

By: Senator(s) Thames

To: Finance

## SENATE BILL NO. 2659

1 AN ACT TO CREATE NEW SECTION 21-29-327, MISSISSIPPI CODE OF  
2 1972, TO AUTHORIZE THE BOARD OF TRUSTEES OF THE PUBLIC EMPLOYEES'  
3 RETIREMENT SYSTEM TO ASSESS INTEREST ON DELINQUENT PAYMENTS FROM  
4 MUNICIPALITIES WHOSE RETIREMENT FUNDS IT ADMINISTERS; TO AUTHORIZE  
5 THE BOARD TO SUE MUNICIPALITIES FOR SUCH DELINQUENT PAYMENTS AND  
6 INTEREST IN A COURT OF COMPETENT JURISDICTION; TO CREATE NEW  
7 SECTION 21-29-329, MISSISSIPPI CODE OF 1972, TO AUTHORIZE  
8 MUNICIPALITIES THAT HAVE A RETIREMENT FUND ADMINISTERED BY THE  
9 BOARD OF TRUSTEES OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO  
10 ADOPT A RESOLUTION TO ALLOW THOSE SPOUSES WHO ARE RECEIVING  
11 RETIREMENT BENEFITS TO CONTINUE TO RECEIVE SPOUSE RETIREMENT  
12 BENEFITS FOR LIFE EVEN IF THE SPOUSE REMARRIES; TO PROVIDE THAT  
13 SUCH RESOLUTION MAY ALSO PROVIDE THAT SURVIVING SPOUSES OF  
14 DECEASED MEMBERS WHO RECEIVED SPOUSE RETIREMENT BENEFITS WHICH  
15 WERE TERMINATED UPON REMARRIAGE TO AGAIN RECEIVE SPOUSE RETIREMENT  
16 BENEFITS; TO PROVIDE THE CONDITIONS MUST BE MET IN ORDER FOR SUCH  
17 BENEFITS TO BE REINSTATED; TO AMEND SECTIONS 25-11-15, 25-11-103,  
18 25-11-105, 25-11-114, 25-11-137, 25-13-12 AND 25-13-13,  
19 MISSISSIPPI CODE OF 1972, TO REMOVE CERTAIN RESTRICTIONS ON THE  
20 PURCHASE OF COMPUTER SOFTWARE AND EQUIPMENT BY THE PUBLIC  
21 EMPLOYEES' RETIREMENT SYSTEM; TO REVISE DEFINITIONS UNDER THE LAWS  
22 GOVERNING THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO CLARIFY THAT  
23 THE TERMS "AVERAGE COMPENSATION" AND "EARNED COMPENSATION" SHALL  
24 NOT INCLUDE NONTAXABLE AMOUNTS PAID BY THE EMPLOYER FOR HEALTH AND  
25 LIFE INSURANCE, TO PROVIDE THAT CERTAIN AMOUNTS LAWFULLY PAID IN A  
26 LUMP SUM FOR MAJOR MEDICAL LEAVE SHALL BE INCLUDED IN THE  
27 CALCULATION OF AVERAGE COMPENSATION AND TO PROVIDE THAT THE TERM  
28 "BENEFICIARY" MAY INCLUDE AN ORGANIZATION, ESTATE, TRUST OR ENTITY  
29 UNDER CERTAIN CIRCUMSTANCES; TO MAKE IT CLEAR THAT THE BOARD OF  
30 TRUSTEES OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM MAY SUE FOR  
31 DELINQUENT PAYMENT AND OTHER AMOUNTS CERTIFIED BY THE BOARD AS  
32 OWED BY THE EMPLOYER; TO REQUIRE THE PUBLIC EMPLOYEES' RETIREMENT  
33 SYSTEM TO ALLOW THOSE SPOUSES WHO ARE RECEIVING RETIREMENT  
34 BENEFITS TO CONTINUE TO RECEIVE SPOUSE RETIREMENT BENEFITS FOR  
35 LIFE EVEN IF THE SPOUSE REMARRIES AND TO ALLOW SURVIVING SPOUSES  
36 OF DECEASED MEMBERS WHO RECEIVED SPOUSE RETIREMENT BENEFITS WHICH  
37 WERE TERMINATED UPON REMARRIAGE TO AGAIN RECEIVE SPOUSE RETIREMENT  
38 BENEFITS; TO PROVIDE THAT A LAW ENFORCEMENT OFFICER OR FIREMAN WHO  
39 CHANGES EMPLOYMENT AND TRANSFERS RETIREMENT SERVICE CREDIT OR  
40 FUNDS TO ANOTHER RETIREMENT SYSTEM ADMINISTERED BY THE BOARD OF  
41 TRUSTEES OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM MAY DO SO  
42 IMMEDIATELY, BUT THE AMOUNTS SO TRANSFERRED MAY NOT BE USED IN ANY  
43 BENEFIT CALCULATION OR DETERMINATION OF THE ELIGIBILITY FOR  
44 BENEFITS UNTIL THE PERSON HAS REMAINED A CONTRIBUTING MEMBER OF  
45 THE RETIREMENT SYSTEM TO WHICH HE IS TRANSFERRING FOR THE MINIMUM  
46 PERIOD NECESSARY TO QUALIFY FOR A MONTHLY RETIREMENT ALLOWANCE OR  
47 BENEFIT; TO PROVIDE THAT RETIRED MEMBERS OF THE HIGHWAY PATROL  
48 RETIREMENT SYSTEM WHO ARE REEMPLOYED AND WHO PREVIOUSLY QUALIFIED  
49 FOR A COST OF LIVING ALLOWANCE SHALL BE ELIGIBLE IMMEDIATELY FOR  
50 THE COST OF LIVING ALLOWANCE UPON A SUBSEQUENT RETIREMENT; TO  
51 AMEND SECTIONS 21-29-45, 21-29-145, 21-29-147 AND 21-29-255,

52 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS  
53 ACT; AND FOR RELATED PURPOSES.

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

55 **SECTION 1.** The following provision shall be codified as  
56 Section 21-29-327, Mississippi Code of 1972:

57 21-29-327. Any municipality that has established a  
58 retirement fund or disability and relief fund under Articles 1, 3  
59 and 5 of this chapter shall be assessed interest on delinquent  
60 payments as determined by the Board of Trustees of the Public  
61 Employees' Retirement System in accordance with rules and  
62 regulations adopted by the board of trustees. Any delinquent  
63 payments, assessed interest and any other amount certified by the  
64 board of trustees as owed by the municipality may be recovered by  
65 action in a court of competent jurisdiction against the  
66 municipality or may, upon due certification of delinquency and at  
67 the request of the board of trustees, be deducted from any other  
68 monies payable to the municipality by any department or agency of  
69 the state.

70 **SECTION 2.** The following provision shall be codified as  
71 Section 21-29-329, Mississippi Code of 1972:

72 21-29-329. (1) Any municipality that has established a  
73 retirement fund or disability and relief fund under the provisions  
74 of Article 1, 3 or 5 of this chapter, shall be authorized to adopt  
75 a resolution to allow those spouses who are receiving retirement  
76 benefits under the provisions of such articles, to continue to  
77 receive the spouse retirement benefits for life even if the spouse  
78 remarries. Such resolution may also provide that surviving  
79 spouses of deceased members who received spouse retirement  
80 benefits which were terminated upon remarriage may again receive  
81 the spouse retirement benefits from and after making application  
82 with the Board of Trustees of the Public Employees' Retirement  
83 System to reinstate the benefits. Any reinstatement of spouse  
84 retirement benefits shall be prospective only from and after the

85 first of the month following the date of application for  
86 reinstatement.

87 (2) The continuation or reinstatement of spouse retirement  
88 benefits authorized under this subsection shall not be continued  
89 or reinstated unless all of the following requirements are met:

90 (a) The municipal retirement fund or disability and  
91 relief fund is actuarially sound, as shown by the most recent  
92 actuarial study required by Section 21-29-119;

93 (b) The municipal retirement fund or disability and  
94 relief fund is actuarially sound if the spouse retirement benefits  
95 are continued or reinstated as shown by a certified statement from  
96 the actuarial firm that prepared the most recent actuarial study;

97 (c) The governing authorities of the municipality adopt  
98 a resolution requesting the continuation or reinstatement of the  
99 spouse retirement benefits as authorized in this section and  
100 transmit the resolution to the Board of Trustees of the Public  
101 Employees' Retirement System; and

102 (d) If applicable, the surviving spouse makes an  
103 application to the Board of Trustees of the Public Employees'  
104 Retirement System to reinstate the spouse retirement benefit.

105 **SECTION 3.** Section 25-11-15, Mississippi Code of 1972, is  
106 amended as follows:

107 25-11-15. (1) Board of trustees: The general  
108 administration and responsibility for the proper operation of the  
109 Public Employees' Retirement System and the federal-state  
110 agreement and for making effective the provisions of Articles 1  
111 and 3 are hereby vested in a board of trustees.

112 (2) The board shall consist of ten (10) trustees, as  
113 follows:

114 (a) The State Treasurer;

115 (b) One (1) member who shall be appointed by the  
116 Governor for a term of four (4) years, who shall be a member of  
117 the system;

118 (c) Two (2) members of the system having at least ten  
119 (10) years of creditable service who shall be state employees who  
120 shall not be employees of the institutions of higher learning, who  
121 shall be elected by members of the system who are employees of  
122 state agencies and by members of the Mississippi Highway Safety  
123 Patrol Retirement System, but not including the employees of the  
124 institutions of higher learning;

125 (d) Two (2) members of the system having at least ten  
126 (10) years of creditable service who shall not hold office in the  
127 legislative or judicial departments of municipal or county  
128 government, one (1) of whom shall be an employee of a  
129 municipality, instrumentality or juristic entity thereof who shall  
130 be elected by members of the system who are employees of the  
131 municipalities, instrumentalities or juristic entities thereof and  
132 by members of the municipal systems and the firemen's and  
133 policemen's disability and relief funds administered by the board  
134 of trustees, and one (1) of whom shall be an employee of a county,  
135 instrumentality or juristic entity thereof who shall be elected by  
136 members of the system who are employees of the counties,  
137 instrumentalities or juristic entities thereof;

138 (e) One (1) member of the system having at least ten  
139 (10) years of creditable service who shall be an employee of an  
140 institution of higher learning who shall be elected by members of  
141 the system who are employees of the state institutions of higher  
142 learning as included in Section 37-101-1. Any member of the board  
143 on July 1, 1984, who is an employee of an institution of higher  
144 learning shall serve as the member trustee representing the  
145 institutions of higher learning until the end of the term for  
146 which he was elected;

147 (f) Two (2) retired members who are receiving a  
148 retirement allowance from the system who shall be elected by the  
149 retired members or beneficiaries receiving a retirement allowance  
150 from the system and by the retired members or beneficiaries of the

151 municipal systems, the firemen's and policemen's disability and  
152 relief funds and the Mississippi Highway Safety Patrol Retirement  
153 System administered by the board of trustees, to serve for a term  
154 of six (6) years under rules and regulations adopted by the board  
155 to govern such election; however, any retired member of the board  
156 in office on April 19, 1993, shall serve as a retired trustee  
157 until the end of the term for which he was elected;

158 (g) One (1) member of the system having at least ten  
159 (10) years of creditable service who shall be an employee of any  
160 public school district or junior college or community college  
161 district that participates in the system, who shall be elected by  
162 the members of the system who are employees of any public school  
163 district or junior college or community college district; however,  
164 any member of the board on June 30, 1989, who is a certified  
165 classroom teacher shall serve as the member representing a  
166 classroom teacher until the end of the term for which the member  
167 was appointed;

168 (h) In the first election to be held for trustees one  
169 (1) member shall be elected for a term of two (2) years, and one  
170 (1) member for a term of four (4) years, and one (1) member for a  
171 term of six (6) years. Thereafter, their successors shall be  
172 elected for terms of six (6) years. All elections shall be held  
173 in accordance with rules and regulations adopted by the board to  
174 govern such elections and the board shall be the sole judge of all  
175 questions arising incident to or connected with the elections.

176 (i) Any person eligible to vote for the election of a  
177 member of the board of trustees and who meets the qualifications  
178 for the office may seek election to such office and serve if  
179 elected. For purposes of determining eligibility to seek office  
180 as a member of the board of trustees, the required creditable  
181 service in "the system" shall include each system administered by  
182 the board of trustees in which such person is a member.

183           The members described above and serving on the board on June  
184 30, 1989, shall continue to serve on the board until the  
185 expiration of their terms.

186           (3) If a vacancy occurs in the office of a trustee, the  
187 vacancy shall be filled for the unexpired term in the same manner  
188 as the office was previously filled. However, if the unexpired  
189 term is six (6) months or less, an election shall be held to fill  
190 the office vacated for the next succeeding full term of office,  
191 and the person so elected to fill the next full term shall be  
192 appointed by the board to fill the remainder of the unexpired  
193 term. Whenever any member who is elected to a position to  
194 represent a class of members ceases to be a member of that class,  
195 that board member is no longer eligible for membership on the  
196 board. The position shall be declared vacant, and the unexpired  
197 term shall be filled in the same manner as the office was  
198 previously filled.

