

By: Representative Fleming

To: Appropriations

HOUSE BILL NO. 223

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

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

10 **SECTION 1.** There is established and placed under the
 11 management of the Board of Trustees of the Public Employees'
 12 Retirement System a retirement system for the purpose of providing
 13 retirement allowances and other benefits under the provisions of
 14 this act for law enforcement officers and their beneficiaries.
 15 This retirement system shall be known as the "Law Enforcement
 16 Officers' Retirement System." The retirement system shall go into
 17 operation on July 1, 2002, when contributions by members shall
 18 begin and benefits shall become payable. This retirement system
 19 is designed to supplement and is in addition to the provisions of
 20 Section 25-11-1 et seq. Under the terms of this act, law
 21 enforcement officers shall retain all social security benefits
 22 under Article I of the Public Employees' Retirement Law of 1952
 23 but shall not be eligible for benefits under Article III of that
 24 law. This act is a substitute for and in lieu of Article III of
 25 that law, and is designed to provide more liberal benefits for law
 26 enforcement officers 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) "Law enforcement officer" means municipal police
35 officers and narcotics agents, sheriffs, deputy sheriffs,
36 constables, conservation officers, enforcement officers of the
37 Department of Marine Resources, agents and inspectors of the
38 Alcoholic Beverage Control Division of the State Tax Commission,
39 inspection station employees and field inspectors of the
40 Mississippi Department of Transportation, state correctional
41 facility guards and enforcement officers of the Department of
42 Corrections, enforcement officers of the Public Service
43 Commission, and any other full-time officer or employee of the
44 state or any agency, department, institution or county thereof who
45 is authorized to carry a firearm while in the performance of his
46 official duties and who has met the minimum educational and
47 training standards established by the Board on Law Enforcement
48 Officer Standards and Training for permanent, full-time law
49 enforcement officers and has received a certificate from that
50 board.

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

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

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

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

61 (3) The board shall designate an actuary who shall be the
62 technical advisor of the board on matters regarding the operation



63 of the system and shall perform such other duties as are required
64 in connection with the system.

65 (4) At least once in each two-year period following July 1,
66 2002, the actuary shall make an actuarial investigation into the
67 mortality, service, withdrawal and compensation experience of the
68 members and beneficiaries of the system, and shall make a
69 valuation of the assets and liabilities of the system. Taking
70 into account the result of the investigation and valuation, the
71 board shall adopt for the retirement system such mortality,
72 service, and other tables as shall be deemed necessary. On the
73 basis of those tables that the board adopts, the actuary shall
74 make biennial valuations of the assets and liabilities of the
75 funds of the system.

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

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

83 (7) Subject to the limitations of this act, the board from
84 time to time shall establish rules and regulations for the
85 administration of the system and for the transaction of business.

86 (8) The board shall keep a record of all its proceedings
87 under this act. All books, accounts and records shall be kept in
88 the general office of the Public Employees' Retirement System and
89 shall be public records except for individual member records. The
90 Public Employees' Retirement System shall not disclose the name,
91 address or contents of any individual member records without the
92 prior written consent of the individual to whom the record
93 pertains.



94 (9) The Executive Director of the Public Employees'
95 Retirement System shall serve as the executive director of this
96 system.

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

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

107 (b) All duly elected sheriffs and all duly appointed
108 deputy sheriffs in the full-time employment of a county who are
109 actually engaged in the enforcement of the laws of this state and
110 the county, but not deputy sheriffs who are engaged only in
111 administrative or civil duties.

112 (c) All duly elected constables.

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

117 (e) All duly appointed enforcement officers of the
118 Department of Marine Resources who are actually engaged in the
119 enforcement of the seafood laws of this state (Section 49-15-1 et
120 seq.).

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

125 (g) All duly appointed or employed inspection station
126 employees, field inspectors and railroad inspectors of the



127 Mississippi Department of Transportation who are actually engaged
128 in the enforcement of the laws specified in Section 27-5-71 or
129 other laws of this state administered and enforced by the
130 Department of Transportation.

