

By: Representative Janus

To: Appropriations

HOUSE BILL NO. 338

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  
101 that has elected to include its police officers and narcotics  
102 agents in the membership of the system under subsection (3) of  
103 this section, who are actually engaged in the enforcement of the  
104 laws of this state and the municipality, except police officers  
105 and narcotic agents who are members of any retirement system  
106 created under Section 21-29-101 et seq. or Section 21-29-201 et  
107 seq., but not auxiliary officers or officers who are engaged only  
108 in administrative or civil duties.

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

114           (c) All duly elected constables.

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

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

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



127 (g) All duly appointed or employed inspection station  
128 employees, field inspectors and railroad inspectors of the  
129 Mississippi Department of Transportation who are actually engaged  
130 in the enforcement of the laws specified in Section 27-5-71 or  
131 other laws of this state administered and enforced by the  
132 Department of Transportation.

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

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

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

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

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



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

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

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

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

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

187 (4) Except as otherwise provided for municipalities in  
188 subsection (3) of this section, all law enforcement officers  
189 eligible for membership in the system as provided in this section  
190 who are serving in that capacity on July 1, 2002, shall become  
191 members of the system on that date, unless they file with the  
192 board before August 1, 2002, on a form prescribed by the board, a



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

197 (5) Except as otherwise provided for municipalities in  
198 subsection (3) of this section, all law enforcement officers  
199 eligible for membership in the system as provided in this section  
200 who are elected or appointed after June 30, 2002, shall become  
201 members of the system as a condition of their office or  
202 employment.

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

207 **SECTION 5.** (1) Creditable service on which a member's  
208 service or disability retirement benefit is based shall consist of  
209 prior service and membership service. Except as otherwise  
210 provided for municipalities in this subsection, prior service  
211 means service performed before July 1, 2002, for which  
212 contributions were made to the Public Employees' Retirement  
213 System, and membership service means all service for which credit  
214 may be allowed under this act after June 30, 2002, and all  
215 lawfully credited unused leave as of the date of withdrawal from  
216 service, as certified by the employer. For police officers and  
217 narcotics agents of municipalities that have elected to include  
218 those persons in the membership of the system, prior service means  
219 service performed before the date that they became members of the  
220 system for which contributions were made to the Public Employees'  
221 Retirement System, and membership service means all service for  
222 which credit may be allowed under this act on or after the date  
223 that they became members of the system and all lawfully credited  
224 unused leave as of the date of withdrawal from service, as  
225 certified by the municipality.



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

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





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

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

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

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

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

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

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



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

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

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

313 **SECTION 7.** Each employer shall withhold the member  
314 contributions required by Section 6 of this act from all  
315 compensation earned after June 30, 2002, or in the case of police  
316 officers and narcotics agents of municipalities that have elected  
317 to include those persons in the membership of the system, from all  
318 compensation earned on and after the date that they became members  
319 of the system. The contributions so withheld shall be treated as  
320 employer contributions in determining tax treatment under the  
321 United States Internal Revenue Code and Mississippi Income Tax  
322 Code. These contributions shall not be included as gross income  
323 of the member until such time as they are distributed or made  
324 available. The employer shall pay these member contributions from



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

333 **SECTION 8.** (1) Upon application of a member or his  
334 employer, but in no event before termination of state service, any  
335 member who has not attained the age of fifty-five (55) years may  
336 be retired by the board, not less than thirty (30) and not more  
337 than ninety (90) days next following the date of filing the  
338 application, on a disability retirement allowance, if the medical  
339 board of the Public Employees' Retirement System, after a medical  
340 examination, certifies that he is mentally or physically  
341 incapacitated for the performance of duty, that the incapacity is  
342 likely to be permanent, and that the sickness or injury was caused  
343 or sustained as a direct result of duty as a law enforcement  
344 officer after June 30, 2002, or in the case of a police officer or  
345 narcotics agent of a municipality that has elected to include  
346 those persons in the membership of the system, on or after the  
347 date that the person became a member of the system.