199           (4) Each trustee shall, within ten (10) days after his  
200 appointment or election, take an oath of office as provided by law  
201 and, in addition, shall take an oath that he will diligently and  
202 honestly administer the affairs of the said board, and that he  
203 will not knowingly violate or willingly permit to be violated any  
204 of the provisions of law applicable to Articles 1 and 3. Such  
205 oath shall be signed by the member making it, certified by the  
206 officer before whom it is taken, and immediately filed in the  
207 office of the Secretary of State.

208           (5) Each trustee shall be entitled to one (1) vote. Six (6)  
209 members shall constitute a quorum at any meeting of said board,  
210 and a majority of those present shall be necessary for a decision.

211           (6) Subject to the limitations of Articles 1 and 3, the  
212 board shall establish rules and regulations for the administration  
213 of the system created by said articles and for the transaction of  
214 its business, and to give force and effect to the provisions of  
215 said articles wherever necessary to carry out the intent and

216 purposes of the Legislature. The cited articles are remedial law  
217 and shall be liberally construed to accomplish their purposes.

218 (7) Notwithstanding any other law to the contrary, in the  
219 event of a natural disaster or other occurrence that results in  
220 the failure of the retirement system's computer system or a  
221 significant disruption of the normal activities of the retirement  
222 system, the executive director of the board, or his deputy, shall  
223 be authorized to contract with another entity, governmental or  
224 private, during the period of such failure or disruption, for  
225 services, commodities, work space and supplies as necessary to  
226 carry out the administration of all systems and programs  
227 administered by the board. The board shall be authorized to pay  
228 the reasonable cost of such services, commodities, work space and  
229 supplies. At the meeting of the board next following the  
230 execution of a contract authorized pursuant to this subsection,  
231 documentation of the contract, including a description of the  
232 services, commodities, work space or supplies, the price thereof  
233 and the nature of the disaster or occurrence, shall be presented  
234 to the board and placed on the minutes of the board. Because of  
235 their emergency nature, purchases made pursuant to this subsection  
236 shall not be required to comply with the provisions of Section  
237 31-7-13 or any other law governing public purchases.

238 (8) \* \* \* The computer equipment and software owned by the  
239 Public Employees' Retirement System are assets of the Trust Fund  
240 by virtue of the Constitution, Section 272-A and acquisition and  
241 operation thereof shall be under the jurisdiction of the Public  
242 Employees' Retirement System.

243 (9) The board shall elect a chairman and shall by a majority  
244 vote of all of its members appoint a secretary whose title shall  
245 be executive director, who shall serve at the will and pleasure of  
246 the board, who shall not be a member of the board of trustees, who  
247 shall be entitled to membership in the system, and who shall act  
248 as secretary of the board. The board of trustees shall employ

249 such actuarial, clerical and other employees as shall be required  
250 to transact the business of the system, and shall fix the  
251 compensation of all employees, subject to the rules and  
252 regulations of the State Personnel Board.

253 (10) Each member of the board shall receive as compensation  
254 for his services Three Hundred Dollars (\$300.00) per month. All  
255 members of said board shall be reimbursed for their necessary  
256 traveling expenses which shall be paid in accordance with the  
257 requirements of Section 25-3-41 or other applicable statutes with  
258 respect to traveling expenses of state officials and employees on  
259 official business. All members of said board shall be entitled to  
260 be members of the system and shall be entitled to creditable  
261 service for all time served as a member of said board except the  
262 retired member who shall not be entitled to be a member of the  
263 system and who shall be eligible to receive the retirement  
264 allowance and compensation for services from the system while  
265 serving as a member of the board.

266 (11) All expenses of the board incurred in the  
267 administration of Articles 1 and 3 shall be paid from such funds  
268 as may be appropriated by the Legislature for such purpose or from  
269 administrative fees collected from political subdivisions or  
270 juristic entities of the state. Each political subdivision of the  
271 state and each instrumentality of the state or of a political  
272 subdivision or subdivisions which submit a plan for approval by  
273 the board as provided in Section 25-11-11 shall reimburse the  
274 board, for coverage into the administrative expense fund, its pro  
275 rata share of the total expense of administering Articles 1 and 3  
276 as provided by regulations of said board.

277 (12) There shall be an investment advisory board to provide  
278 advice and counsel to the board of trustees regarding the  
279 investment of the funds of the system. The advisory board shall  
280 consist of three (3) members, one (1) appointed by the Governor,  
281 one (1) appointed by the Lieutenant Governor, and one (1)



282 appointed by the Speaker of the House of Representatives. Each  
283 member of the advisory board shall be someone who is not a public  
284 employee who has had at least ten (10) years' experience in  
285 investment banking or commercial banking or who has had at least  
286 ten (10) years' professional experience in managing investments.  
287 Each member of the advisory board shall serve for a term  
288 concurrent with the term of the appointing authority. Any vacancy  
289 on the advisory board shall be filled by appointment of the  
290 original appointing authority for the remainder of the unexpired  
291 term. Members of the advisory board shall receive no compensation  
292 for their services, but shall be reimbursed for their actual and  
293 necessary expenses incurred in the performance of their duties, as  
294 provided in Section 25-3-41 for state officers and employees. The  
295 advisory board shall operate under the rules and regulations of  
296 the board of trustees and shall meet at such times as determined  
297 by the board of trustees.

298 (13) The Lieutenant Governor may designate two (2) Senators  
299 and the Speaker of the House of Representatives may designate two  
300 (2) Representatives to attend any meeting of the Board of Trustees  
301 of the Public Employees' Retirement System. The appointing  
302 authorities may designate alternate members from their respective  
303 houses to serve when the regular designees are unable to attend  
304 such meetings of the board. Such legislative designees shall have  
305 no jurisdiction or vote on any matter within the jurisdiction of  
306 the board. For attending meetings of the board, such legislators  
307 shall receive per diem and expenses which shall be paid from the  
308 contingent expense funds of their respective houses in the same  
309 amounts as provided for committee meetings when the Legislature is  
310 not in session; however, no per diem and expenses for attending  
311 meetings of the board will be paid while the Legislature is in  
312 session. No per diem and expenses will be paid except for  
313 attending meetings of the board without prior approval of the  
314 proper committee in their respective houses.

315           **SECTION 4.** Section 25-11-103, Mississippi Code of 1972, is  
316 amended as follows:

317           25-11-103. The following words and phrases as used in  
318 Articles 1 and 3, unless a different meaning is plainly required  
319 by the context, shall have the following meanings:

320           (a) "Accumulated contributions" shall mean the sum of  
321 all the amounts deducted from the compensation of a member and  
322 credited to his individual account in the annuity savings account,  
323 together with regular interest thereon as provided in Section  
324 25-11-123.

325           (b) "Actuarial cost" shall mean the amount of funds  
326 presently required to provide future benefits as determined by the  
327 board based on applicable tables and formulas provided by the  
328 actuary.

329           (c) "Actuarial equivalent" shall mean a benefit of  
330 equal value to the accumulated contributions, annuity or benefit,  
331 as the case may be, when computed upon the basis of such mortality  
332 tables as shall be adopted by the board of trustees, and regular  
333 interest.

334           (d) "Actuarial tables" shall mean such tables of  
335 mortality and rates of interest as shall be adopted by the board  
336 in accordance with the recommendation of the actuary.

337           (e) "Agency" shall mean any governmental body employing  
338 persons in the state service.

339           (f) "Average compensation" shall mean the average of  
340 the four (4) highest years of earned compensation reported for an  
341 employee in a fiscal or calendar year period, or combination  
342 thereof which do not overlap, or the last forty-eight (48)  
343 consecutive months of earned compensation reported for an  
344 employee. The four (4) years need not be successive or joined  
345 years of service. In no case shall the average compensation so  
346 determined be in excess of One Hundred Fifty Thousand Dollars  
347 (\$150,000.00). In computing the average compensation, any amount

348 lawfully paid in a lump sum for personal leave or major medical  
349 leave shall be included in the calculation to the extent that such  
350 amount does not exceed an amount which is equal to thirty (30)  
351 days of earned compensation and to the extent that it does not  
352 cause the employees' earned compensation to exceed the maximum  
353 reportable amount specified in Section 25-11-103(k); however, this  
354 thirty-day limitation shall not prevent the inclusion in the  
355 calculation of leave earned under federal regulations prior to  
356 July 1, 1976, and frozen as of that date as referred to in Section  
357 25-3-99. Only the amount of lump sum pay for personal leave due  
358 and paid upon the death of a member attributable for up to one  
359 hundred fifty (150) days shall be used in the deceased member's  
360 average compensation calculation in determining the beneficiary's  
361 benefits. In computing the average compensation, no amounts shall  
362 be used which are in excess of the amount on which contributions  
363 were required and paid and no nontaxable amounts paid by the  
364 employer for health or life insurance premiums for the employee  
365 shall be used. If any member who is or has been granted any  
366 increase in annual salary or compensation of more than eight  
367 percent (8%) retires within twenty-four (24) months from the date  
368 that such increase becomes effective, then the board shall exclude  
369 that part of the increase in salary or compensation that exceeds  
370 eight percent (8%) in calculating that member's average  
371 compensation for retirement purposes. The board may enforce this  
372 provision by rule or regulation. However, increases in  
373 compensation in excess of eight percent (8%) per year granted  
374 within twenty-four (24) months of the date of retirement may be  
375 included in such calculation of average compensation if  
376 satisfactory proof is presented to the board showing that the  
377 increase in compensation was the result of an actual change in the  
378 position held or services rendered, or that such compensation  
379 increase was authorized by the State Personnel Board or was  
380 increased as a result of statutory enactment, and the employer

381 furnishes an affidavit stating that such increase granted within  
382 the last twenty-four (24) months was not contingent on a promise  
383 or agreement of the employee to retire. Nothing in Section  
384 25-3-31 shall affect the calculation of the average compensation  
385 of any member for the purposes of this article. The average  
386 compensation of any member who retires before July 1, 1992, shall  
387 not exceed the annual salary of the Governor.

388 (g) "Beneficiary" shall mean any person entitled to  
389 receive a retirement allowance, an annuity or other benefit as  
390 provided by Articles 1 and 3. The term "beneficiary" may also  
391 include an organization, estate, trust or entity; however, a  
392 beneficiary designated or entitled to receive monthly payments  
393 under an optional settlement based on life contingency or pursuant  
394 to a statutory monthly benefit may only be a natural person. In  
395 the event of the death prior to retirement of any member whose  
396 spouse and/or children are not entitled to a retirement allowance  
397 on the basis that the member has less than four (4) years of  
398 service credit and/or has not been married for a minimum of one  
399 (1) year or the spouse has waived his or her entitlement to a  
400 retirement allowance pursuant to Section 25-11-114, the lawful  
401 spouse of a member at the time of the death of such member shall  
402 be the beneficiary of such member unless the member has designated  
403 another beneficiary subsequent to the date of marriage in writing,  
404 and filed such writing in the office of the executive director of  
405 the board of trustees. No designation or change of beneficiary  
406 shall be made in any other manner.

407 (h) "Board" shall mean the board of trustees provided  
408 in Section 25-11-15 to administer the retirement system herein  
409 created.

410 (i) "Creditable service" shall mean "prior service,"  
411 "retroactive service" and all lawfully credited unused leave not  
412 exceeding the accrual rates and limitations provided in Section  
413 25-3-91 et seq., as of the date of withdrawal from service plus

414 "membership service" for which credit is allowable as provided in  
415 Section 25-11-109. Except to limit creditable service reported to  
416 the system for the purpose of computing an employee's retirement  
417 allowance or annuity or benefits provided in this article, nothing  
418 in this paragraph shall limit or otherwise restrict the power of  
419 the governing authority of a municipality or other political  
420 subdivision of the state to adopt such vacation and sick leave  
421 policies as it deems necessary.

422 (j) "Child" means either a natural child of the member,  
423 a child that has been made a child of the member by applicable  
424 court action before the death of the member, or a child under the  
425 permanent care of the member at the time of the latter's death,  
426 which permanent care status shall be determined by evidence  
427 satisfactory to the board.

428 (k) "Earned compensation" shall mean the full amount  
429 earned by an employee for a given pay period including any  
430 maintenance furnished up to a maximum of One Hundred Fifty  
431 Thousand Dollars (\$150,000.00) per year, and proportionately for  
432 less than one (1) year of service. The value of such maintenance  
433 when not paid in money shall be fixed by the employing state  
434 agency, and, in case of doubt, by the board of trustees as defined  
435 in Section 25-11-15. Earned compensation shall not include any  
436 nontaxable amounts paid by the employer for health or life  
437 insurance premiums for an employee. In any case, earned  
438 compensation shall be limited to the regular periodic compensation  
439 paid, exclusive of litigation fees, bond fees, and other similar  
440 extraordinary nonrecurring payments. In addition, any member in a  
441 covered position, as defined by Public Employees' Retirement  
442 System laws and regulations, who is also employed by another  
443 covered agency or political subdivision shall have the earnings of  
444 that additional employment reported to the Public Employees'  
445 Retirement System regardless of whether the additional employment  
446 is sufficient in itself to be a covered position. In addition,

447 computation of earned compensation shall be governed by the  
448 following:

449 (i) In the case of constables, the net earnings  
450 from their office after deduction of expenses shall apply, except  
451 that in no case shall earned compensation be less than the total  
452 direct payments made by the state or governmental subdivisions to  
453 the official.

454 (ii) In the case of chancery or circuit clerks,  
455 the net earnings from their office after deduction of expenses  
456 shall apply as expressed in Section 25-11-123(f)(4).

