HOUSE BILL NO. 24

To: Appropriations

MISSISSIPPI LEGISLATURE REGULAR SESSION 2001

By: Representative Fleming

AN ACT TO AMEND SECTION 25-11-123, MISSISSIPPI CODE OF 1972, TO AUTHORIZE MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO ELECT TO INCREASE THEIR EMPLOYEE'S CONTRIBUTION RATE BY FIVE PERCENT OR TEN PERCENT ABOVE THE REGULAR CONTRIBUTION RATE, SUBJECT TO CERTAIN LIMITATIONS; TO AMEND SECTION 25-11-111, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY MEMBER WHO ELECTED TO INCREASE HIS OR HER EMPLOYER'S CONTRIBUTION RATE SHALL HAVE THE AMOUNT OF HIS OR HER ANNUAL RETIREMENT ALLOWANCE INCREASED AT THE TIME OF RETIREMENT BY THE SAME PERCENTAGE THAT THE EMPLOYEE'S CONTRIBUTION RATE WAS INCREASED, EITHER FIVE PERCENT OR TEN PERCENT, IF THE INCREASED CONTRIBUTION RATE WAS IN EFFECT FOR AT LEAST FIVE CONSECUTIVE YEARS; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 25-11-123, Mississippi Code of 1972, is amended as follows:

25-11-123. All of the assets of the system shall be credited according to the purpose for which they are held to one (1) of four (4) reserves; namely, the annuity savings account, the annuity reserve, the employer's accumulation account, and the expense account.

(a) Annuity savings account. In the annuity savings account shall be accumulated the contributions made by members to provide for their annuities, including interest thereon which shall be posted monthly. Credits to and charges against the annuity savings account shall be made as follows:

(1) Beginning July 1, 1991, the employer shall cause to be deducted from the salary of each member on each and every payroll of such employer for each and every payroll period seven and one-fourth percent (7-1/4%) of earned compensation as defined in Section 25-11-103. Future contributions shall be fixed biennially by the board on the basis of the liabilities of the retirement system for the various allowances and benefits as shown...
by actuarial valuation; provided, however, that any member earning
at a rate less than Sixteen Dollars and Sixty-seven Cents ($16.67)
per month, or Two Hundred Dollars ($200.00) per year, shall
contribute not less than One Dollar ($1.00) per month, or Twelve
Dollars ($12.00) per year.

(2) The deductions provided herein shall be made
notwithstanding that the minimum compensation provided by law for
any member shall be reduced thereby. Every member shall be deemed
to consent and agree to the deductions made and provided for
herein and shall receipt for his full salary or compensation, and
payment of salary or compensation less the deduction shall be a
full and complete discharge and acquittance of all claims and
demands whatsoever for the services rendered by such person during
the period covered by such payment, except as to the benefits
provided under Articles 1 and 3. The board shall provide by rules
for the methods of collection of contributions from members and
the employer. The board shall have full authority to require the
production of evidence necessary to verify the correctness of
amounts contributed.

(3) (i) Subject to the limitation in subparagraph (ii)
of this paragraph, any member may elect to increase his or her
employee's contribution rate by either five percent (5%) or ten
percent (10%) above the rate specified under paragraph (1), so
that the member's contribution rate will be either twelve and
one-fourth percent (12-1/4%) or seventeen and one-fourth percent
(17-1/4%). Any member who wishes to increase his or her
employee's contribution rate shall request the increase in writing
to the office of the board of trustees. The member shall specify
the amount of the increased contribution rate that will be used,
the date that the increased contribution rate will begin, and the
period during which the increased contribution rate will be in
effect.
(ii) The total amount of additional contributions that a member may make in any one (1) year from the increased employee's contribution rate under this paragraph (3), when combined with the total amount of contributions that the member makes to all other tax-deferred retirement plans during the same year, shall not exceed twenty-five percent (25%) of the member's annual compensation, as provided under Section 415 of the Internal Revenue Code. It is the duty of each member who has increased his or her employee's contribution rate under this paragraph (3) to report to the retirement system the amount of contributions that the member makes to all other tax-deferred retirement plans, in the manner and at the time prescribed by the board of trustees.

