MISSISSIPPI LEGISLATURE

By: Representative Guice

To: Appropriations

HOUSE BILL NO. 39

AN ACT TO CREATE NEW SECTIONS 25-11-501 THROUGH 25-11-517, MISSISSIPPI CODE OF 1972, TO ESTABLISH THE PUBLIC EMPLOYEES' SUPPLEMENTAL RETIREMENT PLAN TO PROVIDE MORE BENEFITS FOR MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO WISH TO MAKE ADDITIONAL CONTRIBUTIONS FOR THAT PURPOSE; TO PROVIDE THAT THE PLAN WILL BE UNDER THAT MANAGEMENT OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; TO PROVIDE THAT ANY ACTIVE MEMBER OF THE RETIREMENT SYSTEM WHO ELECTS TO PARTICIPATE IN THE PLAN WILL BE A MEMBER OF THE PLAN; TO AUTHORIZE PERSONS TO ELECT TO PARTICIPATE IN THE PLAN UPON THEIR ANNIVERSARY DATE OF MEMBERSHIP IN THE RETIREMENT SYSTEM; TO PROVIDE THAT AFTER A MEMBER HAS ELECTED TO PARTICIPATE IN THE PLAN, THE MEMBER MUST CONTINUE TO MAKE CONTRIBUTIONS TO THE PLAN FOR AS LONG AS HE OR SHE IS AN ACTIVE MEMBER OF THE RETIREMENT SYSTEM; TO PROVIDE THAT A PERSON MUST BE A MEMBER OF THE PLAN FOR AT LEAST THREE YEARS BEFORE HE OR SHE WILL BE ELIGIBLE FOR BENEFITS UNDER THE PLAN; TO PROVIDE THAT A MEMBER MUST BE RETIRED FOR SERVICE UNDER THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND MUST BE RECEIVING A RETIREMENT ALLOWANCE FROM THE RETIREMENT SYSTEM, IN ORDER TO RECEIVE BENEFITS UNDER THE PLAN; TO PROVIDE THAT A MEMBER WHO IS RETIRED FOR DISABILITY UNDER THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND IS RECEIVING A DISABILITY RETIREMENT ALLOWANCE FROM THE RETIREMENT SYSTEM IS NOT ELIGIBLE TO RECEIVE BENEFITS UNDER THE PLAN; TO PROVIDE THAT THE PLAN WILL BE FUNDED ONLY FROM EMPLOYEE CONTRIBUTIONS AND THERE WILL BE NO EMPLOYER CONTRIBUTIONS TO THE PLAN; TO PROVIDE THAT THE RETIREMENT ALLOWANCE FROM THE PLAN SHALL CONSIST OF 50% OF THE AMOUNT OF THE RETIREMENT ALLOWANCE THAT THE MEMBER WILL RECEIVE FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM, BASED ON ALL THE YEARS OF CREDITABLE SERVICE THAT THE MEMBER HAS WITH THE RETIREMENT SYSTEM, WHETHER THAT CREDITABLE SERVICE WAS EARNED BEFORE OR AFTER THE DATE OF MEMBERSHIP IN THE PLAN; TO AUTHORIZE A MEMBER TO BE PAID A REFUND OF THE AMOUNT OF HIS OR HER ACCUMULATED CONTRIBUTIONS TO THE PLAN IF THE MEMBER HAS WITHDRAWN FROM STATE SERVICE; TO SPECIFY THE POWERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM FOR THE ADMINISTRATION AND OPERATION OF THE PLAN; AND FOR RELATED PURPOSES.

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

SECTION 1. The following shall be codified as Section 25-11-501, Mississippi Code of 1972:

25-11-501. (1) There is established and placed under the management of the Board of Trustees of the Public Employees' Retirement System a supplemental retirement plan for the purpose of providing supplemental retirement allowances and other benefits under the provisions of this article for members of the Public...
Employees' Retirement System and their beneficiaries. The retirement plan shall be known as the Public Employees' Supplemental Retirement Plan. The retirement plan provided by this article shall go into operation on July 1, 2001, when contributions by members shall begin.

(2) The Public Employees' Supplemental Retirement Plan is designed to supplement and is in addition to the provisions of Section 25-11-1 et seq. Under the terms of this article, the members of the Public Employees' Retirement System shall retain all social security benefits under Article 1 and additional state retirement and disability benefits under Article 3 of the Public Employees' Retirement Law of 1952, as amended. This article is a supplement to those sections, and is designed to provide more benefits for members of the Public Employees' Retirement System who wish to make additional contributions for that purpose.