457 (iii) In the case of members of the State  
458 Legislature, all remuneration or amounts paid, except mileage  
459 allowance, shall apply.

460 (iv) The amount by which an eligible employee's  
461 salary is reduced pursuant to a salary reduction agreement  
462 authorized under Section 25-17-5 shall be included as earned  
463 compensation under this paragraph, provided this inclusion does  
464 not conflict with federal law, including federal regulations and  
465 federal administrative interpretations thereunder, pertaining to  
466 the Federal Insurance Contributions Act or to Internal Revenue  
467 Code Section 125 cafeteria plans.

468 (v) Compensation in addition to an employee's base  
469 salary that is paid to the employee pursuant to the vacation and  
470 sick leave policies of a municipality or other political  
471 subdivision of the state that employs him which exceeds the  
472 maximums authorized by Section 25-3-91 et seq. shall be excluded  
473 from the calculation of earned compensation under this article.

474 (vi) The maximum salary applicable for retirement  
475 purposes before July 1, 1992, shall be the salary of the Governor.

476 (vii) Nothing in Section 25-3-31 shall affect the  
477 determination of the earned compensation of any member for the  
478 purposes of this article.

479           (1) "Employee" means any person legally occupying a  
480 position in the state service, and shall include the employees of  
481 the retirement system created hereunder.

482           (m) "Employer" shall mean the State of Mississippi or  
483 any of its departments, agencies or subdivisions from which any  
484 employee receives his compensation.

485           (n) "Executive director" shall mean the secretary to  
486 the board of trustees, as provided in Section 25-11-15(9), and the  
487 administrator of the Public Employees' Retirement System and all  
488 systems under the management of the board of trustees. Wherever  
489 the term "Executive Secretary of the Public Employees' Retirement  
490 System" or "executive secretary" appears in this article or in any  
491 other provision of law, it shall be construed to mean the  
492 Executive Director of the Public Employees' Retirement System.

493           (o) "Fiscal year" shall mean the period beginning on  
494 July 1 of any year and ending on June 30 of the next succeeding  
495 year.

496           (p) "Medical board" shall mean the board of physicians  
497 or any governmental or nongovernmental disability determination  
498 service designated by the board of trustees that is qualified to  
499 make disability determinations as provided for in Section  
500 25-11-119.

501           (q) "Member" shall mean any person included in the  
502 membership of the system as provided in Section 25-11-105.

503           (r) "Membership service" shall mean service as an  
504 employee rendered while a member of the retirement system.

505           (s) "Position" means any office or any employment in  
506 the state service, or two (2) or more of them, the duties of which  
507 call for services to be rendered by one (1) person, including  
508 positions jointly employed by federal and state agencies  
509 administering federal and state funds. The employer shall  
510 determine upon initial employment and during the course of  
511 employment of an employee who does not meet the criteria for

512 coverage in the Public Employees' Retirement System based on the  
513 position held, whether the employee is or becomes eligible for  
514 coverage in the Public Employees' Retirement System based upon any  
515 other employment in a covered agency or political subdivision. If  
516 or when the employee meets the eligibility criteria for coverage  
517 in such other position, then the employer must withhold  
518 contributions and report wages from the noncovered position in  
519 accordance with the provisions for reporting of earned  
520 compensation. Failure to deduct and report those contributions  
521 shall not relieve the employee or employer of liability thereof.  
522 The board shall adopt such rules and regulations as necessary to  
523 implement and enforce this provision.

524 (t) "Prior service" shall mean service rendered before  
525 February 1, 1953, for which credit is allowable under Sections  
526 25-11-105 and 25-11-109, and which shall allow prior service for  
527 any person who is now or becomes a member of the Public Employees'  
528 Retirement System and who does contribute to the system for a  
529 minimum period of four (4) years.

530 (u) "Regular interest" shall mean interest compounded  
531 annually at such a rate as shall be determined by the board in  
532 accordance with Section 25-11-121.

533 (v) "Retirement allowance" shall mean an annuity for  
534 life as provided in this article, payable each year in twelve (12)  
535 equal monthly installments beginning as of the date fixed by the  
536 board. The retirement allowance shall be calculated in accordance  
537 with Section 25-11-111. However, any spouse who received a spouse  
538 retirement benefit in accordance with Section 25-11-111(d) before  
539 March 31, 1971, and those benefits were terminated because of  
540 eligibility for a social security benefit, may again receive his  
541 spouse retirement benefit from and after making application with  
542 the board of trustees to reinstate the spouse retirement benefit.



543           (w) "Retroactive service" shall mean service rendered  
544 after February 1, 1953, for which credit is allowable under  
545 Section 25-11-105(b) and Section 25-11-105(k).

546           (x) "System" shall mean the Public Employees'  
547 Retirement System of Mississippi established and described in  
548 Section 25-11-101.

549           (y) "State" shall mean the State of Mississippi or any  
550 political subdivision thereof or instrumentality thereof.

551           (z) "State service" shall mean all offices and  
552 positions of trust or employment in the employ of the state, or  
553 any political subdivision or instrumentality thereof, which elect  
554 to participate as provided by Section 25-11-105(f), including the  
555 position of elected or fee officials of the counties and their  
556 deputies and employees performing public services or any  
557 department, independent agency, board or commission thereof, and  
558 shall also include all offices and positions of trust or  
559 employment in the employ of joint state and federal agencies  
560 administering state and federal funds and service rendered by  
561 employees of the public schools. Effective July 1, 1973, all  
562 nonprofessional public school employees, such as bus drivers,  
563 janitors, maids, maintenance workers and cafeteria employees,  
564 shall have the option to become members in accordance with Section  
565 25-11-105(b), and shall be eligible to receive credit for services  
566 before July 1, 1973, provided that the contributions and interest  
567 are paid by the employee in accordance with that section; in  
568 addition, the county or municipal separate school district may pay  
569 the employer contribution and pro rata share of interest of the  
570 retroactive service from available funds. From and after July 1,  
571 1998, retroactive service credit shall be purchased at the  
572 actuarial cost in accordance with Section 25-11-105(b).

573           (aa) "Withdrawal from service" or "termination from  
574 service" shall mean complete severance of employment in the state  
575 service of any member by resignation, dismissal or discharge.

576 (bb) The masculine pronoun, wherever used, shall  
577 include the feminine pronoun.

578 **SECTION 5.** Section 25-11-105, Mississippi Code of 1972, is  
579 amended as follows:

580 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

581 The membership of this retirement system shall be composed as  
582 follows:

583 (a) (i) All persons who shall become employees in the  
584 state service after January 31, 1953, and whose wages are subject  
585 to payroll taxes and are lawfully reported on IRS Form W-2, except  
586 those specifically excluded, or as to whom election is provided in  
587 Articles 1 and 3, shall become members of the retirement system as  
588 a condition of their employment.

589 (ii) From and after July 1, 2002, any individual  
590 who is employed by a governmental entity to perform professional  
591 services shall become a member of the system if the individual is  
592 paid regular periodic compensation for those services that is  
593 subject to payroll taxes, is provided all other employee benefits  
594 and meets the membership criteria established by the regulations  
595 adopted by the board of trustees that apply to all other members  
596 of the system; however, any active member employed in such a  
597 position on July 1, 2002, will continue to be an active member for  
598 as long as they are employed in any such position.

599 (b) All persons who shall become employees in the state  
600 service after January 31, 1953, except those specifically excluded  
601 or as to whom election is provided in Articles 1 and 3, unless  
602 they shall file with the board prior to the lapse of sixty (60)  
603 days of employment or sixty (60) days after the effective date of  
604 the cited articles, whichever is later, on a form prescribed by  
605 the board, a notice of election not to be covered by the  
606 membership of the retirement system and a duly executed waiver of  
607 all present and prospective benefits which would otherwise inure  
608 to them on account of their participation in the system, shall

609 become members of the retirement system; however, no credit for  
610 prior service will be granted to members until they have  
611 contributed to Article 3 of the retirement system for a minimum  
612 period of at least four (4) years. Such members shall receive  
613 credit for services performed prior to January 1, 1953, in  
614 employment now covered by Article 3, but no credit shall be  
615 granted for retroactive services between January 1, 1953, and the  
616 date of their entry into the retirement system unless the employee  
617 pays into the retirement system both the employer's and the  
618 employee's contributions on wages paid him during the period from  
619 January 31, 1953, to the date of his becoming a contributing  
620 member, together with interest at the rate determined by the board  
621 of trustees. Members reentering after withdrawal from service  
622 shall qualify for prior service under the provisions of Section  
623 25-11-117. From and after July 1, 1998, upon eligibility as noted  
624 above, the member may receive credit for such retroactive service  
625 provided:

626 (1) The member shall furnish proof satisfactory to  
627 the board of trustees of certification of such service from the  
628 covered employer where the services were performed; and

629 (2) The member shall pay to the retirement system  
630 on the date he or she is eligible for such credit or at any time  
631 thereafter prior to the date of retirement the actuarial cost for  
632 each year of such creditable service. The provisions of this  
633 subparagraph (2) shall be subject to the limitations of Section  
634 415 of the Internal Revenue Code and regulations promulgated  
635 thereunder.

636 Nothing contained in this paragraph (b) shall be construed to  
637 limit the authority of the board to allow the correction of  
638 reporting errors or omissions based on the payment of the employee  
639 and employer contributions plus applicable interest.

640 (c) All persons who shall become employees in the state  
641 service after January 31, 1953, and who are eligible for

642 membership in any other retirement system shall become members of  
643 this retirement system as a condition of their employment unless  
644 they elect at the time of their employment to become a member of  
645 such other system.

646 (d) All persons who are employees in the state service  
647 on January 31, 1953, and who are members of any nonfunded  
648 retirement system operated by the State of Mississippi, or any of  
649 its departments or agencies, shall become members of this system  
650 with prior service credit unless, before February 1, 1953, they  
651 shall file a written notice with the board of trustees that they  
652 do not elect to become members.

653 (e) All persons who are employees in the state service  
654 on January 31, 1953, and who under existing laws are members of  
655 any fund operated for the retirement of employees by the State of  
656 Mississippi, or any of its departments or agencies, shall not be  
657 entitled to membership in this retirement system unless, before  
658 February 1, 1953, any such person shall indicate by a notice filed  
659 with the board, on a form prescribed by the board, his individual  
660 election and choice to participate in this system, but no such  
661 person shall receive prior service credit unless he becomes a  
662 member on or before February 1, 1953.

663 (f) Each political subdivision of the state and each  
664 instrumentality of the state or a political subdivision, or both,  
665 is hereby authorized to submit, for approval by the board of  
666 trustees, a plan for extending the benefits of this article to  
667 employees of any such political subdivision or instrumentality.  
668 Each such plan or any amendment to the plan for extending benefits  
669 thereof shall be approved by the board of trustees if it finds  
670 that such plan, or such plan as amended, is in conformity with  
671 such requirements as are provided in Articles 1 and 3; however,  
672 upon approval of such plan or any such plan heretofore approved by  
673 the board of trustees, the approved plan shall not be subject to  
674 cancellation or termination by the political subdivision or

675 instrumentality, except that any community hospital serving a  
676 municipality that joined the Public Employees' Retirement System  
677 as of November 1, 1956, to offer social security coverage for its  
678 employees and subsequently extended retirement annuity coverage to  
679 its employees as of December 1, 1965, may, upon documentation of  
680 extreme financial hardship, have future retirement annuity  
681 coverage cancelled or terminated at the discretion of the board of  
682 trustees. No such plan shall be approved unless:

683           (1) It provides that all services which constitute  
684 employment as defined in Section 25-11-5 and are performed in the  
685 employ of the political subdivision or instrumentality, by any  
686 employees thereof, shall be covered by the plan; with the  
687 exception of municipal employees who are already covered by  
688 existing retirement plans; however, those employees in this class  
689 may elect to come under the provisions of this article;

690           (2) It specifies the source or sources from which  
691 the funds necessary to make the payments required by paragraph (d)  
692 of Section 25-11-123 and of paragraph (f)(5)B and C of this  
693 section are expected to be derived and contains reasonable  
694 assurance that such sources will be adequate for such purpose;

695           (3) It provides for such methods of administration  
696 of the plan by the political subdivision or instrumentality as are  
697 found by the board of trustees to be necessary for the proper and  
698 efficient administration thereof;

699           (4) It provides that the political subdivision or  
700 instrumentality will make such reports, in such form and  
701 containing such information, as the board of trustees may from  
702 time to time require;

703           (5) It authorizes the board of trustees to  
704 terminate the plan in its entirety in the discretion of the board  
705 if it finds that there has been a failure to comply substantially  
706 with any provision contained in such plan, such termination to  
707 take effect at the expiration of such notice and on such

708 conditions as may be provided by regulations of the board and as  
709 may be consistent with applicable federal law.

710           A. The board of trustees shall not finally  
711 refuse to approve a plan submitted under paragraph (f), and shall  
712 not terminate an approved plan without reasonable notice and  
713 opportunity for hearing to each political subdivision or  
714 instrumentality affected thereby. The board's decision in any  
715 such case shall be final, conclusive and binding unless an appeal  
716 be taken by the political subdivision or instrumentality aggrieved  
717 thereby to the Circuit Court of Hinds County, Mississippi, in  
718 accordance with the provisions of law with respect to civil causes  
719 by certiorari.