348 Upon the application of a member or his employer, any member  
349 who is not yet eligible for service retirement benefits and who  
350 has had at least ten (10) years of creditable service may be  
351 retired by the board, not less than thirty (30) and not more than  
352 ninety (90) days next following the date of filing the  
353 application, on a disability retirement allowance, if the medical  
354 board, after a medical examination, certifies that he is mentally  
355 or physically incapacitated for the further performance of duty,  
356 that the incapacity is likely to be permanent, and that he should  
357 be retired. This disability need not be service connected.



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

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

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



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

401 **SECTION 9.** (1) Any member upon withdrawal from service upon  
402 or after attainment of the age of fifty-five (55) years who has  
403 completed at least four (4) years of creditable service, or any  
404 member upon withdrawal from service upon or after attainment of  
405 the age of forty-five (45) years who has completed at least twenty  
406 (20) years of creditable service, or any member upon withdrawal  
407 from service regardless of age who has completed at least  
408 twenty-five (25) years of creditable service, shall be entitled to  
409 receive a retirement allowance that shall be payable the first of  
410 the month following receipt of the member's application in the  
411 office of the executive director of the system, but in no event  
412 before withdrawal from service.

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

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



422 (a) A member's annuity, which shall be the actuarial  
423 equivalent of the accumulated contributions of the member at the  
424 time of retirement, computed according to the actuarial table in  
425 use by the system.

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

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

433 (d) In the case of retirement of any member before  
434 attaining the age of fifty-five (55) years, the retirement  
435 allowance shall be computed in accordance with the formula set  
436 forth above in this section, except that the employer's annuity  
437 and prior service annuity shall be reduced by three percent (3%)  
438 for each year of age below fifty-five (55) years, or three percent  
439 (3%) for each year of service below twenty-five (25) years of  
440 creditable service, whichever is lesser.

441 (e) Upon retiring for service, a member shall be  
442 eligible to obtain retirement benefits, as computed above, for  
443 life, except that the aggregate amount of the employer's annuity  
444 and prior service annuity shall not exceed more than one hundred  
445 percent (100%) of the average compensation regardless of the years  
446 of service.

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

449 **SECTION 10.** (1) Retired members who on December 1 of each  
450 year, or July 1 of each year as provided for in subsection (6) of  
451 this section, are receiving a retirement allowance for service or  
452 disability retirement, or their beneficiaries, shall receive in  
453 one (1) additional payment an amount equal to two and one-half



454 percent (2-1/2%) of the annual retirement allowance for each full  
455 fiscal year of retirement.

456 (2) Retired members who on December 1 of each year are  
457 receiving a retirement allowance for service or disability  
458 retirement, or their beneficiaries, may receive, in addition to  
459 the cumulative percentage provided in subsection (1) of this  
460 section, a payment as determined by the board, calculated in  
461 increments of one-quarter of one percent (1/4 of 1%), not to  
462 exceed one and one-half percent (1-1/2%) of the annual retirement  
463 allowance, for each full fiscal year of retirement, but any such  
464 payment shall be contingent upon the reserve for annuities in  
465 force for retired members and beneficiaries providing sufficient  
466 investment gains in excess of the accrued actuarial liabilities  
467 for the previous fiscal year as certified by the actuary and  
468 determined by the board.

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

472 (4) If a retiree who is receiving a retirement allowance  
473 that will terminate upon the retiree's death is receiving the  
474 additional payments under this section in one (1) payment and dies  
475 on or after July 1 but before December 1, the beneficiary  
476 designated on the retirement application shall receive in a single  
477 payment a fractional part of the additional payments based on the  
478 number of months in which a retirement allowance was received  
479 during the fiscal year. If there is no surviving beneficiary,  
480 payment shall be made according to Section 15(1) of this act. Any  
481 similar remaining payments of additional benefit payable under  
482 this section to a deceased beneficiary who was receiving a monthly  
483 benefit shall be payable according to Section 15(2) of this act.

484 (5) Persons eligible to receive the payments provided in  
485 this section shall receive the payments in one (1) additional  
486 payment, except that the person may elect by an irrevocable



487 agreement on a form prescribed by the board to receive the  
488 payments in not less than equal monthly installments not to exceed  
489 six (6) months during the remaining months of the current fiscal  
490 year. In the event of death of a retiree receiving monthly  
491 benefits, any remaining amounts shall be paid in a lump sum to the  
492 beneficiary designated on the retirement application, or if none,  
493 according to Section 15(1) of this act. Any similar remaining  
494 payments of additional benefit payable under this section to a  
495 deceased beneficiary who was receiving a monthly benefit shall be  
496 payable according to Section 15(2) of this act.