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

135 (i) All duly appointed or employed enforcement officers
136 and inspectors of the Public Service Commission who are actually
137 engaged in the enforcement of the provisions of Section 77-7-1 et
138 seq. or other laws of this state administered and enforced by the
139 Public Service Commission.

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

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

151 (3) All law enforcement officers eligible for membership in
152 the system as provided in this section who are serving in that
153 capacity on July 1, 2002, shall become members of the system on
154 that date, unless they file with the board before August 1, 2002,
155 on a form prescribed by the board, a notice of election not to be
156 covered in the membership of the system and a duly executed waiver
157 of all present and prospective benefits that otherwise would inure
158 to them on account of their membership in the system.



159 (4) All law enforcement officers eligible for membership in
160 the system as provided in this section who are elected or
161 appointed after June 30, 2002, shall become members of the system
162 as a condition of their office or employment.

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

167 **SECTION 5.** (1) Creditable service on which a member's
168 service or disability retirement benefit is based shall consist of
169 prior service and membership service. Prior service means service
170 performed before July 1, 2002, for which contributions were made
171 to the Public Employees' Retirement System, and membership service
172 means all service for which credit may be allowed under this act
173 after June 30, 2002, and all lawfully credited unused leave as of
174 the date of withdrawal from service, as certified by the employer.

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



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

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

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

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

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

220 (b) The payments required to be made in paragraph
221 (a)(i) of this subsection may be made over a period beginning with
222 the date of return to membership service and not exceeding three
223 (3) times the member's qualified military service; however, in no
224 event shall that period exceed fifteen (15) years.



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

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

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

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



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

262 **SECTION 7.** Each employer shall withhold the member
263 contributions required by Section 6 of this act from all
264 compensation earned after June 30, 2002, and the contributions so
265 withheld shall be treated as employer contributions in determining
266 tax treatment under the United States Internal Revenue Code and
267 Mississippi Income Tax Code. These contributions shall not be
268 included as gross income of the member until such time as they are
269 distributed or made available. The employer shall pay these
270 member contributions from the same source of funds that is used in
271 paying earnings to the member. The employer may withhold member
272 contributions by a reduction in the cash salary of the member, or
273 by an offset against a future salary increase, or by a combination
274 of a reduction in salary and offset against a future salary
275 increase. The member contributions so withheld shall be treated
276 for all purposes in the same manner and to the same extent as
277 member contributions.

278 **SECTION 8.** (1) Upon application of a member or his
279 employer, but in no event before termination of state service, any
280 member who has not attained the age of fifty-five (55) years may
281 be retired by the board, not less than thirty (30) and not more
282 than ninety (90) days next following the date of filing the
283 application, on a disability retirement allowance, if the medical
284 board of the Public Employees' Retirement System, after a medical
285 examination, certifies that he is mentally or physically
286 incapacitated for the performance of duty, that the incapacity is
287 likely to be permanent, and that the sickness or injury was caused
288 or sustained as a direct result of duty as a law enforcement
289 officer after June 30, 2002.



290 Upon the application of a member or his employer, any member
291 who is not yet eligible for service retirement benefits and who
292 has had at least ten (10) years of creditable service may be
293 retired by the board, not less than thirty (30) and not more than
294 ninety (90) days next following the date of filing the
295 application, on a disability retirement allowance, if the medical
296 board, after a medical examination, certifies that he is mentally
297 or physically incapacitated for the further performance of duty,
298 that the incapacity is likely to be permanent, and that he should
299 be retired. This disability need not be service connected.

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

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

319 (4) If the medical board reports and certifies to the board,
320 after a comparable job analysis or other similar study, that the
321 disability retiree is engaged in, or is able to engage in, a
322 gainful occupation paying more than the difference between his



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

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

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



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

362 (3) The annual amount of the retirement allowance shall
363 consist of:

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

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

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

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

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



387 percent (100%) of the average compensation regardless of the years
388 of service.

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

391 **SECTION 10.** (1) Retired members who on December 1 of each
392 year, or July 1 of each year as provided for in subsection (6) of
393 this section, are receiving a retirement allowance for service or
394 disability retirement, or their beneficiaries, shall receive in
395 one (1) additional payment an amount equal to two and one-half
396 percent (2-1/2%) of the annual retirement allowance for each full
397 fiscal year of retirement.