720           B. Each political subdivision or  
721 instrumentality as to which a plan has been approved under this  
722 section shall pay into the contribution fund, with respect to  
723 wages (as defined in Section 25-11-5), at such time or times as  
724 the board of trustees may by regulation prescribe, contributions  
725 in the amounts and at the rates specified in the applicable  
726 agreement entered into by the board.

727           C. Every political subdivision or  
728 instrumentality required to make payments under paragraph (f)(5)B  
729 hereof is authorized, in consideration of the employees' retention  
730 in or entry upon employment after enactment of Articles 1 and 3,  
731 to impose upon its employees, as to services which are covered by  
732 an approved plan, a contribution with respect to wages (as defined  
733 in Section 25-11-5) not exceeding the amount provided in Section  
734 25-11-123(d) if such services constituted employment within the  
735 meaning of Articles 1 and 3, and to deduct the amount of such  
736 contribution from the wages as and when paid. Contributions so  
737 collected shall be paid into the contribution fund as partial  
738 discharge of the liability of such political subdivisions or  
739 instrumentalities under paragraph (f)(5)B hereof. Failure to

740 deduct such contribution shall not relieve the employee or  
741 employer of liability thereof.

742 D. Any state agency, school, political  
743 subdivision, instrumentality or any employer that is required to  
744 submit contribution payments or wage reports under any section of  
745 this chapter shall be assessed interest on delinquent payments or  
746 wage reports as determined by the board of trustees in accordance  
747 with rules and regulations adopted by the board and delinquent  
748 payments, assessed interest and any other amount certified by the  
749 board as owed by an employer, may be recovered by action in a  
750 court of competent jurisdiction against such reporting agency  
751 liable therefor or may, upon due certification of delinquency and  
752 at the request of the board of trustees, be deducted from any  
753 other monies payable to such reporting agency by any department or  
754 agency of the state.

755 E. Each political subdivision of the state  
756 and each instrumentality of the state or a political subdivision  
757 or subdivisions which submits a plan for approval of the board, as  
758 provided in this section, shall reimburse the board for coverage  
759 into the expense account, its pro rata share of the total expense  
760 of administering Articles 1 and 3 as provided by regulations of  
761 the board.

762 (g) The board may, in its discretion, deny the right of  
763 membership in this system to any class of employees whose  
764 compensation is only partly paid by the state or who are occupying  
765 positions on a part-time or intermittent basis. The board may, in  
766 its discretion, make optional with employees in any such classes  
767 their individual entrance into this system.

768 (h) An employee whose membership in this system is  
769 contingent on his own election, and who elects not to become a  
770 member, may thereafter apply for and be admitted to membership;  
771 but no such employee shall receive prior service credit unless he

772 becomes a member prior to July 1, 1953, except as provided in  
773 paragraph (b).

774 (i) In the event any member of this system should  
775 change his employment to any agency of the state having an  
776 actuarially funded retirement system, the board of trustees may  
777 authorize the transfer of the member's creditable service and of  
778 the present value of the member's employer's accumulation account  
779 and of the present value of the member's accumulated membership  
780 contributions to such other system, provided the employee agrees  
781 to the transfer of his accumulated membership contributions and  
782 provided such other system is authorized to receive and agrees to  
783 make such transfer.

784 In the event any member of any other actuarially funded  
785 system maintained by an agency of the state changes his employment  
786 to an agency covered by this system, the board of trustees may  
787 authorize the receipt of the transfer of the member's creditable  
788 service and of the present value of the member's employer's  
789 accumulation account and of the present value of the member's  
790 accumulated membership contributions from such other system,  
791 provided the employee agrees to the transfer of his accumulated  
792 membership contributions to this system and provided the other  
793 system is authorized and agrees to make such transfer.

794 (j) Wherever herein state employment is referred to, it  
795 shall include joint employment by state and federal agencies of  
796 all kinds.

797 (k) Employees of a political subdivision or  
798 instrumentality who were employed by such political subdivision or  
799 instrumentality prior to an agreement between such entity and the  
800 Public Employees' Retirement System to extend the benefits of this  
801 article to its employees, and which agreement provides for the  
802 establishment of retroactive service credit, and who have been  
803 members of the retirement system and have remained contributors to  
804 the retirement system for four (4) years, may receive credit for



805 such retroactive service with such political subdivision or  
806 instrumentality, provided the employee and/or employer, as  
807 provided under the terms of the modification of the joinder  
808 agreement in allowing such coverage, pay into the retirement  
809 system the employer's and employee's contributions on wages paid  
810 the member during such previous employment, together with interest  
811 or actuarial cost as determined by the board covering the period  
812 from the date the service was rendered until the payment for the  
813 credit for such service was made. Such wages shall be verified by  
814 the Social Security Administration or employer payroll records.  
815 Effective July 1, 1998, upon eligibility as noted above, a member  
816 may receive credit for such retroactive service with such  
817 political subdivision or instrumentality provided:

818                   (1) The member shall furnish proof satisfactory to  
819 the board of trustees of certification of such services from the  
820 political subdivision or instrumentality where the services were  
821 rendered or verification by the Social Security Administration;  
822 and

823                   (2) The member shall pay to the retirement system  
824 on the date he or she is eligible for such credit or at any time  
825 thereafter prior to the date of retirement the actuarial cost for  
826 each year of such creditable service. The provisions of this  
827 subparagraph (2) shall be subject to the limitations of Section  
828 415 of the Internal Revenue Code and regulations promulgated  
829 thereunder.

830           Nothing contained in this paragraph (k) shall be construed to  
831 limit the authority of the board to allow the correction of  
832 reporting errors or omissions based on the payment of employee and  
833 employer contributions plus applicable interest. Payment for such  
834 time shall be made in increments of not less than one-quarter  
835 (1/4) year of creditable service beginning with the most recent  
836 service. Upon the payment of all or part of such required  
837 contributions, plus interest or the actuarial cost as provided

838 above, the member shall receive credit for the period of  
839 creditable service for which full payment has been made to the  
840 retirement system.

841 (l) Through June 30, 1998, any state service eligible  
842 for retroactive service credit, no part of which has ever been  
843 reported, and requiring the payment of employee and employer  
844 contributions plus interest, or, from and after July 1, 1998, any  
845 state service eligible for retroactive service credit, no part of  
846 which has ever been reported to the retirement system, and  
847 requiring the payment of the actuarial cost for such creditable  
848 service, may, at the member's option, be purchased in quarterly  
849 increments as provided above at such time as its purchase is  
850 otherwise allowed.

851 (m) All rights to purchase retroactive service credit  
852 or repay a refund as provided in Section 25-11-101 et seq. shall  
853 terminate upon retirement.

854 **II. THOSE WHO ARE NOT ELIGIBLE FOR MEMBERSHIP**

855 The following classes of employees and officers shall not  
856 become members of this retirement system, any other provisions of  
857 Articles 1 and 3 to the contrary notwithstanding:

858 (a) Patient or inmate help in state charitable, penal  
859 or correctional institutions;

860 (b) Students of any state educational institution  
861 employed by any agency of the state for temporary, part-time or  
862 intermittent work;

863 (c) Participants of Comprehensive Employment and  
864 Training Act of 1973 (CETA) being Public Law 93-203, who enroll on  
865 or after July 1, 1979;

866 (d) From and after July 1, 2002, individuals who are  
867 employed by a governmental entity to perform professional service  
868 on less than a full-time basis who do not meet the criteria  
869 established in I(a)(ii) of this section.

870 **III. TERMINATION OF MEMBERSHIP**

871 Membership in this system shall cease by a member withdrawing  
872 his accumulated contributions, or by a member withdrawing from  
873 active service with a retirement allowance, or by a member's  
874 death.

875 **SECTION 6.** Section 25-11-114, Mississippi Code of 1972, is  
876 amended as follows:

877 25-11-114. (1) The applicable benefits provided in  
878 subsections (2) and (3) of this section shall be paid to eligible  
879 beneficiaries of any member who has completed four (4) or more  
880 years of creditable service and who dies before retirement and who  
881 has not filed a Pre-Retirement Optional Retirement Form as  
882 provided in Section 25-11-111.

883 (2) (a) The member's surviving spouse who has been married  
884 to the member for not less than one (1) year immediately preceding  
885 his death shall receive an annuity computed in accordance with  
886 paragraph (d) of this subsection (2) as if the member:

887 (i) Had retired on the date of his death with  
888 entitlement to an annuity provided for in Section 25-11-111,  
889 notwithstanding that he might not have attained age sixty (60) or  
890 acquired twenty-five (25) years of creditable service;

891 (ii) Had nominated his spouse as beneficiary; and

892 (b) If, at the time of the member's death, there are no  
893 dependent children, and the surviving spouse, who otherwise would  
894 receive the annuity under this subsection (2), has filed with the  
895 system a signed written waiver of his or her rights to the annuity  
896 and that waiver was in effect at the time of the member's death, a  
897 lump sum distribution of the deceased member's accumulated  
898 contributions shall be refunded in accordance with Section  
899 25-11-117.

900 (c) The spouse annuity shall begin on the first day of  
901 the month following the date of the member's death, but in case of  
902 late filing, retroactive payments will be made for a period of not  
903 more than one (1) year.

904           (d) The spouse annuity shall be payable for life and  
905 shall be the greater of twenty percent (20%) of the deceased  
906 member's average compensation as defined in Section 25-11-103 at  
907 the time of death or Fifty Dollars (\$50.00) monthly. Surviving  
908 spouses of deceased members who previously received spouse  
909 retirement benefits under this paragraph (d) from and after July  
910 1, 1992, and whose benefits were terminated before July 1, 2004,  
911 because of remarriage, may again receive the retirement benefits  
912 authorized under this paragraph (d) by making application with the  
913 board to reinstate such benefits. Any reinstatement of the  
914 benefits shall be prospective only and shall begin after the first  
915 of the month following the date of the application for  
916 reinstatement but no earlier than July 1, 2004.

917           (e) However, the spouse may elect by an irrevocable  
918 agreement on a form prescribed by the board of trustees to receive  
919 a monthly allowance as computed under either paragraph (d) or this  
920 paragraph. Such irrevocable agreement shall constitute a waiver  
921 by the spouse to any current and future monthly allowance under  
922 the paragraph not elected and such waiver shall be a complete and  
923 full discharge of all obligations of the retirement system under  
924 such paragraph.

925           Any member who has completed four (4) or more years of  
926 creditable service and who dies before retirement and leaves a  
927 spouse who has been married to the member for not less than one  
928 (1) year immediately preceding his death and has not exercised any  
929 other option shall be deemed to have exercised Option 2 under  
930 Section 25-11-115 for the benefit of his spouse, which spouse  
931 shall be paid Option 2 settlement benefits under this article  
932 beginning on the first of the month following the date of death,  
933 but in case of late filing, retroactive payments will be made for  
934 a period of not more than one (1) year. The method of calculating  
935 such retirement benefits shall be on the same basis as provided in  
936 Section 25-11-111(d). However, if the member dies before being

937 qualified for full unreduced benefits, then the benefits shall be  
938 reduced by three percent (3%) per year for the lesser of either  
939 the years of service or age required for full unreduced benefits  
940 in Section 25-11-111(d).

941 (3) (a) Subject to the maximum limitation provided in this  
942 paragraph, the member's dependent children each shall receive an  
943 annuity of the greater of ten percent (10%) of the member's  
944 average compensation as defined in Section 25-11-103 at the time  
945 of the death of the member or Fifty Dollars (\$50.00) monthly;  
946 however, if there are more than three (3) dependent children, each  
947 dependent child shall receive an equal share of a total annuity  
948 equal to thirty percent (30%) of the member's average  
949 compensation, provided that such total annuity shall not be less  
950 than One Hundred Fifty Dollars (\$150.00) per month for all  
951 children.

952 (b) A child shall be considered to be a dependent child  
953 until marriage, or the attainment of age nineteen (19), whichever  
954 comes first; however, this age limitation shall be extended beyond  
955 age nineteen (19), but in no event beyond the attainment of age  
956 twenty-three (23), as long as the child is a student regularly  
957 pursuing a full-time course of resident study or training in an  
958 accredited high school, trade school, technical or vocational  
959 institute, junior or community college, college, university or  
960 comparable recognized educational institution duly licensed by a  
961 state. A student child whose birthday falls during the school  
962 year (September 1 through June 30) is considered not to reach age  
963 twenty-three (23) until the July 1 following the actual  
964 twenty-third birthday. A full-time course of resident study or  
965 training means a day or evening noncorrespondence course that  
966 includes school attendance at the rate of at least thirty-six (36)  
967 weeks per academic year or other applicable period with a subject  
968 load sufficient, if successfully completed, to attain the  
969 educational or training objective within the period generally

970 accepted as minimum for completion, by a full-time day student, of  
971 the academic or training program concerned. Any child who is  
972 physically or mentally incompetent, as adjudged by either a  
973 Mississippi court of competent jurisdiction or by the board, shall  
974 receive benefits for as long as the incompetency exists.

975 (c) If there are more than three (3) dependent  
976 children, upon a child's ceasing to be a dependent child, his  
977 annuity shall terminate and there shall be a redetermination of  
978 the amounts payable to any remaining dependent children.

979 (d) Annuities payable under this subsection (3) shall  
980 begin the first day of the month following the date of the  
981 member's death or in case of late filing, retroactive payments  
982 will be made for a period of not more than one (1) year. Such  
983 benefits may be paid to a surviving parent or the lawful custodian  
984 of a dependent child for the use and benefit of such child without  
985 the necessity of appointment as guardian.