497 (6) Retired members or beneficiaries thereof who on July 1  
498 of any fiscal year are receiving a retirement allowance may elect  
499 by an irrevocable agreement in writing filed in the office of the  
500 Public Employees' Retirement System no less than thirty (30) days  
501 before July 1 of the appropriate year, to begin receiving the  
502 payments provided for in subsection (1) of this section in twelve  
503 (12) equal installments beginning on July 1. This irrevocable  
504 agreement shall be binding on the member and subsequent  
505 beneficiaries. The cumulative percentage provided in subsection  
506 (1) of this section and paid in twelve (12) equal installments for  
507 any particular year shall not be less than the cumulative  
508 percentage provided for the previous year. However, payment of  
509 the installments shall not extend beyond the month in which a  
510 retirement allowance is due and payable. Any additional amounts  
511 approved by the board under subsection (2) of this section shall  
512 be paid in one (1) lump sum payment to retirees and beneficiaries  
513 in accordance with subsection (2) of this section.

514 **SECTION 11.** (1) Upon the death of any member who has  
515 retired for service or disability and who has not elected any  
516 other option under Section 12 of this act, the member's spouse  
517 shall receive one-half (1/2) the benefit that the member was  
518 receiving and each child not having attained the age of nineteen  
519 (19) years shall receive one-fourth (1/4) of the member's benefit,





520 but not more than one-half (1/2) of the benefits shall be paid for  
521 the support and maintenance of two (2) or more children. Upon  
522 each child's attaining the age of nineteen (19) years, the child  
523 shall no longer be eligible for the benefit, and when all of the  
524 children have attained the age of nineteen (19) years, only the  
525 spouse shall be eligible for one-half (1/2) of the amount of the  
526 member's benefit. The spouse shall continue to be eligible for  
527 the benefit in the amount of fifty percent (50%) of the member's  
528 retirement benefit as long as the spouse may live or until  
529 remarriage. Upon remarriage of the spouse at any time, the  
530 spouse's eligibility for the fifty percent (50%) benefits shall  
531 end, but the spouse will be eligible to continue to receive  
532 benefits for their children until the last child attains the age  
533 of nineteen (19) years.

534 (2) Upon the death of any member who has served the minimum  
535 period required for eligibility for retirement, the member's  
536 spouse and family shall receive all the benefits payable to the  
537 member's beneficiaries as if the member had retired at the time of  
538 death. Those benefits shall cease as to the spouse upon  
539 remarriage but shall continue to be payable to each child until he  
540 reaches the age of nineteen (19) years. The benefits are payable  
541 on a monthly basis.

542 (3) The spouse and/or the dependent children of an active  
543 member who is killed in the line of performance of duty or dies as  
544 a direct result of an accident occurring in the line of  
545 performance of duty shall qualify, on approval of the board, for a  
546 retirement allowance on the first of the month following the date  
547 of the member's death, but not before receipt of application by  
548 the board. The spouse shall receive a retirement allowance equal  
549 to one-half (1/2) of the average compensation of the deceased  
550 member. In addition to the retirement allowance for the spouse,  
551 or if there is no surviving spouse, a retirement allowance shall  
552 be paid in the amount of one-fourth (1/4) of the average



553 compensation for the support and maintenance of one (1) child or  
554 in the amount of one-half (1/2) of the average compensation for  
555 the support and maintenance of two (2) or more children. Those  
556 benefits shall cease to be paid for the support and maintenance of  
557 each child upon the child attaining the age of nineteen (19)  
558 years; however, the spouse shall continue to be eligible for the  
559 retirement allowance provided for the spouse. Benefits may be  
560 paid to a surviving parent or lawful custodian of the children for  
561 the use and benefit of the children without the necessity of  
562 appointment as guardian. That retirement allowance shall cease to  
563 the spouse upon remarriage but continue to be payable for each  
564 dependent child until the age of nineteen (19) years.