398 (2) Retired members who on December 1 of each year are
399 receiving a retirement allowance for service or disability
400 retirement, or their beneficiaries, may receive, in addition to
401 the cumulative percentage provided in subsection (1) of this
402 section, a payment as determined by the board, calculated in
403 increments of one-quarter of one percent (1/4 of 1%), not to
404 exceed one and one-half percent (1-1/2%) of the annual retirement
405 allowance, for each full fiscal year of retirement, but any such
406 payment shall be contingent upon the reserve for annuities in
407 force for retired members and beneficiaries providing sufficient
408 investment gains in excess of the accrued actuarial liabilities
409 for the previous fiscal year as certified by the actuary and
410 determined by the board.

411 (3) The percentages in this section shall be based on each
412 full fiscal year that the retired member or beneficiary has
413 actually drawn retirement payments from the date of retirement.

414 (4) If a retiree who is receiving a retirement allowance
415 that will terminate upon the retiree's death is receiving the
416 additional payments under this section in one (1) payment and dies
417 on or after July 1 but before December 1, the beneficiary
418 designated on the retirement application shall receive in a single
419 payment a fractional part of the additional payments based on the



420 number of months in which a retirement allowance was received
421 during the fiscal year. If there is no surviving beneficiary,
422 payment shall be made according to Section 15(1) of this act. Any
423 similar remaining payments of additional benefit payable under
424 this section to a deceased beneficiary who was receiving a monthly
425 benefit shall be payable according to Section 15(2) of this act.

426 (5) Persons eligible to receive the payments provided in
427 this section shall receive the payments in one (1) additional
428 payment, except that the person may elect by an irrevocable
429 agreement on a form prescribed by the board to receive the
430 payments in not less than equal monthly installments not to exceed
431 six (6) months during the remaining months of the current fiscal
432 year. In the event of death of a retiree receiving monthly
433 benefits, any remaining amounts shall be paid in a lump sum to the
434 beneficiary designated on the retirement application, or if none,
435 according to Section 15(1) of this act. Any similar remaining
436 payments of additional benefit payable under this section to a
437 deceased beneficiary who was receiving a monthly benefit shall be
438 payable according to Section 15(2) of this act.

439 (6) Retired members or beneficiaries thereof who on July 1
440 of any fiscal year are receiving a retirement allowance may elect
441 by an irrevocable agreement in writing filed in the office of the
442 Public Employees' Retirement System no less than thirty (30) days
443 before July 1 of the appropriate year, to begin receiving the
444 payments provided for in subsection (1) of this section in twelve
445 (12) equal installments beginning on July 1. This irrevocable
446 agreement shall be binding on the member and subsequent
447 beneficiaries. The cumulative percentage provided in subsection
448 (1) of this section and paid in twelve (12) equal installments for
449 any particular year shall not be less than the cumulative
450 percentage provided for the previous year. However, payment of
451 the installments shall not extend beyond the month in which a
452 retirement allowance is due and payable. Any additional amounts



453 approved by the board under subsection (2) of this section shall
454 be paid in one (1) lump sum payment to retirees and beneficiaries
455 in accordance with subsection (2) of this section.

456 **SECTION 11.** (1) Upon the death of any member who has
457 retired for service or disability and who has not elected any
458 other option under Section 12 of this act, the member's spouse
459 shall receive one-half (1/2) the benefit that the member was
460 receiving and each child not having attained the age of nineteen
461 (19) years shall receive one-fourth (1/4) of the member's benefit,
462 but not more than one-half (1/2) of the benefits shall be paid for
463 the support and maintenance of two (2) or more children. Upon
464 each child's attaining the age of nineteen (19) years, the child
465 shall no longer be eligible for the benefit, and when all of the
466 children have attained the age of nineteen (19) years, only the
467 spouse shall be eligible for one-half (1/2) of the amount of the
468 member's benefit. The spouse shall continue to be eligible for
469 the benefit in the amount of fifty percent (50%) of the member's
470 retirement benefit as long as the spouse may live or until
471 remarriage. Upon remarriage of the spouse at any time, the
472 spouse's eligibility for the fifty percent (50%) benefits shall
473 end, but the spouse will be eligible to continue to receive
474 benefits for their children until the last child attains the age
475 of nineteen (19) years.