986 (4) (a) Death benefits in the line of duty. Regardless of  
987 the number of years of the member's creditable service, the spouse  
988 and/or the dependent children of an active member who is killed in  
989 the line of performance of duty or dies as a direct result of an  
990 accident occurring in the line of performance of duty shall  
991 qualify, on approval of the board, for a retirement allowance on  
992 the first of the month following the date of death, but in the  
993 case of late filing, retroactive payments will be made for a  
994 period of not more than one (1) year. The spouse shall receive a  
995 retirement allowance for life equal to one-half (1/2) of the  
996 average compensation as defined in Section 25-11-103. In addition  
997 to the retirement allowance for the spouse, or if there is no  
998 surviving spouse, the member's dependent child shall receive a  
999 retirement allowance in the amount of one-fourth (1/4) of the  
1000 member's average compensation as defined in Section 25-11-103;  
1001 however, if there are two (2) or more dependent children, each  
1002 dependent child shall receive an equal share of a total annuity

1003 equal to one-half (1/2) of the member's average compensation. If  
1004 there are more than two (2) dependent children, upon a child's  
1005 ceasing to be a dependent child, his annuity shall terminate and  
1006 there shall be a redetermination of the amounts payable to any  
1007 remaining dependent children. Such benefits shall cease to be  
1008 paid for the support and maintenance of each child upon such child  
1009 attaining the age of nineteen (19) years; however, the spouse  
1010 shall continue to be eligible for the aforesaid retirement  
1011 allowance. Such benefits may be paid to a surviving parent or  
1012 lawful custodian of such children for the use and benefit of the  
1013 children without the necessity of appointment as guardian. Any  
1014 spouse who received spouse retirement benefits under this  
1015 paragraph (a) from and after April 4, 1984, and whose benefits  
1016 were terminated before July 1, 2004, because of remarriage, may  
1017 again receive the retirement benefits authorized under this  
1018 paragraph (a) by making application with the board to reinstate  
1019 such benefits. Any reinstatement of the benefits shall be  
1020 prospective only and shall begin after the first of the month  
1021 following the date of the application for reinstatement but not  
1022 earlier than July 1, 2004.

1023 (b) A child shall be considered to be a dependent child  
1024 until marriage, or the attainment of age nineteen (19), whichever  
1025 comes first; however, this age limitation shall be extended beyond  
1026 age nineteen (19), but in no event beyond the attainment of age  
1027 twenty-three (23), as long as the child is a student regularly  
1028 pursuing a full-time course of resident study or training in an  
1029 accredited high school, trade school, technical or vocational  
1030 institute, junior or community college, college, university or  
1031 comparable recognized educational institution duly licensed by a  
1032 state. A student child whose birthday falls during the school  
1033 year (September 1 through June 30) is considered not to reach age  
1034 twenty-three (23) until the July 1 following the actual  
1035 twenty-third birthday. A full-time course of resident study or

1036 training means a day or evening noncorrespondence course that  
1037 includes school attendance at the rate of at least thirty-six (36)  
1038 weeks per academic year or other applicable period with a subject  
1039 load sufficient, if successfully completed, to attain the  
1040 educational or training objective within the period generally  
1041 accepted as minimum for completion, by a full-time day student, of  
1042 the academic or training program concerned. Any child who is  
1043 physically or mentally incompetent, as adjudged by either a  
1044 Mississippi court of competent jurisdiction or by the board, shall  
1045 receive benefits for as long as the incompetency exists.

1046 (5) If all the annuities provided for in this section  
1047 payable on account of the death of a member terminate before there  
1048 has been paid an aggregate amount equal to the member's  
1049 accumulated contributions standing to the member's credit in the  
1050 annuity savings account at the time of the member's death, the  
1051 difference between the accumulated contributions and the aggregate  
1052 amount of annuity payments shall be paid to such person as the  
1053 member has nominated by written designation duly executed and  
1054 filed with the board. If there is no designated beneficiary  
1055 surviving at termination of benefits, the difference shall be  
1056 payable pursuant to Section 25-11-117.1(1).

1057 (6) Regardless of the number of years of creditable service  
1058 upon the application of a member or employer, any active member  
1059 who becomes disabled as a direct result of an accident or  
1060 traumatic event resulting in a physical injury occurring in the  
1061 line of performance of duty, provided the medical board or other  
1062 designated governmental agency after a medical examination  
1063 certifies that the member is mentally or physically incapacitated  
1064 for the further performance of duty and such incapacity is likely  
1065 to be permanent, may be retired by the board of trustees on the  
1066 first of the month following the date of filing such application  
1067 but in no event shall the retirement allowance commence before the  
1068 termination of state service. The retirement allowance shall



1069 equal the allowance on disability retirement as provided in  
1070 Section 25-11-113 but shall not be less than fifty percent (50%)  
1071 of average compensation.

1072 Permanent and total disability resulting from a  
1073 cardiovascular, pulmonary or musculo-skeletal condition which was  
1074 not a direct result of a traumatic event occurring in the  
1075 performance of duty shall be deemed an ordinary disability. A  
1076 mental disability based exclusively on employment duties occurring  
1077 on an ongoing basis shall be deemed an ordinary disability.

1078 (7) In the event the deceased or disabled member has less  
1079 than four (4) years of creditable service, the average  
1080 compensation as defined in Section 25-11-103 shall be the average  
1081 of all annual earned compensation in state service for the  
1082 purposes of benefits provided in this section.

1083 (8) In case of death or total and permanent disability under  
1084 subsection (4) or subsection (6) of this section and before the  
1085 board shall consider any application for a retirement allowance,  
1086 the employer must certify to the board that the member's death or  
1087 disability was a direct result of an accident or a traumatic event  
1088 occurring during and as a result of the performance of the regular  
1089 and assigned duties of the employee and that the death or  
1090 disability was not the result of the willful negligence of the  
1091 employee.

1092 (9) The application for such retirement allowance must be  
1093 filed within one (1) year after death of an active member who is  
1094 killed in the line of performance of duty or dies as a direct  
1095 result of an accident occurring in the line of performance of duty  
1096 or traumatic event; but the board of trustees may consider an  
1097 application for disability filed after the one-year period if it  
1098 can be factually demonstrated to the satisfaction of the board of  
1099 trustees that the disability is due to the accident and that the  
1100 filing was not accomplished within the one-year period due to a  
1101 delayed manifestation of the disability or to circumstances beyond

1102 the control of the member. However, in case of late filing,  
1103 retroactive payments will be made for a period of not more than  
1104 one (1) year only.

1105 (10) Notwithstanding any other section of this article and  
1106 in lieu of any payments to a designated beneficiary for a refund  
1107 of contributions under Section 25-11-117, the spouse and/or  
1108 children shall be eligible for the benefits payable pursuant to  
1109 this section, and the spouse may elect, for both the spouse and/or  
1110 children, to receive benefits in accordance with either  
1111 subsections (2) and (3) or subsection (4) of this section;  
1112 otherwise, the contributions to the credit of the deceased member  
1113 shall be refunded in accordance with Section 25-11-117.

1114 (11) If the member has previously received benefits from the  
1115 system to which he was not entitled and has not repaid in full all  
1116 amounts payable by him to the system, the annuity amounts  
1117 otherwise provided by this section shall be withheld and used to  
1118 effect repayment until the total of the withholdings repays in  
1119 full all amounts payable by him to the system.

1120 **SECTION 7.** Section 25-11-137, Mississippi Code of 1972, is  
1121 amended as follows:

1122 25-11-137. (1) (a) Any law enforcement officer or fireman  
1123 who has been covered under this article or under Section 21-29-101  
1124 et seq., Section 21-29-201 et seq., or Section 25-13-1 et seq.,  
1125 and who changes his employment from one jurisdiction to another  
1126 jurisdiction, or has previously made such change, may elect to  
1127 transfer retirement service credit earned while covered under the  
1128 retirement system of the former jurisdiction to that of the latter  
1129 as provided in this section.

1130 (b) Any \* \* \* law enforcement officer or fireman  
1131 transferring as described in paragraph (a) of this subsection and  
1132 having paid retirement funds under this article or under Section  
1133 21-29-101 et seq., Section 21-29-201 et seq., or Section 25-13-1  
1134 et seq., must pay into the retirement system to which he is

1135 transferring the full amount of employee contributions which he  
1136 would have paid into that system had he been a member of that  
1137 system for each year of creditable service which is being  
1138 transferred, together with regular interest which would have been  
1139 earned by that system thereon, and he must also pay, or the system  
1140 from which he is transferring must pay, into the system to which  
1141 he is being transferred an amount equal to that which the employer  
1142 would have paid had he been a member of that system for each year  
1143 transferred, together with regular interest which would have been  
1144 earned by that system thereon. The retirement system from which  
1145 he is being transferred shall be required to pay into the system  
1146 to which he is transferring any funds credited to his account.  
1147 Any additional funds which may be required shall be paid by the  
1148 person being transferred. Such payments may be made in quarterly  
1149 increments. Failure to make these proper adjustment payments will  
1150 void any transfer of service credits.

1151 (2) The benefits which are being currently paid by the  
1152 system in which the law enforcement officer or fireman has last  
1153 been a member, and the requirements for retirement or disability  
1154 benefits, shall be those applicable to such officer falling under  
1155 the provisions of this section. Any law enforcement officer or  
1156 fireman who elects to transfer retirement service credit may  
1157 immediately transfer such funds and service as provided for in  
1158 subsection (1) of this section; however, the amounts that are  
1159 transferred by the law enforcement officer or fireman and his  
1160 employer, if applicable, and the service credit related to the  
1161 transfer of funds, shall not be used in any benefit calculation or  
1162 determination of eligibility for benefits until the person has  
1163 remained a contributing member of the retirement system to which  
1164 he is transferring for the minimum period necessary to qualify for  
1165 a monthly retirement allowance or benefit. Upon the complete  
1166 transfer and payment of such credit, all time spent in the covered  
1167 law enforcement or fire department service, as noted above, within

1168 and for the State of Mississippi or the political subdivisions  
1169 thereof, shall apply to the time required by law necessary to  
1170 effect the retirement or disability of the officer.

1171 **SECTION 8.** Section 25-13-12, Mississippi Code of 1972, is  
1172 amended as follows:

1173 25-13-12. (1) Any member who is receiving a retirement  
1174 allowance for service or disability retirement, or any beneficiary  
1175 thereof, who has received a monthly benefit for at least one (1)  
1176 full fiscal year, shall be eligible to receive an additional  
1177 benefit, on December 1 or July 1 of the year as provided in  
1178 subsection (6) or (7) of this section, equal to the sum of:

1179 (a) An amount equal to three percent (3%) of the annual  
1180 retirement allowance multiplied by the number of full fiscal years  
1181 in retirement before the end of the fiscal year in which the  
1182 member reaches age sixty (60) or the age established in the latest  
1183 phase that has been implemented under subsection (3) of this  
1184 section, plus

1185 (b) An additional amount equal to three percent (3%)  
1186 compounded by the number of full fiscal years in retirement  
1187 beginning with the fiscal year in which the member reaches age  
1188 sixty (60) or the age established in the latest phase that has  
1189 been implemented under subsection (3) of this section, multiplied  
1190 by the amount of the annual retirement allowance.

1191 (2) The calculation of the beneficiary's additional benefit  
1192 provided in this section shall be based on the member's age and  
1193 full fiscal years in retirement as if the member had lived.

1194 (3) From and after July 1, 2003, the board shall begin  
1195 implementing a reduction in the age at which compounding of the  
1196 portion of the additional benefit provided in subsection (1)(b) of  
1197 this section will begin, which changes shall be implemented in  
1198 phases as set forth in the table in this subsection. The board  
1199 shall implement the phases systematically upon July 1 after the  
1200 board's actuary certifies that implementation of a phase will not

1201 cause the unfunded accrued actuarial liability amortization period  
 1202 for the retirement system to exceed twenty (20) years. The board  
 1203 shall have the exclusive authority to set the assumptions that are  
 1204 used in the actuarial valuation in accordance with Section  
 1205 25-13-29.

1206 IMPLEMENTATION TABLE FOR AGE OF  
 1207 COMPOUNDING THE ADDITIONAL BENEFIT

1208 PHASE	1209 AGE AT WHICH 1210 COMPOUNDING 1211 THE ADDITIONAL 1212 BENEFIT BEGINS
1213 Phase 1	Age 59
1214 Phase 2	Age 58
1215 Phase 3	Age 57
1216 Phase 4	Age 56
1217 Phase 5	Age 55

1218 (4) If a retiree who is receiving a retirement allowance  
 1219 that will terminate upon the retiree's death is receiving the  
 1220 additional benefit in one (1) payment and dies on or after July 1  
 1221 but before December 1, the beneficiary designated on the  
 1222 retirement application, if any, shall receive in a single payment  
 1223 a fractional part of the additional benefit based on the number of  
 1224 months in which a retirement allowance was received during the  
 1225 fiscal year. If there is no surviving beneficiary, payment shall  
 1226 be made in accordance with Section 25-13-21.1(1). Likewise, if a  
 1227 retiree is receiving a retirement allowance that will terminate  
 1228 upon the retiree's death in two (2) to six (6) monthly  
 1229 installments, any remaining payments of the additional benefit  
 1230 will be paid in a lump sum to the beneficiary designated on the  
 1231 application, or if none, in accordance with Section 25-13-21.1(1).  
 1232 Any similar remaining payments of the additional benefit payable  
 1233 under this section to a deceased beneficiary who was receiving a

1234 monthly benefit shall be payable in accordance with the provisions  
1235 of Section 25-13-21.1(2). If the additional benefit is being  
1236 received in one (1) payment each year, the additional benefit  
1237 shall be prorated based on the number of months in which a  
1238 retirement allowance was received during the fiscal year when (i)  
1239 the monthly benefit payable to a beneficiary terminates due to the  
1240 expiration of an option, remarriage or cessation of dependent  
1241 status or due to the retiree's return to covered employment, and  
1242 (ii) the monthly benefit terminates on or after July 1 and before  
1243 December 1.