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

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



586 load sufficient, if successfully completed, to attain the  
587 educational or training objective within the period generally  
588 accepted as minimum for completion, by a full-time day student, of  
589 the academic or training program concerned.

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

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

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

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

617 **Option 2.** Upon his death, his reduced retirement allowance  
618 shall be continued throughout the life of, and paid to, such



619 person as he has nominated by written designation duly  
620 acknowledged and filed with the board at the time of his  
621 retirement; or

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

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

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

641 **Option 4-C.** The retirement allowance otherwise payable may  
642 be converted into a retirement allowance of equivalent actuarial  
643 value in such an amount that, with the member's benefit under  
644 Title II of the Federal Social Security Act, the member will  
645 receive, so far as possible, approximately the same amount  
646 annually before and after the earliest age at which the member  
647 becomes eligible to receive a social security benefit; or

648 **Option 6.** Any member who is eligible to retire with an  
649 unreduced benefit may select the maximum retirement benefit or an  
650 optional benefit as provided in this subsection together with a  
651 partial lump sum distribution. The amount of the lump sum



652 distribution under this option shall be equal to the maximum  
653 monthly benefit multiplied by twelve (12), twenty-four (24) or  
654 thirty-six (36) as selected by the member. The maximum retirement  
655 benefit shall be actuarially reduced to reflect the amount of the  
656 lump sum distribution selected and further reduced for any other  
657 optional benefit selected. The annuity and lump sum distribution  
658 shall be computed to result in no actuarial loss to the system.  
659 The lump sum distribution shall be made as a single payment  
660 payable at the time the first monthly annuity payment is paid to  
661 the retiree. The amount of the lump sum distribution shall be  
662 deducted from the member's annuity savings account in computing  
663 what contributions remain at the death of the retiree and/or a  
664 beneficiary. The lump sum distribution option may be elected only  
665 once by a member upon initial retirement, and may not be elected  
666 by a retiree, by members applying for a disability retirement  
667 annuity, by survivors or by a member selecting Option 4-C.

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

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



685           (4) Any retired member who is receiving a reduced retirement  
686 allowance under Option 2 or Option 4-A whose designated  
687 beneficiary predeceases him, or whose marriage to a spouse who is  
688 his designated beneficiary is terminated by divorce or other  
689 dissolution, may elect to cancel his reduced retirement allowance  
690 and receive the maximum retirement allowance for life in an amount  
691 equal to the amount that would have been payable if the member had  
692 not elected Option 2 or Option 4-A. The election must be made in  
693 writing to the office of the executive director of the system on a  
694 form prescribed by the board. Any such election shall be  
695 effective the first of the month following the date the election  
696 is received by the system.

697           (5) Any retired member who is receiving the maximum  
698 retirement allowance for life, or a retirement allowance under  
699 Option 1, and who marries after his retirement may elect to cancel  
700 his maximum retirement allowance or Option 1 retirement allowance  
701 and receive a reduced retirement allowance under Option 2 or  
702 Option 4-A to provide continuing lifetime benefits to his spouse.  
703 The election must be made in writing to the office of the  
704 executive director of the system on a form prescribed by the board  
705 not earlier than the date of the marriage. Any such election  
706 shall be effective the first of the month following the date the  
707 election is received by the system. The amount of the reduced  
708 retirement allowance shall be the actuarial equivalent, taking  
709 into account that the member received the maximum retirement  
710 allowance or Option 1 retirement allowance for a period of time  
711 before electing to receive a reduced retirement allowance.

712           (6) If a retiree and his eligible beneficiary, if any, both  
713 die before they have received in annuity payments a total amount  
714 equal to the accumulated contributions standing to the retirant's  
715 credit in the annuity savings account at the time of his  
716 retirement, the difference between the accumulated contributions  
717 and the total amount of annuities received by them shall be paid



718 to such persons as the retirant has nominated by written  
719 designation duly executed and filed in the office of the executive  
720 director. If no designated person survives the retirant and his  
721 beneficiary, the difference, if any, shall be paid according to  
722 Section 15(1) of this act.