476 (2) Upon the death of any member who has served the minimum
477 period required for eligibility for retirement, the member's
478 spouse and family shall receive all the benefits payable to the
479 member's beneficiaries as if the member had retired at the time of
480 death. Those benefits shall cease as to the spouse upon
481 remarriage but shall continue to be payable to each child until he
482 reaches the age of nineteen (19) years. The benefits are payable
483 on a monthly basis.

484 (3) The spouse and/or the dependent children of an active
485 member who is killed in the line of performance of duty or dies as



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

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

510 (5) Children receiving the benefits provided in this section
511 who are permanently or totally disabled shall continue to receive
512 the benefits for as long as the medical board certifies that the
513 disability continues. The age limitation for benefits payable to
514 a child under any provision of this section shall be extended
515 beyond age nineteen (19), but in no event beyond the attainment of
516 age twenty-three (23), as long as the child is a student regularly
517 pursuing a full-time course of resident study or training in an
518 accredited high school, trade school, technical or vocational



519 institute, junior or community college, college, university or
520 comparable recognized educational institution duly licensed by a
521 state. A student child whose birthday falls during the school
522 year (September 1 through June 30) is considered not to reach age
523 twenty-three (23) until the July 1 following the actual
524 twenty-third birthday. A full-time course of resident study or
525 training means a day or evening noncorrespondence course that
526 includes school attendance at the rate of a least thirty-six (36)
527 weeks, per academic year or other applicable period with a subject
528 load sufficient, if successfully completed, to attain the
529 educational or training objective within the period generally
530 accepted as minimum for completion, by a full-time day student, of
531 the academic or training program concerned.

532 (6) If all the annuities provided for in this section
533 payable on the account of the death of a member terminate before
534 there has been paid an aggregate amount equal to the member's
535 accumulated contributions standing to the member's credit in the
536 annuity savings account at the time of the member's death, the
537 difference between the accumulated contributions and the aggregate
538 amount of annuity payments shall be paid to such person as the
539 member has nominated by written designation duly executed and
540 filed with the system. If there is no designated beneficiary
541 surviving at termination of benefits, the difference shall be
542 payable according to Section 15(1) of this act.

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

546 **SECTION 12.** (1) Upon application for superannuation or
547 disability retirement, any member may elect to receive his benefit
548 under the provisions of Section 8 or 9 of this act, or he may
549 elect, upon retirement or upon becoming eligible for retirement,
550 to receive the actuarial equivalent, subject to the provisions of
551 subsection (4) of this section, of his retirement allowance in a



552 reduced retirement allowance payable throughout life with the
553 provision that:

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

559 **Option 2.** Upon his death, his reduced retirement allowance
560 shall be continued throughout the life of, and paid to, such
561 person as he has nominated by written designation duly
562 acknowledged and filed with the board at the time of his
563 retirement; or

564 **Option 3.** Upon his death, one half (1/2) of his reduced
565 retirement allowance shall be continued throughout the life of,
566 and paid to, such person as he has nominated by written
567 designation duly acknowledged and filed with the board at the time
568 of his retirement, and the other one half (1/2) of his reduced
569 retirement allowance to some other designated beneficiary; or

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

575 **Option 4-B.** A reduced retirement allowance shall be
576 continued throughout the life of the retirant, but with the
577 further guarantee of payments to the named beneficiary,
578 beneficiaries or to the estate for a specified number of years
579 certain. If the retired member or the last designated beneficiary
580 receiving annuity payments dies before receiving all guaranteed
581 payments due, the actuarial equivalent of the remaining payments
582 shall be paid according to Section 15(1) of this act; or

583 **Option 4-C.** The retirement allowance otherwise payable may
584 be converted into a retirement allowance of equivalent actuarial