(iii) The additional contributions that are made from the increased employee's contribution rate under this paragraph (3) shall become a part of the member's contributions. The accumulated contributions of a member that are withdrawn by the member, or paid to his or her estate or designated beneficiary in event of the member's death as provided in this article, shall be charged to the annuity savings account. Upon the retirement of a member, his or her accumulated contributions shall be transferred from the annuity savings account to the annuity reserve.

(b) Annuity reserve. The annuity reserve shall be the account representing the actuarial value of all annuities in force, and to it shall be charged all annuities and all benefits in lieu of annuities, payable as provided in this article. If a beneficiary retired on account of disability is restored to active service with a compensation not less than his average final compensation at the time of his last retirement, the remainder of his contributions shall be transferred from the annuity reserve to the annuity savings account and credited to his individual account therein, and the balance of his annuity reserve shall be transferred to the employer's accumulation account.
(c) Employer's accumulation account. The employer's accumulation account shall represent the accumulation of all reserves for the payment of all retirement allowances and other benefits payable from contributions made by the employer, and against this account shall be charged all retirement allowances and other benefits on account of members. Credits to and charges against the employer's accumulation account shall be made as follows:

(1) On account of each member there shall be paid monthly into the employer's accumulation account by the employers for the preceding fiscal year an amount equal to a certain percentage of the total earned compensation, as defined in Section 25-11-103, of each member. The percentage rate of such contributions shall be fixed biennially by the board on the basis of the liabilities of the retirement system for the various allowances and benefits as shown by actuarial valuation. Beginning January 1, 1990, the rate shall be fixed at nine and three-fourths percent (9-3/4%). Political subdivisions joining Article 3 of the Public Employees' Retirement System after July 1, 1968, may adjust the employer's contributions by agreement with the Board of Trustees of the Public Employees' Retirement System to provide service credits for any period prior to execution of the agreement based upon an actuarial determination of employer's contribution rates.

(2) On the basis of regular interest and of such mortality and other tables as shall be adopted by the board of trustees, the actuary engaged by the board to make each valuation required by this article during the period over which the accrued liability contribution is payable, immediately after making such valuation, shall determine the uniform and constant percentage of the earnable compensation of each member which, if contributed by the employer on the basis of compensation of such member throughout his entire period of membership service, would be...
sufficient to provide for the payment of any retirement allowance payable on his account for such service. The percentage rate so determined shall be known as the "normal contribution rate."

After the accrued liability contribution has ceased to be payable, the normal contribution rate shall be the percentage rate of the salary of all members obtained by deducting from the total liabilities on account of membership service the amount in the employer's accumulation account, and dividing the remainder by one percent (1%) of the present value of the prospective future salaries of all members as computed on the basis of the mortality and service tables adopted by the board of trustees and regular interest. The normal rate of contributions shall be determined by the actuary after each valuation.

(3) The total amount payable in each year to the employer's accumulation account shall not be less than the sum of the percentage rate known as the "normal contribution" rate and the "accrued liability contribution" rate of the total compensation earnable by all members during the preceding year, provided that the payment by the employer shall be sufficient, when combined with the amounts in the account, to provide the allowances and other benefits chargeable to this account during the year then current.

(4) The accrued liability contribution shall be discontinued as soon as the accumulated balance in the employer's accumulation account shall equal the present value, computed on the basis of the normal contribution rate then in force, or the prospective normal contributions to be received on account of all persons who are at that time members.

(5) All allowances and benefits in lieu thereof, with the exception of those payable on account of members who receive no prior service credit, payable from contributions of the employer, shall be paid from the employer's accumulation account.
(6) Upon the retirement of a member, an amount equal to his retirement allowance shall be transferred from the employer's accumulation account to the annuity reserve.

(d) Expense account. The expense account shall be the account to which the expenses of the administration of the system shall be charged, exclusive of amounts payable as retirement allowances and as other benefits provided herein. The Legislature shall make annual appropriations in amounts sufficient to administer the system, which shall be credited to this account. There shall be transferred to the State Treasury from this account, not less than once per month, an amount sufficient for payment of the estimated expenses of the system for the succeeding thirty (30) days. Any interest earned on the expense account shall accrue to the benefit of the system. Provided, however, that notwithstanding the provisions of Sections 25-11-15(10) and 25-11-105(f)(5)e, all expenses of the administration of the system shall be paid from the interest earnings, provided the interest earnings are in excess of the actuarial interest assumption as determined by the board, and provided the present cost of the administrative expense fee of two percent (2%) of the contributions reported by the political subdivisions and instrumentalities shall be reduced to one percent (1%) from and after July 1, 1983, through June 30, 1984, and shall be eliminated thereafter.