723       **SECTION 13.** (1) Except as otherwise provided in this  
724 subsection for municipalities, all persons who are covered under  
725 the terms of this act on July 1, 2002, and who become members of  
726 the retirement system established by this act shall cease to be  
727 members of the Public Employees' Retirement System under the  
728 provisions of Section 25-11-101 et seq. upon July 1, 2002, and  
729 shall become members of this retirement system with full credit  
730 for all prior service performed before July 1, 2002, for which  
731 contributions were made to the Public Employees' Retirement  
732 System. All police officers and narcotics agents of  
733 municipalities that have elected to include those persons in the  
734 membership of the retirement system established by this act who  
735 become members of this retirement system shall cease to be members  
736 of the Public Employees' Retirement System under the provisions of  
737 Section 25-11-101 et seq. upon the date that they become members  
738 of this retirement system, and shall become members of this  
739 retirement system with full credit for all prior service performed  
740 before the date that they become members of this retirement system  
741 for which contributions were made to the Public Employees'  
742 Retirement System.

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



751           SECTION 14. If a member of the retirement system ceases to  
752 work as a law enforcement officer for any reason other than  
753 occupational disease contracted or for any accident sustained by  
754 the member by reason of his service or discharge of his duties as  
755 a law enforcement officer, and if the member is not eligible for  
756 retirement either for service or disability, he shall be refunded  
757 the amount of his total contributions under the provisions of this  
758 act, including any credit transferred to his account in this  
759 system from any other system, at his request, and if he dies  
760 before retirement, those funds shall be refunded to any  
761 beneficiary that he has named. If there is no surviving  
762 designated beneficiary, the contributions to the credit of the  
763 deceased member shall be refunded according to Section 15(1) of  
764 this act.

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

780           If any member who receives a refund reenters service as a law  
781 enforcement officer and again becomes a member of the system, he  
782 may repay all amounts previously received by him as a refund,  
783 together with regular interest covering the period from the date





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

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

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

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

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

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

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

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

814       (2) Any monthly benefits payable to a beneficiary who dies  
815 before cashing his or her final check(s) and/or any additional  
816 benefits payable under Section 10 of this act still payable at the



817 death of a beneficiary receiving monthly benefits shall be paid as  
818 follows:

819 (a) The surviving spouse of the beneficiary;

820 (b) The children of the beneficiary or their  
821 descendants, per stirpes;

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

824 (d) The parents of the beneficiary;

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

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

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

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

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



849 eligibility of any transferred funds for tax-free roll over  
850 treatment or other treatment under federal income tax law.

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

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

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



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

890 **SECTION 20.** (1) The maintenance of actuarial reserves for  
891 the various allowances and benefits under this act, and the  
892 payment of all annuities, retirement allowances, refunds and other  
893 benefits granted under this act are made obligation of the system.  
894 All income, interest and dividends derived from deposits and  
895 investments authorized by this act shall be used for the payment  
896 of the obligations of the system.

897 (2) If the system is terminated, all members of the system  
898 as of the date of termination of the system shall be deemed to  
899 have a vested right to benefits to the extent and in the same  
900 manner that rights would be vested under the laws existing as of  
901 the date of termination of the system. However, any member who  
902 has not fulfilled the requirements for length of service because  
903 of a termination of the system shall be entitled to compensation  
904 as of the date that the member would otherwise be eligible. That  
905 compensation shall be computed on the basis of the time he was  
906 actually a member of the system and the compensation he actually  
907 earned during the time he was a member, in the manner provided by  
908 this act.

909 If there is a deficit in the availability of funds for  
910 payment due under the provisions of the system, an appropriation  
911 shall be made that is sufficient for the payment thereof, as an  
912 obligation of the State of Mississippi.

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



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

920 (4) Notwithstanding any other provision of this plan, all  
921 distributions from this plan shall conform to the regulations  
922 issued under Section 401(a)(9) of the Internal Revenue Code,  
923 applicable to governmental plans, as defined in Section 414(d) of  
924 the Internal Revenue Code, including the incidental death benefit  
925 provisions of Section 401(a)(9)(G) of the Internal Revenue Code.  
926 Further, those regulations shall override any plan provision that  
927 is inconsistent with Section 401(a)(9) of the Internal Revenue  
928 Code.

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

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

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