1244 (5) Each retired member or beneficiary thereof who receives  
1245 an annual retirement allowance based on the average compensation  
1246 for a period of five (5) successive or joined years and who  
1247 receives a retirement allowance for the month of June 1986, shall  
1248 receive an ad hoc increase of three percent (3%) in such  
1249 retirement allowance effective July 1, 1986.

1250 (6) The additional benefit provided in this section shall be  
1251 paid in one (1) payment in December of each year to those persons  
1252 who are receiving a retirement allowance on December 1 of that  
1253 year, unless an election is made under subsection (7) of this  
1254 section. The board, in its discretion, may allow a retired member  
1255 or a beneficiary thereof who is receiving the additional benefit  
1256 in one (1) payment each year to have the additional benefit paid  
1257 in monthly installments if the retired member or beneficiary  
1258 submits satisfactory documentation that the continued receipt of  
1259 the additional benefit in one (1) payment each year will cause a  
1260 financial hardship to the retired member or beneficiary.

1261 (7) Retired members or beneficiaries thereof who are  
1262 receiving a retirement allowance may elect by an irrevocable  
1263 agreement in writing filed in the Office of the Public Employees'  
1264 Retirement System no less than thirty (30) days before July 1 of  
1265 any year, to begin receiving the additional benefit provided in  
1266 this section in twelve (12) equal monthly installments beginning

1267 on July 1 of the year. This irrevocable agreement shall be  
1268 binding on the member and subsequent beneficiaries. Payment of  
1269 those monthly installments shall not extend beyond the month in  
1270 which a retirement allowance is due and payable. Any retired  
1271 member or beneficiary thereof who previously elected to receive  
1272 the additional annual payment in monthly installments may elect,  
1273 upon application on a form prescribed by the board, to have that  
1274 payment made in one (1) payment in December of each year. This  
1275 written election must be filed in the office of the Public  
1276 Employees' Retirement System before June 1, 2003, and shall be  
1277 effective for the fiscal year beginning July 1, 2003. The board,  
1278 in its discretion, may allow a retired member or a beneficiary  
1279 thereof who is receiving the additional benefit in monthly  
1280 installments to have the additional benefit paid in one (1)  
1281 payment in December of each year if the retired member or  
1282 beneficiary submits satisfactory documentation that the continued  
1283 receipt of the additional benefit in monthly installments will  
1284 cause financial hardship to the retired member or beneficiary.

1285 (8) The additional benefit or benefits provided in this  
1286 section are for the fiscal year in which they are paid.

1287 (9) The amount of the additional benefit provided in  
1288 subsection (1)(b) of this section is calculated using the  
1289 following formula:

1290 
$$[(1.03)^n - 1] \times [\text{annual retirement allowance}],$$

1291 where  $n$  is the number of full fiscal years in retirement beginning  
1292 with the fiscal year in which the member reaches age sixty (60) or  
1293 the age established in the latest phase that has been implemented  
1294 under subsection (3) of this section.

1295 (10) In the event of death of a retired member or a  
1296 beneficiary thereof who is receiving the additional annual payment  
1297 in two (2) to six (6) monthly installments under an election made  
1298 before July 1, 2002, and who would otherwise be eligible to  
1299 receive the additional benefit provided in this section in one (1)

1300 payment in December of the current fiscal year, any remaining  
1301 amounts shall be paid in a lump sum to the designated beneficiary.

1302 (11) When a member retires after July 1 and has previously  
1303 received a retirement allowance for one or more full fiscal years,  
1304 the retired member shall be eligible immediately for the  
1305 additional benefit. The additional benefit shall be based on the  
1306 current retirement allowance and the number of full fiscal years  
1307 in retirement and shall be prorated and paid in monthly  
1308 installments based on the number of months a retirement allowance  
1309 is paid during the fiscal year.

1310 **SECTION 9.** Section 25-13-13, Mississippi Code of 1972, is  
1311 amended as follows:

1312 25-13-13. (1) Upon the death of any highway patrolman who  
1313 has retired for service or disability and who has not elected any  
1314 other option under Section 25-13-16, his or her spouse shall  
1315 receive one-half (1/2) the benefit which he or she was receiving  
1316 and each child not having attained his nineteenth birthday shall  
1317 receive one-fourth (1/4) of the benefit, but not more than  
1318 one-half (1/2) of the benefits shall be paid for the support and  
1319 maintenance of two (2) or more children. Upon each child's  
1320 attaining the age of nineteen (19) years, the child shall no  
1321 longer be eligible for such benefit, and when all of such children  
1322 have attained their nineteenth birthday, only the spouse shall be  
1323 eligible for one-half (1/2) the amount of the benefit. The spouse  
1324 shall continue to be eligible for such benefit in the amount of  
1325 fifty percent (50%) of his retirement benefit so long as the  
1326 spouse may live \* \* \*. Surviving spouses of deceased members who  
1327 previously received spouse retirement benefits under this  
1328 subsection from and after July 1, 1958, and whose benefits were  
1329 terminated before July 1, 2004, because of remarriage, may again  
1330 receive the retirement benefits authorized under this subsection  
1331 by making application with the board to reinstate such benefits.  
1332 Any reinstatement of the benefits shall be prospective only and



1333 shall begin after the first of the month following the date of the  
1334 application for reinstatement but no earlier than July 1, 2004.

1335 (2) Upon the death of any highway patrolman who has served  
1336 the minimum retirement period required for eligibility for such  
1337 retirement program, his spouse and family shall receive all the  
1338 benefits payable to the highway patrolman's beneficiaries as if he  
1339 had retired at the time of his death. Such benefits continue to  
1340 be paid to the spouse for life. Such benefits are payable on a  
1341 monthly basis. Surviving spouses of deceased members who  
1342 previously received spouse retirement benefits under this  
1343 subsection from and after July 1, 1958, and whose benefits were  
1344 terminated before July 1, 2004, because of remarriage, may again  
1345 receive the retirement benefits authorized under this subsection  
1346 by making application with the board to reinstate such benefits.  
1347 Any reinstatement of the benefits shall be prospective only and  
1348 shall begin after the first of the month following the date of the  
1349 application for reinstatement but no earlier than July 1, 2004.

1350 (3) The spouse and/or the dependent children of an active  
1351 member who is killed in the line of performance of duty or dies as  
1352 a direct result of an accident occurring in the line of  
1353 performance of duty shall qualify, on approval of the board, for a  
1354 retirement allowance on the first of the month following the date  
1355 of death, but not before receipt of application by the board. The  
1356 spouse shall receive a retirement allowance equal to one-half  
1357 (1/2) of the average compensation of the deceased highway  
1358 patrolman. In addition to the retirement allowance for the  
1359 spouse, or if there is no surviving spouse, a retirement allowance  
1360 shall be paid in the amount of one-fourth (1/4) of the average  
1361 compensation for the support and maintenance of one (1) child or  
1362 in the amount of one-half (1/2) of the average compensation for  
1363 the support and maintenance of two (2) or more children. Such  
1364 benefits shall cease to be paid for the support and maintenance of  
1365 each child upon such child attaining the age of nineteen (19)

1366 years; however, the spouse shall continue to be eligible for the  
1367 aforesaid retirement allowance. Benefits may be paid to a  
1368 surviving parent or lawful custodian of such children for the use  
1369 and benefit of the children without the necessity of appointment  
1370 as guardian. Such retirement allowance shall continue to be paid  
1371 to the spouse for life. Surviving spouses of deceased members who  
1372 previously received spouse retirement benefits under this  
1373 subsection from and after July 1, 1958, and whose benefits were  
1374 terminated before July 1, 2004, because of remarriage, may again  
1375 receive the retirement benefits authorized under this subsection  
1376 by making application with the board to reinstate such benefits.  
1377 Any reinstatement of the benefits shall be prospective only and  
1378 shall begin after the first of the month following the date of the  
1379 application for reinstatement but no earlier than July 1, 2004.

1380 (4) All benefits accruing to any child under the provisions  
1381 of this chapter shall be paid to the parent custodian of the  
1382 children or the legal guardian.

1383 (5) Children receiving the benefits provided herein, who are  
1384 permanently or totally disabled, shall continue to receive such  
1385 benefits for as long as the medical board or other designated  
1386 governmental agency certifies that such disability continues. The  
1387 age limitation for benefits payable to a child under any provision  
1388 of this section shall be extended beyond age nineteen (19), but in  
1389 no event beyond the attainment of age twenty-three (23), as long  
1390 as the child is a student regularly pursuing a full-time course of  
1391 resident study or training in an accredited high school, trade  
1392 school, technical or vocational institute, junior or community  
1393 college, college, university or comparable recognized educational  
1394 institution duly licensed by a state. A student child whose  
1395 birthday falls during the school year (September 1 through June  
1396 30) is considered not to reach age twenty-three (23) until the  
1397 July 1 following the actual twenty-third birthday. A full-time  
1398 course of resident study or training means a day or evening

1399 noncorrespondence course that includes school attendance at the  
1400 rate of at least thirty-six (36) weeks per academic year or other  
1401 applicable period with a subject load sufficient, if successfully  
1402 completed, to attain the educational or training objective within  
1403 the period generally accepted as minimum for completion, by a  
1404 full-time day student, of the academic or training program  
1405 concerned.

1406 (6) If all the annuities provided for in this section  
1407 payable on the account of the death of a member terminate before  
1408 there has been paid an aggregate amount equal to the member's  
1409 accumulated contributions standing to the member's credit in the  
1410 annuity savings account at the time of the member's death, the  
1411 difference between the accumulated contributions and the aggregate  
1412 amount of annuity payments shall be paid to such person as the  
1413 member has nominated by written designation duly executed and  
1414 filed with the board of trustees in the Office of the Public  
1415 Employees' Retirement System. If there is no designated  
1416 beneficiary surviving at termination of benefits, the difference  
1417 shall be payable pursuant to Section 25-13-21.1(1).

1418 (7) All benefits paid to a spouse or child due to the death  
1419 of a member before or after retirement shall be paid in accordance  
1420 with the statutory provisions set forth as of the date of death.

1421 **SECTION 10.** Section 21-29-45, Mississippi Code of 1972, is  
1422 amended as follows:

1423 **[For any municipality that has not elected to authorize the**  
1424 **continuation of or reinstatement of spouse retirement benefits**  
1425 **under the provisions of Section 21-29-329, this section shall read**  
1426 **as follows:]**

1427 21-29-45. Upon proper application to the general retirement  
1428 board, the benefits to dependents of deceased members and  
1429 retirants shall be paid as follows:

1430 (a) If any member dies for causes other than the  
1431 performance of duty in the service of the municipality prior to

1432 completing five (5) years' service, there shall be paid to his  
1433 designated beneficiary or his legal representative, if no  
1434 beneficiary has been designated, from the employees' savings fund  
1435 the sum equal to the amount accumulated in his individual account.

1436 (b) If any member dies who has not had less than five  
1437 (5) and not more than twenty (20) years' service with such  
1438 municipality, there shall be paid to the spouse, from the  
1439 retirement reserve fund, for each year's active service, not to  
1440 exceed a period of twenty (20) years, one-fortieth ( 1/40) of the  
1441 average monthly salary or compensation received by such member in  
1442 the four-year or two-year period, as the case may be, next  
1443 preceding the death, for the use of the spouse and the child or  
1444 children of the deceased member under the age of eighteen (18)  
1445 years, so long as the spouse shall remain unmarried. If, after  
1446 the marriage of the spouse, there remains a child or children of  
1447 the deceased member under the age of eighteen (18) years, the  
1448 payments shall continue to be made to a parent or lawful custodian  
1449 of the child or children without the necessity of appointment as  
1450 guardian for the benefit of the child or children, so long as the  
1451 child or children shall be under the age of eighteen (18) years.  
1452 After the death or marriage of the spouse, all payments to the  
1453 spouse shall cease, and after the death or attainment of eighteen  
1454 (18) years of any child or children of the deceased, all payments  
1455 to the child or children over eighteen (18) years of age shall  
1456 cease. If the deceased member is not survived by a spouse or  
1457 child or children under the age of eighteen (18) years, but is  
1458 survived by a father \* \* \* or a mother dependent upon him, the  
1459 payments shall continue to be made to the dependent father or  
1460 mother, or both, so long as each lives. The word "dependent," as  
1461 used in this section, shall mean "wholly dependent," as determined  
1462 by the retirement board.

1463 (c) If any member dies after having completed twenty  
1464 (20) years' service as required by Section 21-29-31, or should any

1465 retirant die, there shall be paid from the retirement reserve fund  
1466 to the spouse or the dependents designated in paragraph (b) of  
1467 this section the amount of benefits or retirement pay equal to the  
1468 sum being paid to the deceased member or retirant, or which would  
1469 have been paid to the deceased member or retirant had he applied  
1470 for benefits under this section, on the date of his death.