(e) Collection of contributions. The employer shall cause to be deducted on each and every payroll of a member for each and every payroll period, beginning subsequent to January 31, 1953, the contributions payable by such member as provided in Articles 1 and 3.

The employer shall make deductions from salaries of employees as provided in Articles 1 and 3 and shall transmit monthly, or at such time as the board of trustees shall designate, the amount specified to be deducted to the Executive Director of the Public
Employees' Retirement System. The executive director, after
making a record of all such receipts, shall deposit such amounts
as provided by law.

(f) Upon the basis of each actuarial valuation provided
herein, the board of trustees shall biennially determine the
normal contribution rate and the accrued liability contribution
rate as provided in this section. The sum of these two (2) rates
shall be known as the "employer's contribution rate." Beginning
on earned compensation effective January 1, 1990, the rate
computed as provided in this section shall be nine and
three-fourths percent (9-3/4%). The percentage rate of such
contributions shall be fixed biennially by the board on the basis
of the liabilities of the retirement system for the various
allowances and benefits as shown by actuarial valuation.

Notwithstanding any other provision of law, the county board of
education, the governing authorities of separate, consolidated, or
municipal school districts, and all other such boards set up by
law which handle and disburse school funds, shall pay from local
tax sources one and one-half percent (1-1/2%) of the total
employer's contribution rate of nine and three-fourths percent
(9-3/4%).

The amount payable by the employer on account of normal and
accrued liability contributions shall be determined by applying
the employer's contribution rate to the amount of compensation
earned by employees who are members of the system. Monthly, or at
such time as the board of trustees shall designate, each
department or agency shall compute the amount of the employer's
contribution payable, with respect to the salaries of its
employees who are members of the system, and shall cause that
amount to be paid to the board of trustees from the personal
service allotment of the amount appropriated for the operation of
the department or agency, or from funds otherwise available to the
agency, for the payment of salaries to its employees.
Once each year, under procedures established by the system, each employer shall submit to the Public Employees' Retirement System a copy of their report to Social Security of all employees' earnings.

The board shall provide by rules for the methods of collection of contributions of employers and members. The amounts determined due by an agency to the various funds as specified in Articles 1 and 3 are made obligations of the agency to the board and shall be paid as provided herein. Failure to deduct such contributions shall not relieve the employee and employer from liability thereof. Delinquent employee contributions and any accrued interest shall be the obligation of the employee and delinquent employer contributions and any accrued interest shall be the obligation of the employer. The employer may, in its discretion, elect to pay any or all of the interest on delinquent employee contributions. From and after July 1, 1996, under rules and regulations established by the board, all employers are authorized and shall transfer all funds due to the Public Employees' Retirement System electronically and shall transmit any wage or other reports by computerized reporting systems.

SECTION 2. Section 25-11-111, Mississippi Code of 1972, is amended as follows:

25-11-111. (a) Any member upon withdrawal from service upon or after attainment of the age of sixty (60) years who shall have completed at least four (4) years of creditable service, or any member upon withdrawal from service regardless of age who shall have completed at least twenty-five (25) years of creditable service, shall be entitled to receive a retirement allowance which shall begin on the first of the month following the date the member's application for the allowance is received by the board, but in no event before withdrawal from service.

(b) Any member whose withdrawal from service occurs prior to attaining the age of sixty (60) years who shall have completed...
four (4) or more years of creditable service and shall not have received a refund of his accumulated contributions shall be entitled to receive a retirement allowance, beginning upon his attaining the age of sixty (60) years, of the amount earned and accrued at the date of withdrawal from service.

(c) Any member in service who has qualified for retirement benefits may select any optional method of settlement of retirement benefits by notifying the Executive Director of the Board of Trustees of the Public Employees' Retirement System in writing, on a form prescribed by the board, of the option he has selected and by naming the beneficiary of such option and furnishing necessary proof of age. Such option, once selected, may be changed at any time prior to actual retirement or death, but upon the death or retirement of the member, the optional settlement shall be placed in effect upon proper notification to the executive director.