585 value in such an amount that, with the member's benefit under
586 Title II of the Federal Social Security Act, the member will
587 receive, so far as possible, approximately the same amount
588 annually before and after the earliest age at which the member
589 becomes eligible to receive a social security benefit; or

590 **Option 6.** Any member who is eligible to retire with an
591 unreduced benefit may select the maximum retirement benefit or an
592 optional benefit as provided in this subsection together with a
593 partial lump sum distribution. The amount of the lump sum
594 distribution under this option shall be equal to the maximum
595 monthly benefit multiplied by twelve (12), twenty-four (24) or
596 thirty-six (36) as selected by the member. The maximum retirement
597 benefit shall be actuarially reduced to reflect the amount of the
598 lump sum distribution selected and further reduced for any other
599 optional benefit selected. The annuity and lump sum distribution
600 shall be computed to result in no actuarial loss to the system.
601 The lump sum distribution shall be made as a single payment
602 payable at the time the first monthly annuity payment is paid to
603 the retiree. The amount of the lump sum distribution shall be
604 deducted from the member's annuity savings account in computing
605 what contributions remain at the death of the retiree and/or a
606 beneficiary. The lump sum distribution option may be elected only
607 once by a member upon initial retirement, and may not be elected
608 by a retiree, by members applying for a disability retirement
609 annuity, by survivors or by a member selecting Option 4-C.

610 (2) Any member in service who has qualified for retirement
611 benefits may select any optional method of settlement of
612 retirement benefits by notifying the executive director of the
613 system in writing, on a form prescribed by the board, of the
614 option he has selected and by naming the beneficiary of the option
615 and furnishing necessary proof of age. The option, once selected,
616 may be changed at any time before actual retirement or death, but
617 upon the death or retirement of the member, the optional



618 settlement shall be placed in effect upon proper notification to
619 the executive director.

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

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

639 (5) Any retired member who is receiving the maximum
640 retirement allowance for life, or a retirement allowance under
641 Option 1, and who marries after his retirement may elect to cancel
642 his maximum retirement allowance or Option 1 retirement allowance
643 and receive a reduced retirement allowance under Option 2 or
644 Option 4-A to provide continuing lifetime benefits to his spouse.
645 The election must be made in writing to the office of the
646 executive director of the system on a form prescribed by the board
647 not earlier than the date of the marriage. Any such election
648 shall be effective the first of the month following the date the
649 election is received by the system. The amount of the reduced
650 retirement allowance shall be the actuarial equivalent, taking



651 into account that the member received the maximum retirement
652 allowance or Option 1 retirement allowance for a period of time
653 before electing to receive a reduced retirement allowance.

654 (6) If a retiree and his eligible beneficiary, if any, both
655 die before they have received in annuity payments a total amount
656 equal to the accumulated contributions standing to the retirant's
657 credit in the annuity savings account at the time of his
658 retirement, the difference between the accumulated contributions
659 and the total amount of annuities received by them shall be paid
660 to such persons as the retirant has nominated by written
661 designation duly executed and filed in the office of the executive
662 director. If no designated person survives the retirant and his
663 beneficiary, the difference, if any, shall be paid according to
664 Section 15(1) of this act.

665 **SECTION 13.** (1) All persons who are covered under the terms
666 of this act on July 1, 2002, and who become members of the
667 retirement system established by this act shall cease to be
668 members of the Public Employees' Retirement System under the
669 provisions of Section 25-11-101 et seq. upon July 1, 2002, and
670 shall become members of this retirement system with full credit
671 for all prior service performed before July 1, 2002, for which
672 contributions were made to the Public Employees' Retirement
673 System.

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

682 **SECTION 14.** If a member of the retirement system ceases to
683 work as a law enforcement officer for any reason other than



684 occupational disease contracted or for any accident sustained by
685 the member by reason of his service or discharge of his duties as
686 a law enforcement officer, and if the member is not eligible for
687 retirement either for service or disability, he shall be refunded
688 the amount of his total contributions under the provisions of this
689 act, including any credit transferred to his account in this
690 system from any other system, at his request, and if he dies
691 before retirement, those funds shall be refunded to any
692 beneficiary that he has named. If there is no surviving
693 designated beneficiary, the contributions to the credit of the
694 deceased member shall be refunded according to Section 15(1) of
695 this act.