1471 (d) If any member dies prior to becoming eligible to  
1472 receive benefits hereunder as a result of the performance of duty  
1473 to the municipality, there shall be paid to the spouse or  
1474 dependents designated in paragraph (b) of this section from the  
1475 retirement reserve fund an amount equal to fifty percent (50%) of  
1476 the monthly salary of the deceased member on the date of his  
1477 death. This amount shall be paid to the same beneficiaries and  
1478 for the same period of time as those beneficiaries and periods of  
1479 time set forth in paragraph (b) of this section.

1480 **[For any municipality that has elected to authorize the**  
1481 **continuation of or reinstatement of spouse retirement benefits**  
1482 **under the provisions of Section 21-29-329, this section shall read**  
1483 **as follows:]**

1484 21-29-45. Upon proper application to the general retirement  
1485 board, the benefits to dependents of deceased members and  
1486 retirants shall be paid as follows:

1487 (a) Should any member die for causes other than the  
1488 performance of duty in the service of the municipality prior to  
1489 completing five (5) years' service, there shall be paid to his  
1490 designated beneficiary or his legal representative, if no  
1491 beneficiary has been designated, from the employees' savings fund  
1492 the sum equal to the amount accumulated in his individual account.

1493 (b) If any member dies who has not had less than five  
1494 (5) and not more than twenty (20) years' service with such  
1495 municipality, there shall be paid to the spouse, from the  
1496 retirement reserve fund, for each year's active service, not to  
1497 exceed a period of twenty (20) years, one-fortieth (1/40) of the

1498 average monthly salary or compensation received by such member in  
1499 the four-year or two-year period, as the case may be, next  
1500 preceding the death, for the use of the spouse and the child or  
1501 children of the deceased member under the age of eighteen (18)  
1502 years, so long as the spouse shall live. If, after the death of  
1503 the spouse there remains a child or children of the deceased  
1504 member under the age of eighteen (18) years, the payments shall  
1505 continue to be made to a parent or lawful custodian of the child  
1506 or children without the necessity of appointment as guardian for  
1507 the benefit of the child or children, so long as the child or  
1508 children shall be under the age of eighteen (18) years. After the  
1509 death \* \* \* of the spouse, all payments to the spouse shall cease,  
1510 and after the death or attainment of eighteen (18) years of any  
1511 child or children of the deceased member, all payments to the  
1512 child or children over eighteen (18) years of age shall cease. If  
1513 the deceased member is not survived by a spouse, child or children  
1514 under the age of eighteen (18) years, but is survived by a  
1515 father \* \* \* or a mother dependent upon him, the payments shall  
1516 continue to be made to the dependent father or mother, or both, so  
1517 long as each lives. The word "dependent," as used in this  
1518 section, shall mean "wholly dependent," as determined by the  
1519 retirement board.

1520 (c) Should any member die after having completed twenty  
1521 (20) years' service as required by Section 21-29-31, or should any  
1522 retirant die, there shall be paid from the retirement reserve fund  
1523 to the spouse or the dependents designated in paragraph (b) of  
1524 this section, the amount of benefits or retirement pay equal to  
1525 the sum being paid to the deceased member or retirant, or which  
1526 would have been paid to the deceased member or retirant had he  
1527 applied for benefits under this section, on the date of his death.

1528 (d) Should any member die prior to becoming eligible to  
1529 receive benefits under this section as a result of the performance  
1530 of duty to the municipality, there shall be paid to the spouse or

1531 dependents designated in paragraph (b) of this section from the  
1532 retirement reserve fund, an amount equal to fifty percent (50%) of  
1533 the monthly salary of the deceased member on the date of his  
1534 death. This amount shall be paid to the same beneficiaries and  
1535 for the same period of time as those beneficiaries and periods of  
1536 time set forth in paragraph (b) of this section.

1537 **SECTION 11.** Section 21-29-145, Mississippi Code of 1972, is  
1538 amended as follows:

1539 **[For any municipality that has not elected to authorize the**  
1540 **continuation of or reinstatement of spouse retirement benefits**  
1541 **under the provisions of Section 21-29-329, this section shall read**  
1542 **as follows:]**

1543 21-29-145. (1) If any member of the fire or police  
1544 department dies in active service, or dies in inactive service on  
1545 account of disability approved for disability relief under the  
1546 provisions of Section 21-29-133, as a result of injury received  
1547 while in the discharge of duty in the service of the fire  
1548 department or police department, or dies as a result of sickness  
1549 or disease, due to the discharge of duty while in service as a  
1550 member of said fire or police department, or if the member dies  
1551 while entitled to relief after retirement under Section 21-29-139,  
1552 the amount of disability relief or retirement being paid, or which  
1553 should have been properly paid, shall continue to be paid from the  
1554 fund to the spouse of the deceased member for the use of the  
1555 spouse \* \* \* and the child or children of the deceased member, so  
1556 long as the spouse shall remain unmarried. If, after the marriage  
1557 of the spouse, there remains a child, or children, of the deceased  
1558 member, the payments shall continue to be made to a parent or  
1559 lawful custodian of the child or children without the necessity of  
1560 appointment as guardian for the benefit of the child or children.  
1561 After the death or marriage of the spouse, all payments to the  
1562 spouse shall cease, and after the death of any child or children  
1563 of the deceased member all payments to the child or children shall

1564 cease. If the deceased member is not survived by spouse or child  
1565 or children, but is survived by a father, \* \* \* mother \* \* \*, or  
1566 an unmarried sister dependent upon him or her, the payments shall  
1567 continue to be made to the dependent father or mother or both, so  
1568 long as each lives, or if there is no dependent father or mother  
1569 surviving the deceased member, the payments shall continue to be  
1570 made to the unmarried dependent sister or dependent sisters of the  
1571 deceased, so long as the beneficiary or beneficiaries shall remain  
1572 unmarried. Upon the death or marriage of any such sister, all  
1573 payments shall cease to her. Payments to dependents under this  
1574 section are for services rendered by the members of the fire  
1575 and/or police department, and the amount of payment is within the  
1576 discretion of the board of disability and relief, but in no event  
1577 shall the amount payable under this section be in excess of the  
1578 amount that would have been payable as disability and relief to a  
1579 member of the department. If the father, \* \* \* mother \* \* \*,  
1580 or \* \* \* sisters are not wholly dependent, then they shall not  
1581 receive any amount in excess of the difference between the income  
1582 of the father, mother, sister or sisters, and the amount that the  
1583 deceased member would have been entitled to.

1584 (2) For purposes of this section:

1585 (a) \* \* \* "Dependent" \* \* \* means wholly dependent upon  
1586 the deceased at the time of his death.

1587 (b) \* \* \* "Child" or "children" means:

1588 (i) Children of the deceased member under the age  
1589 of eighteen (18);

1590 (ii) Children of the deceased member eighteen (18)  
1591 years of age or older who have not yet reached their twenty-third  
1592 birthday and are pursuing a full-time education; or

1593 (iii) Children of the deceased member who, though  
1594 eighteen (18) years of age or older, are wholly dependent upon the  
1595 deceased member and incapable of self support by reason of mental  
1596 or physical disability.



1597           [For any municipality that has elected to authorize the  
1598 continuation of or reinstatement of spouse retirement benefits  
1599 under the provisions of Section 21-29-329, this section shall read  
1600 as follows:]

1601           21-29-145. (1) If any member of the fire or police  
1602 department dies in active service, or dies in inactive service on  
1603 account of disability approved for disability relief under the  
1604 provisions of Section 21-29-133, as a result of injury received  
1605 while in the discharge of duty in the service of the fire  
1606 department or police department, or dies as a result of sickness  
1607 or disease, due to the discharge of duty while in service as a  
1608 member of the fire or police department, or if the member dies  
1609 while entitled to relief after retirement under Section 21-29-139,  
1610 the amount of disability relief or retirement being paid, or which  
1611 should have been properly paid, shall continue to be paid from the  
1612 fund to the spouse of the deceased member for life for the use of  
1613 the spouse \* \* \* and the child or children of the deceased  
1614 member \* \* \*. If \* \* \* the deceased member is not survived by a  
1615 spouse but there remains a child or children of the deceased  
1616 member the payments shall continue to be made to a parent or  
1617 lawful custodian of the child or children without the necessity of  
1618 appointment as guardian for the benefit of the child or children.  
1619 After the death \* \* \* of the spouse, all payments to the spouse  
1620 shall cease, and after the death of any child or children of the  
1621 deceased member all payments to the child or children shall cease.  
1622 If the deceased member is not survived by spouse or child or  
1623 children, but is survived by a father, \* \* \* mother \* \* \* or an  
1624 unmarried sister dependent upon him or her, the payments shall  
1625 continue to be made to the dependent father or mother or both, so  
1626 long as each lives. If there is no dependent father or mother  
1627 surviving the deceased member, the payments shall continue to be  
1628 made to the unmarried dependent sister or \* \* \* sisters of the  
1629 deceased member, so long as the beneficiary or beneficiaries \* \* \*

1630 remain unmarried. Upon the death or marriage of any such sister,  
1631 all payments shall cease to her. Payments to dependents under  
1632 this section are for services rendered by the members of the fire  
1633 and/or police department, and the amount of payment is within the  
1634 discretion of the board of disability and relief, but in no event  
1635 shall the amount payable under this section be in excess of the  
1636 amount that would have been payable as disability and relief to a  
1637 member of the department. If the father, \* \* \* mother \* \* \*  
1638 or \* \* \* sisters are not wholly dependent, then they shall not  
1639 receive any amount in excess of the difference between the income  
1640 of the father, mother, sister or sisters, and the amount that the  
1641 deceased member would have been entitled to.

1642 (2) For the purposes of this section:

1643 (a) \* \* \* "Dependent" \* \* \* means wholly dependent upon  
1644 the deceased member at the time of his or her death.

1645 (b) \* \* \* "Child" or "children" means:

1646 (i) Children of the deceased member under the age  
1647 of eighteen (18);

1648 (ii) Children of the deceased member who are  
1649 eighteen (18) years of age or older who have not yet reached their  
1650 twenty-third birthday and are pursuing a full-time education; or

1651 (iii) Children of the deceased member who, though  
1652 eighteen (18) years of age or older, are wholly dependent upon the  
1653 deceased member and incapable of self support by reason of mental  
1654 or physical disability.

1655 **SECTION 12.** Section 21-29-147, Mississippi Code of 1972, is  
1656 amended as follows:

1657 **[For any municipality that has not elected to authorize the**  
1658 **continuation of or reinstatement of spouse retirement benefits**  
1659 **under the provisions of Section 21-29-329, this section shall read**  
1660 **as follows:]**

1661 21-29-147. (1) If any member of a fire or police department  
1662 dies while a member of the fire or police department, and \* \* \*

1663 has had not less than five (5) years' service with the department,  
1664 there shall be paid from the firemen's and policemen's disability  
1665 and relief fund benefits as follows:

1666 (a) For each year's active service, not to exceed a  
1667 period of twenty (20) years, one-fortieth (1/40) of the average  
1668 monthly salary or compensation received by the member in the  
1669 six-month period next preceding his death; and

1670 (b) For each full year of active service in excess of  
1671 twenty (20) years service, an additional payment in a sum equal to  
1672 one and seven-tenths percent (1-7/10%) of the same average monthly  
1673 base salary and longevity pay received by the member in the  
1674 six-month period next preceding his or her death (provided that no  
1675 such payment shall exceed sixty-six and two-thirds percent  
1676 (66-2/3%) of the average monthly base salary and longevity pay  
1677 received by a member for the six-month period next preceding his  
1678 death) to the spouse of the deceased member for the use of the  
1679 spouse and the child or children of the deceased member, under the  
1680 age of eighteen (18) years, so long as he or she remains  
1681 unmarried \* \* \* and if, after the marriage of the spouse, there  
1682 remains a child, or children of the deceased member still under  
1683 the age of eighteen (18) years, the payments shall continue to be  
1684 made to a parent or lawful custodian of the child or children  
1685 without the necessity of appointment as guardian for the benefit  
1686 of the child or children, so long as the child or children are  
1687 under the age of eighteen (18) years. After the death or marriage  
1688 of the spouse, all payments to the spouse shall cease, and after  
1689 the death or attainment of the age of eighteen (18) years of any  
1690 child or children of the deceased member, all payments to such  
1691 child or children over eighteen (18) years of age shall cease. If  
1692 the deceased member is not survived by spouse or child or children  
1693 under the age of eighteen (18) years, but is survived by a  
1694 father, \* \* \* mother \* \* \* or an unmarried sister dependent upon  
1695 him or her, such payments shall continue to be made to such

1696 dependent father or mother or both, so long as each lives. If  
1697 there is no dependent father or mother surviving the deceased  
1698 member, such payments shall continue to be made to the dependent  
1699 sister or \* \* \* sisters of the deceased member, or dependent  
1700 incurable children of the deceased member, so long as such  
1701 beneficiary or beneficiaries \* \* \* remain unmarried. Upon the  
1702 death or marriage of any such sisters, all payments shall cease to  
1703 her. The word "dependent" as used in this section shall mean  
1704 "wholly dependent."