(d) The annual amount of the retirement allowance shall consist of:

(1) A member's annuity which shall be the actuarial equivalent of the accumulated contributions of the member at the time of retirement computed according to the actuarial table in use by the system; and

(2) An employer's annuity which, together with the member's annuity provided above, shall be equal to one and seven-eighths percent (1-7/8%) of the average compensation for each year of state service up to and including twenty-five (25) years of membership service, and two and one-fourth percent (2-1/4%) of the average compensation for each year of state service exceeding twenty-five (25) years of membership service. However, after the board of trustees has begun implementing the changes in the computation of the retirement allowance as provided in subsection (e), the employer's annuity shall be equal to:
(i) One and seven-eighths percent (1-7/8\%) of the average compensation for each year of membership service up to and including the number of years specified in Column A of the table in subsection (e) for the latest phase that has been implemented, and

(ii) Two percent (2\%) of the average compensation for each year of membership service exceeding the number of years specified in Column A of the table in subsection (e) for the latest phase that has been implemented up to and including twenty-five (25) years, and

(iii) The percentage of the average compensation specified in Column B of the table in subsection (e) for the latest phase that has been implemented for each year of membership service exceeding twenty-five (25) years.

(3) A prior service annuity equal to one and seven-eighths percent (1-7/8\%) of the average compensation for each year of state service up to and including twenty-five (25) years of prior service, and two and one-fourth percent (2-1/4\%) of the average compensation for each year of state service exceeding twenty-five (25) years of prior service for which the member is allowed credit. However, after the board of trustees has begun implementing the changes in the computation of the retirement allowance as provided in subsection (e), the prior service annuity shall be equal to:

(i) One and seven-eighths percent (1-7/8\%) of the average compensation for each year of prior service up to and including the number of years specified in Column A of the table in subsection (e) for the latest phase that has been implemented, and

(ii) Two percent (2\%) of the average compensation specified in Column A of the table in subsection (e) for the
latest phase that has been implemented up to and including twenty-five (25) years, and

(iii) The percentage of the average compensation specified in Column B of the table in subsection (e) for the latest phase that has been implemented for each year of prior service exceeding twenty-five (25) years.

(4) Any retired member or beneficiary thereof who was eligible to receive a retirement allowance before July 1, 1991, and who is still receiving a retirement allowance on July 1, 1992, shall receive an increase in the annual retirement allowance of the retired member equal to one-eighth of one percent (1/8 of 1%) of the average compensation for each year of state service in excess of twenty-five (25) years of membership service up to and including thirty (30) years. The maximum increase shall be five-eighths of one percent (5/8 of 1%). In no case shall a member who has been retired prior to July 1, 1987, receive less than Ten Dollars ($10.00) per month for each year of creditable service and proportionately for each quarter year thereof. Persons retired on or after July 1, 1987, shall receive at least Ten Dollars ($10.00) per month for each year of service and proportionately for each quarter year thereof reduced for the option selected. However, such Ten Dollars ($10.00) minimum per month for each year of creditable service shall not apply to a retirement allowance computed under Section 25-11-114 based on a percentage of the member's average compensation.

(5) The board shall recalculate the retirement allowance of any member or the beneficiary of such a member, if the member or beneficiary is eligible to receive a retirement allowance before July 1, 1999, by using the criteria in paragraphs (2) and (3) of this subsection (d) that provides for two and one-fourth percent (2-1/4%) of the average compensation for each year of service exceeding twenty-five (25) years.
(6) Any member upon withdrawal from service upon or after attaining the age of sixty (60) years who has completed at least four (4) years of creditable service, or any member upon withdrawal from service regardless of age who has completed at least twenty-five (25) years of creditable service, shall be entitled to receive a retirement allowance computed in accordance with the formula set forth in this section. Such retirement allowance otherwise payable may be converted into a retirement allowance of equivalent actuarial value in such an amount that, with the member's benefit under Title II of the federal Social Security Act, the member will receive, so far as possible, approximately the same amount annually before and after the earliest age at which the member becomes eligible to receive a social security benefit.

(e) Beginning on July 1, 2000, the board of trustees shall implement changes in the computation of the amount of the annual retirement allowance, which changes shall be implemented in phases as set forth in the table in this subsection. The board of trustees shall implement the phases systematically upon July 1 after the board's actuary certifies that implementation of a phase will not cause the unfunded accrued actuarial liability amortization period for the retirement system to exceed twenty-two (22) years. The board of trustees shall have the exclusive authority to set the assumptions that are used in the actuarial evaluation in accordance with Section 25-11-119(9). The board of trustees shall recalculate the retirement allowance of any retired member or beneficiary of such a member as each phase is implemented.