696 Under the Unemployment Compensation Amendments of 1992
697 (Public Law 102-218(UCA)), a member or the spouse of a member who
698 is an eligible beneficiary eligible for a refund under this
699 section may elect on a form prescribed by the board under rules
700 and regulations established by the board, to have an eligible roll
701 over distribution of accumulated contributions payable under this
702 section paid directly to an eligible retirement plan or individual
703 retirement account. If the member or the spouse of a member who
704 is an eligible beneficiary makes that election and specifies the
705 eligible retirement plan or individual retirement account to which
706 the distribution is to be paid, the distribution will be made in
707 the form of a direct trustee to trustee transfer to the specified
708 eligible retirement plan. Flexible roll overs under this
709 paragraph shall not be considered assignments under Section 19 of
710 this act.

711 If any member who receives a refund reenters service as a law
712 enforcement officer and again becomes a member of the system, he
713 may repay all amounts previously received by him as a refund,
714 together with regular interest covering the period from the date
715 of refund to the date of repayment; however, the amounts that are
716 repaid by the member and the creditable service related thereto



717 shall not be used in any benefit calculation or determination
718 until the member has remained a contributor to the system for a
719 period of at least four (4) years after such member's reentry into
720 service as a law enforcement officer. Repayment for that time
721 shall be made in increments of not less than one-quarter (1/4)
722 year of creditable service beginning with the most recent service
723 for which refund has been made. Upon the repayment of all or part
724 of that refund and interest, the member shall again receive credit
725 for the period of creditable service for which full repayment has
726 been made to the system.

727 **SECTION 15.** (1) Except as otherwise provided in subsection
728 (2) of this section, where benefits are payable to a designated
729 beneficiary or beneficiaries under this article and the designated
730 beneficiary or beneficiaries as provided by the member on the most
731 recent form filed with the system are deceased or otherwise
732 disqualified at the time such benefits become payable, the
733 following persons, in descending order of precedence, shall be
734 eligible to receive such benefits:

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

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

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

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

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

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

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



- 750 (a) The surviving spouse of the beneficiary;
751 (b) The children of the beneficiary or their
752 descendants, per stirpes;
753 (c) The brothers and sisters of the beneficiary or
754 their descendants, per stirpes;
755 (d) The parents of the beneficiary;
756 (e) The executor or administrator on behalf of the
757 beneficiary's estate;
758 (f) The persons entitled by law to distribution of the
759 beneficiary's estate.

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

763 (4) Payment under the provisions of this section shall bar
764 recovery by any other person of the benefits distributed. Payment
765 of benefits made to one or more members of a class of individuals
766 are made on behalf of all members of the class. Any members of
767 the class coming forward after payment is made must look to those
768 who received the payment.

769 **SECTION 16.** Subject to the rules adopted by the board, the
770 system shall accept an eligible roll over distribution or a direct
771 transfer of funds from another qualified plan in payment of all or
772 a portion of the cost to purchase optional service credit or to
773 reinstate previously withdrawn service credit as permitted by the
774 system. The system may only accept roll over payments in an
775 amount equal to or less than the balance due for purchase or
776 reinstatement of service credit. The rules adopted by the board
777 shall condition the acceptance of a roll over or transfer from
778 another qualified plan on the receipt from the other plan of
779 information necessary to enable the system to determine the
780 eligibility of any transferred funds for tax-free roll over
781 treatment or other treatment under federal income tax law.



782 **SECTION 17.** Regular interest shall be credited annually to
783 the mean amount of the employee reserve account for the preceding
784 year. This credit shall be made annually from interest and other
785 earnings on the invested assets of the system. Any additional
786 amount required to meet the regular interest on the funds of the
787 system shall be charged to the employer's accumulation account,
788 and any excess of earnings over the regular interest required
789 shall be credited to the employer's accumulation account. Regular
790 interest shall mean such percentage rate of interest compounded
791 annually as determined by the board on the basis of the interest
792 earnings of the system for the preceding year. Once that interest
793 is credited it shall be added to the sum of all amounts deducted
794 from the compensation of a member and shall be included in
795 determining his total contributions.