1705 (2) It is the intention of the Legislature that the benefits  
1706 authorized by paragraph (b) of subsection (1) of this section,  
1707 shall be paid to all qualified and eligible spouses whose deceased  
1708 spouses died before March 27, 1978.

1709 **[For any municipality that has elected to authorize the**  
1710 **continuation of or reinstatement of spouse retirement benefits**  
1711 **under the provisions of Section 21-29-329, this section shall read**  
1712 **as follows:]**

1713 21-29-147. (1) If any member of a fire or police department  
1714 dies while a member of the fire or police department, and who has  
1715 had not less than five (5) years' service with the department,  
1716 there shall be paid from the firemen's and policemen's disability  
1717 and relief fund benefits as follows:

1718 (a) For each year's active service, not to exceed a  
1719 period of twenty (20) years, one-fortieth (1/40) of the average  
1720 monthly salary or compensation received by the member in the  
1721 six-month period next preceding his death; and

1722 (b) For each full year of active service in excess of  
1723 twenty (20) years service, an additional payment in a sum equal to  
1724 one and seven-tenths percent (1-7/10%) of the same average monthly  
1725 base salary and longevity pay received by the member in the  
1726 six-month period next preceding his death (provided that no such  
1727 payment shall exceed sixty-six and two-thirds percent (66-2/3%) of  
1728 the average monthly base salary and longevity pay received by a

1729 member for the six-month period next preceding his or her death)  
1730 to the spouse of the deceased member for life for the use of the  
1731 spouse and the child or children of the deceased member, under the  
1732 age of eighteen (18) years. \* \* \* If the deceased member is not  
1733 survived by a spouse but there remains a child, or children of the  
1734 deceased member still under the age of eighteen (18) years, the  
1735 payments shall \* \* \* to be made to a parent or lawful custodian of  
1736 the child or children without the necessity of appointment as  
1737 guardian for the benefit of the child or children, so long as the  
1738 child or children are under the age of eighteen (18) years. After  
1739 the death \* \* \* of the spouse, all payments to the spouse shall  
1740 cease, and after the death or attainment of the age of eighteen  
1741 (18) years of any child or children of the deceased member, all  
1742 payments to the child or children over eighteen (18) years of age  
1743 shall cease. If the deceased member is not survived by spouse or  
1744 child or children under the age of eighteen (18) years, but is  
1745 survived by a father, \* \* \* mother \* \* \* or an unmarried sister  
1746 dependent upon him or her, such payments shall continue to be made  
1747 to such dependent father or mother or both, so long as each lives.  
1748 If there is no dependent father or mother surviving the deceased  
1749 member, such payments shall continue to be made to the dependent  
1750 sister or \* \* \* sisters of the deceased member, or dependent  
1751 incurable children of the deceased member, so long as the  
1752 beneficiary or beneficiaries \* \* \* remain unmarried. Upon the  
1753 death or marriage of any such sisters, all payments shall cease to  
1754 her. The word "dependent" as used in this section shall mean  
1755 "wholly dependent."

1756 (2) It is the intention of the Legislature that the benefits  
1757 authorized by paragraph (b) of subsection (1) of this section  
1758 shall be paid to all qualified and eligible spouses whose deceased  
1759 spouses died before March 27, 1978.

1760 **SECTION 13.** Section 21-29-255, Mississippi Code of 1972, is  
1761 amended as follows:

1762           [For any municipality that has not elected to authorize the  
1763 continuation of or reinstatement of spouse retirement benefits  
1764 under the provisions of Section 21-29-329, this section shall read  
1765 as follows:]

1766           21-29-255. (1) If any member of the fire or police  
1767 department dies in active service, or dies in inactive service on  
1768 account of disability approved for disability relief under Section  
1769 21-29-241, as a result of injury received while in the discharge  
1770 of duty in the service of the fire department or police  
1771 department, or dies as a result of sickness or disease, due to the  
1772 discharge of duty while in service as a member of the fire or  
1773 police department, or if the member dies while entitled to relief  
1774 after retirement under Section 21-29-245, the amount of disability  
1775 relief or retirement relief being paid, or which should have been  
1776 properly paid, shall continue to be paid from the fund to the  
1777 spouse of the deceased member for the use of such spouse and the  
1778 child, or children of the deceased member, so long as such spouse  
1779 remains unmarried. If, after the marriage of such spouse there  
1780 remains a child, or children, of the deceased member, the payments  
1781 shall continue to be made to a parent or lawful custodian of the  
1782 child or children without the necessity of appointment as guardian  
1783 for the benefit of the child or children. After the death or  
1784 marriage of the spouse, all payments to the spouse shall cease,  
1785 and after the death of any child or children of the deceased, all  
1786 payments to the child or children shall cease. If the deceased  
1787 member is not survived by a spouse or child or children, but is  
1788 survived by a father \* \* \* or a mother dependent upon him or her,  
1789 the payments shall continue to be made to the dependent father or  
1790 mother, or both, so long as each lives. If there is no dependent  
1791 father or mother surviving the deceased member, the payments shall  
1792 continue to be made to the unmarried dependent sister or \* \* \*  
1793 sisters of the deceased member, so long as such beneficiary or  
1794 beneficiaries \* \* \* remain unmarried. Upon the death or marriage

1795 of any such sister, all payments shall cease to her. Payments to  
1796 dependents under this section are for services rendered to the  
1797 members of the fire and/or police department, and the amount of  
1798 payments is within the discretion of the board of disability and  
1799 relief, but in no event shall the amount payable under this  
1800 section be in excess of the amount that would have been payable as  
1801 disability and relief to a member of the department.

1802 If any member of the fire or police department dies while a  
1803 member of the fire department or police department, and the member  
1804 has not less than five (5) years' service with the department,  
1805 there shall be paid from the firemen's and policemen's disability  
1806 and relief fund the following benefits:

1807 (a) For each year's active service, not to exceed a  
1808 period of twenty (20) years, one-fortieth (1/40) of the average  
1809 monthly salary or compensation received by the member in the  
1810 six-month period next preceding his death; and

1811 (b) For each full year of active service in excess of  
1812 twenty (20) years' service, an additional payment in a sum equal  
1813 to one and seven-tenths percent (1-7/10%) of the same average  
1814 monthly base salary and longevity pay received by the member in  
1815 the six-month period next preceding his death (provided that no  
1816 such payment shall exceed sixty-six and two-thirds percent  
1817 (66-2/3%) of the average monthly base salary and longevity pay  
1818 received by a member for the six-month period next preceding his  
1819 death) to the spouse of the deceased member for the use of the  
1820 spouse and the child or children of the deceased member, so long  
1821 as the spouse shall remain unmarried and if, after the marriage of  
1822 the spouse, there remains a child, or children of the deceased  
1823 member, the payments shall continue to be made to a parent or  
1824 lawful custodian of the child or children without the necessity of  
1825 appointment as guardian for the benefit of the child or children  
1826 and after the death or marriage of the spouse, all payments to the  
1827 spouse shall cease, and after the death of any child or children

1828 of the deceased member, all payments to such child or children  
1829 shall cease. If the deceased member is not survived by a spouse  
1830 or child or children, but is survived by a father, \* \* \*  
1831 mother \* \* \* or an unmarried sister dependent upon him or her, the  
1832 payments shall continue to be made to the dependent father or  
1833 mother or both, so long as each lives, or if there is no dependent  
1834 father or mother surviving the deceased member, the payments shall  
1835 continue to be made to the dependent sister or \* \* \* sisters of  
1836 the deceased member, or dependent incurable children, so long as  
1837 such beneficiary or beneficiaries \* \* \* remain unmarried. Upon  
1838 the death or marriage of any such sisters, all payments shall  
1839 cease to her. \* \* \*

1840 (2) For purposes of this section:

1841 (a) \* \* \* "Dependent" \* \* \* means wholly dependent.

1842 (b) \* \* \* "Child" or "children" means:

1843 (i) Children of the deceased member under the age  
1844 of eighteen (18);

1845 (ii) Children of the deceased member eighteen (18)  
1846 years of age or older who have not yet reached their twenty-third  
1847 birthday and are pursuing a full-time education; or

1848 (iii) Children of the deceased member who, though  
1849 eighteen (18) years of age or older, are wholly dependent upon the  
1850 deceased member and incapable of self support by reason of mental  
1851 or physical disability.

1852 **[For any municipality that has elected to authorize the**  
1853 **continuation of or reinstatement of spouse retirement benefits**  
1854 **under the provisions of Section 21-29-329, this section shall read**  
1855 **as follows:]**

1856 21-29-255. (1) If any member of the fire or police  
1857 department dies in active service, or dies in inactive service on  
1858 account of disability approved for disability relief under Section  
1859 21-29-241, as a result of injury received while in the discharge  
1860 of duty in the service of the fire department or police



1861 department, or dies as a result of sickness or disease, due to the  
1862 discharge of duty while in service as a member of the fire or  
1863 police department, or if the member dies while entitled to relief  
1864 after retirement under Section 21-29-245, the amount of disability  
1865 relief or retirement relief being paid, or which should have been  
1866 properly paid, shall continue to be paid from the fund to the  
1867 spouse of the deceased member for life for the use of the spouse  
1868 and the child, or children of the deceased member \* \* \*. If the  
1869 deceased member is not survived by a spouse but there remains a  
1870 child or children of the deceased member, the payments shall  
1871 continue to be made to a parent or lawful custodian of the child  
1872 or children without the necessity of appointment as guardian for  
1873 the benefit of the child or children. After the death \* \* \* of  
1874 the spouse, all payments to the spouse shall cease, and after the  
1875 death of any child or children of the deceased member, all  
1876 payments to the child or children shall cease. If the deceased  
1877 member is not survived by a spouse or child or children, but is  
1878 survived by a father \* \* \* or a mother dependent upon him or her,  
1879 the payments shall continue to be made to the dependent father or  
1880 mother, or both, so long as each lives, or if there is no  
1881 dependent father or mother surviving the deceased member, the  
1882 payments shall continue to be made to the unmarried dependent  
1883 sister or \* \* \* sisters of the deceased member, so long as the  
1884 beneficiary or beneficiaries \* \* \* remain unmarried. Upon the  
1885 death or marriage of any such sister, all payments shall cease to  
1886 her. Payments to dependents under this section are for services  
1887 rendered to the members of the fire and/or police department, and  
1888 the amount of payments is within the discretion of the board of  
1889 disability and relief, but in no event shall the amount payable  
1890 under this section be in excess of the amount that would have been  
1891 payable as disability and relief to a member of the department.

1892 If any member of the fire or police department dies while a  
1893 member of the fire department or police department, and the member

1894 shall have had not less than five (5) years' service with the  
1895 department, there shall be paid from the firemen's and policemen's  
1896 disability and relief fund the following benefits:

1897 (a) For each year's active service, not to exceed a  
1898 period of twenty (20) years, one-fortieth (1/40) of the average  
1899 monthly salary or compensation received by the member in the  
1900 six-month period next preceding his death; and

1901 (b) For each full year of active service in excess of  
1902 twenty (20) years service, an additional payment in a sum equal to  
1903 one and seven-tenths percent (1-7/10%) of the same average monthly  
1904 base salary and longevity pay received by the member in the  
1905 six-month period next preceding the member's death (provided that  
1906 no such payment shall exceed sixty-six and two-thirds percent  
1907 (66-2/3%) of the average monthly base salary and longevity pay  
1908 received by a member for the six-month period next preceding the  
1909 member's death) to the spouse of the deceased member for the use  
1910 of the spouse and the child or children of the deceased member, so  
1911 long as the spouse shall lives and if, after the death of the  
1912 spouse there remains a child or children of the deceased member,  
1913 the payments shall continue to be made to a parent or lawful  
1914 custodian of the child or children without the necessity of  
1915 appointment as guardian for the benefit of the child or children.  
1916 After the death \* \* \* of the spouse, all payments to the spouse  
1917 shall cease, and after the death of any child or children of the  
1918 deceased member, all payments to the child or children shall  
1919 cease. If the deceased member is not survived by spouse or child  
1920 or children, but is survived by a father, \* \* \* mother \* \* \* or an  
1921 unmarried sister dependent upon him, the payments shall continue  
1922 to be made to the dependent father or mother or both, so long as  
1923 each shall live, or if there is no dependent father or mother  
1924 surviving the deceased member, the payments shall continue to be  
1925 made to the dependent sister or \* \* \* sisters of the deceased, or  
1926 dependent incurable children, so long as the beneficiary or

1927 beneficiaries shall remain unmarried. Upon the death or marriage  
1928 of any such sisters, all payments shall cease to her. \* \* \*

1929 (2) For the purposes of this section:

1930 (a) \* \* \* "Dependent" \* \* \* means wholly dependent.

1931 (b) \* \* \* "Child" or "children" means:

1932 (i) Children of the deceased member under the age  
1933 of eighteen (18);

1934 (ii) Children of the deceased member eighteen (18)  
1935 years of age or older who have not yet reached their twenty-third  
1936 birthday and are pursuing a full-time education; or

1937 (iii) Children of the deceased member who, though  
1938 eighteen (18) years of age or older, are wholly dependent upon the  
1939 deceased and incapable of self support by reason of mental or  
1940 physical disability.

1941 **SECTION 14.** Sections 1, 4 and 8 of this act shall take  
1942 effect and be in force from and after the passage of this act.  
1943 The remainder of this act shall take effect and be in force from  
1944 and after July 1, 2004.