RETIREMENT ALLOWANCE COMPUTATION

IMPLEMENTATION TABLE

(A)  

(B)
### Column A

<table>
<thead>
<tr>
<th>Phase</th>
<th>Years</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phase 1</td>
<td>20 years</td>
<td>2.250%</td>
</tr>
<tr>
<td>Phase 2</td>
<td>15 years</td>
<td>2.250%</td>
</tr>
<tr>
<td>Phase 3</td>
<td>10 years</td>
<td>2.250%</td>
</tr>
<tr>
<td>Phase 4</td>
<td>5 years</td>
<td>2.250%</td>
</tr>
<tr>
<td>Phase 5</td>
<td>0 years</td>
<td>2.250%</td>
</tr>
<tr>
<td>Phase 6</td>
<td>0 years</td>
<td>2.375%</td>
</tr>
<tr>
<td>Phase 7</td>
<td>0 years</td>
<td>2.500%</td>
</tr>
</tbody>
</table>

Column A shows the years to which two percent (2%) is applicable in computing the retirement allowance, which are all the years of service exceeding the number specified in Column A for the phase that has been implemented up to and including twenty-five (25) years.

Column B shows the percentage that is applicable to the number of years of service exceeding twenty-five (25) years in computing the retirement allowance.

(f) If a member elected under Section 25-11-123(3) to increase his or her employee's contribution rate by five percent (5%), and the increased contribution rate was in effect for at least five (5) consecutive years, the member shall have the amount of his or her annual retirement allowance that is calculated under subsections (d) and (e) of this section increased by five percent (5%) at the time of his or her retirement. If a member elected under Section 25-11-123(3) to increase his or her employee's contribution rate by ten percent (10%), and the increased contribution rate was in effect for at least five (5) consecutive years, the member shall have the amount of his or her annual retirement allowance that is calculated under subsections (d) and (e) of this section increased by ten percent (10%) at the time of
The provisions of this subsection (f) are subject to the following:

(1) The increase in the amount of the annual retirement allowance provided for under this subsection shall not be made if the five (5) years during which the increased contribution rate was in effect were not consecutive years, or if the increased contribution rate was not the same rate during the five-year period.

(2) The increased contribution rates of five percent (5%) and ten percent (10%) cannot be combined, accumulated or averaged to further increase the amount of the member's annual retirement allowance above the amount provided for in this subsection. For example, if a member has an increased contribution rate of five percent (5%) in effect for fewer than five (5) years and then elects to use an increased contribution rate of ten percent (10%), the increased contribution rate of ten percent (10%) must be in effect for five (5) consecutive years in order for the member to receive a ten percent (10%) increase in the annual retirement allowance; the years during which the member had an increased contribution rate of five percent (5%) will not be combined, accumulated or averaged together with the years during which the member had an increased contribution rate of ten percent (10%).

(g) No member, except members excluded by the Age Discrimination in Employment Act Amendments of 1986 (Public Law 99-592), under either Article 1 or Article 3 in state service shall be required to retire because of age.

(h) No payment on account of any benefit granted under the provisions of this section shall become effective or begin to accrue until January 1, 1953.

(i) (1) A retiree or beneficiary may, on a form prescribed by and filed with the retirement system, irrevocably waive all or a portion of any benefits from the retirement system to which the
ST: Retirement; PERS members may increase employee’s contribution rate and receive higher benefits.

retiree or beneficiary is entitled. Such waiver shall be binding on the heirs and assigns of any retiree or beneficiary and the same must agree to forever hold harmless the Public Employees' Retirement System of Mississippi from any claim to such waived retirement benefits.

(2) Any waiver pursuant to this subsection shall apply only to the person executing the waiver. A beneficiary shall be entitled to benefits according to the option selected by the member at the time of retirement. However, a beneficiary may, at the option of the beneficiary, execute a waiver of benefits pursuant to this subsection.

(3) The retirement system shall retain in the annuity reserve account amounts that are not used to pay benefits because of a waiver executed under this subsection.

(4) The board of trustees may provide rules and regulations for the administration of waivers under this subsection.

SECTION 3. This act shall take effect and be in force from and after July 1, 2001.