796 **SECTION 18.** No person who is being paid a retirement
797 allowance under this act shall serve as or be paid for any service
798 as a law enforcement officer. Any member who has been retired
799 under this act and who is later elected, appointed or employed as
800 a law enforcement officer shall cease to receive benefits under
801 this act and shall become a contributing member of the retirement
802 system again. Upon retiring again, if the member's reemployment
803 exceeds six (6) months, he shall have his benefit recomputed,
804 including service after becoming a member again. However, the
805 total retirement allowance paid to the retired member in his
806 previous retirement shall be deducted from his retirement reserve
807 and taken into consideration in recalculating the retirement
808 allowance under a new option selected.

809 **SECTION 19.** The right of a person to an annuity, a
810 retirement allowance or benefit, or to the return of
811 contributions, or to any optional benefits or any other right
812 accrued or accruing to any person under the provisions of this
813 act, the system and the moneys in the system created by this act,
814 are exempt from any state, county or municipal ad valorem taxes,



815 income taxes, premium taxes, privilege taxes, property taxes,
816 sales and use taxes or other taxes not so named, notwithstanding
817 any other provision of law to the contrary, and exempt from levy
818 and sale, garnishment, attachment, or any other process
819 whatsoever, and shall be unassignable except as specifically
820 provided otherwise in this act.

821 SECTION 20. (1) The maintenance of actuarial reserves for
822 the various allowances and benefits under this act, and the
823 payment of all annuities, retirement allowances, refunds and other
824 benefits granted under this act are made obligation of the system.
825 All income, interest and dividends derived from deposits and
826 investments authorized by this act shall be used for the payment
827 of the obligations of the system.

828 (2) If the system is terminated, all members of the system
829 as of the date of termination of the system shall be deemed to
830 have a vested right to benefits to the extent and in the same
831 manner that rights would be vested under the laws existing as of
832 the date of termination of the system. However, any member who
833 has not fulfilled the requirements for length of service because
834 of a termination of the system shall be entitled to compensation
835 as of the date that the member would otherwise be eligible. That
836 compensation shall be computed on the basis of the time he was
837 actually a member of the system and the compensation he actually
838 earned during the time he was a member, in the manner provided by
839 this act.

840 If there is a deficit in the availability of funds for
841 payment due under the provisions of the system, an appropriation
842 shall be made that is sufficient for the payment thereof, as an
843 obligation of the State of Mississippi.

844 (3) Notwithstanding any provisions of this section or this
845 act to the contrary, the maximum annual retirement allowance
846 attributable to the employer contributions payable by the system
847 to a member shall be subject to the limitations set forth in



848 Section 415 of the Internal Revenue Code and any regulations
849 issued thereunder as applicable to governmental plans as that term
850 is defined under Section 414(d) of the Internal Revenue Code.

851 (4) Notwithstanding any other provision of this plan, all
852 distributions from this plan shall conform to the regulations
853 issued under Section 401(a)(9) of the Internal Revenue Code,
854 applicable to governmental plans, as defined in Section 414(d) of
855 the Internal Revenue Code, including the incidental death benefit
856 provisions of Section 401(a)(9)(G) of the Internal Revenue Code.
857 Further, those regulations shall override any plan provision that
858 is inconsistent with Section 401(a)(9) of the Internal Revenue
859 Code.

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

864 (6) Notwithstanding any other provision of this plan, the
865 maximum compensation that can be considered for all plan purposes
866 is One Hundred Fifty Thousand Dollars (\$150,000.00) per year,
867 adjusted annually to reflect changes in the cost of living to
868 conform to the regulations issued under Section 401(a)(17) of the
869 Internal Revenue Code.

870 **SECTION 21.** This act shall take effect and be in force from
871 and after July 1, 2002.

