663 of his or her retirement, the difference between the accumulated  
664 contributions and the total amount of annuities received by them



665 shall be paid to such persons as the retirant has nominated by  
666 written designation duly executed and filed in the office of the  
667 executive director. If no designated person survives the retirant  
668 and his or her beneficiary, the difference, if any, shall be paid  
669 according to Section 15(1) of this act.

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

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

687 **SECTION 14.** If a member of the retirement system ceases to  
688 work as a law enforcement officer or firefighter for any reason  
689 other than occupational disease contracted or for any accident



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

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



715 eligible retirement plan. Flexible roll overs under this  
716 paragraph shall not be considered assignments under Section 19 of  
717 this act.

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

735 **SECTION 15.** (1) Except as otherwise provided in subsection  
736 (2) of this section, where benefits are payable to a designated  
737 beneficiary or beneficiaries under this article and the designated  
738 beneficiary or beneficiaries as provided by the member on the most  
739 recent form filed with the system are deceased or otherwise



740 disqualified at the time such benefits become payable, the  
741 following persons, in descending order of precedence, shall be  
742 eligible to receive such benefits:

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

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

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

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

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

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

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

758 (a) The surviving spouse of the beneficiary;

759 (b) The children of the beneficiary or their  
760 descendants, per stirpes;

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

763 (d) The parents of the beneficiary;



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

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

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

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

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





789 necessary to enable the system to determine the eligibility of any  
790 transferred funds for tax-free rollover treatment or other  
791 treatment under federal income tax law.

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

806         **SECTION 18.** No person who is being paid a retirement  
807 allowance under this act shall serve as or be paid for any service  
808 as a law enforcement officer or firefighter. Any member who has  
809 been retired under this act and who is later elected, appointed or  
810 employed as a law enforcement officer or firefighter shall cease  
811 to receive benefits under this act and shall become a contributing  
812 member of the retirement system again. Upon retiring again, if  
813 the member's reemployment exceeds six (6) months, he or she shall



814 have his benefits recomputed, including service after becoming a  
815 member again. However, the total retirement allowance paid to the  
816 retired member in his or her previous retirement shall be deducted  
817 from his or her retirement reserve and taken into consideration in  
818 recalculating the retirement allowance under a new option  
819 selected.

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

832        (2) Any retired member or beneficiary receiving a retirement  
833 allowance or benefit under this act may authorize the Public  
834 Employees' Retirement System to make deductions from the  
835 retirement allowance or benefit for the payment of employer or  
836 system sponsored group life or health insurance. The deductions  
837 authorized under this subsection shall be subject to rules and  
838 regulations adopted by the board.



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

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

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

862           (3) Notwithstanding any provisions of this section or this  
863 act to the contrary, the maximum annual retirement allowance



864 attributable to the employer contributions payable by the system  
865 to a member shall be subject to the limitations set forth in  
866 Section 415 of the Internal Revenue Code and any regulations  
867 issued thereunder as applicable to governmental plans as that term  
868 is defined under Section 414(d) of the Internal Revenue Code.

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

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

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

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