SECTION 2. The following shall be codified as Section 25-11-503, Mississippi Code of 1972:

25-11-503. For the purposes of this article, the definitions in Section 25-11-5 and Section 25-11-103 shall apply unless a different meaning is plainly expressed by the context.

SECTION 3. The following shall be codified as Section 25-11-505, Mississippi Code of 1972:

25-11-505. (1) Any active member of the Public Employees' Retirement System who elects to participate in the Public Employees' Supplemental Retirement Plan will be a member of the plan. A member may elect to participate in the plan during any year of his or her active membership in the Public Employees' Retirement System, upon application to the board of trustees on or within thirty (30) days after the member's anniversary date of membership in the retirement system. After a member has elected to participate in the plan, the member must continue to make contributions to the plan for as long as he or she is an active member of the Public Employees' Retirement System, unless the
member withdraws from the plan and withdraws his or her accumulated contributions to the plan.

(2) Membership in the plan shall cease by a member withdrawing his or her accumulated contributions to the plan, or by a member withdrawing from active service with a retirement allowance, or by death of the member.

(3) A person must be a member of the plan for at least three years before he or she will be eligible for benefits under the plan. To receive benefits under the plan, a member must be retired for service under the Public Employees' Retirement System and must be receiving a retirement allowance from the retirement system. A member who is retired for disability under the Public Employees' Retirement System and is receiving a disability retirement allowance from the retirement system is not eligible to receive benefits under the plan.

(4) No benefits under the plan shall accrue or otherwise be payable to any person who does not qualify for membership in the plan or does not otherwise meet the requirements of this section.

SECTION 4. The following shall be codified as Section 25-11-507, Mississippi Code of 1972:

25-11-507. (1) The Board of Trustees of the Public Employees' Retirement System shall act as custodian of the fund for members of the Public Employees' Supplemental Retirement Plan, and shall receive to the credit of that fund all donations, bequests, appropriations, and all funds available as employee's contributions to the fund.

(2) The employer of each member of the plan shall each month deduct from the compensation of the member the percentage of the compensation that is fixed by the board of trustees on the basis of the liabilities of the plan for the various allowances and benefits as shown by the actuarial valuation. The employer shall pay the amount so deducted to the board of trustees to be credited to the fund for the members. There shall be no employer
contributions to the fund. From the funds credited to this account, the board of trustees shall pay retirement allowances, survivors' benefits and expenses, and shall refund contributions as provided.

(3) The fund for the plan shall be maintained as a separate fund, separate from all other funds held by the board of trustees and shall be used only for the payment of benefits provided for by the plan, or amendments to the plan.

(4) The board of trustees is authorized to deduct two percent (2%) of all employee's contributions paid into the fund for members of the plan to be transferred to the expense fund of the Public Employees' Retirement System to defray the cost of administering this fund.

SECTION 5. The following shall be codified as Section 25-11-509, Mississippi Code of 1972:

25-11-509. (1) The retirement allowance from the Public Employees' Supplemental Retirement Plan shall consist of fifty percent (50%) of the amount of the retirement allowance that the member will receive from the Public Employees' Retirement System in accordance with Section 25-11-101 et seq. The calculation of the retirement allowance from the plan shall be based on all the years of creditable service that the member has with the retirement system, whether that creditable service was earned before or after the date of membership in the plan.

(2) The percentage of the retirement allowance as provided in this section shall be transferred from the annuity savings account of the member in the plan to the retirement account of the member in the Public Employees' Retirement System as provided.

SECTION 6. The following shall be codified as Section 25-11-511, Mississippi Code of 1972:

25-11-511. (1) A member may be paid a refund of the amount of accumulated contributions to the credit of the member in the annuity savings account, provided that the member has withdrawn...
from state service and has not returned to state service on the date the refund of the accumulated contributions would be paid. The refund of the contributions to the credit of the member in the annuity savings account shall be paid within ninety (90) days from receipt in the office of the retirement system of the properly completed form requesting the payment. If a member dies before retirement and the member's spouse and/or children are not entitled to a retirement allowance, the accumulated contributions to the credit of the deceased member in the annuity savings account shall be paid to the designated beneficiary on file in writing in the office of the executive director of the board of trustees within ninety (90) days from receipt of a properly completed form requesting the payment. If there is no such designated beneficiary on file for the deceased member in the office of the system, upon the filing of a proper request with the board of trustees, the contributions to the credit of the deceased member in the annuity savings account shall be refunded in accordance with Section 25-11-311.1(1). The payment of the refund shall discharge all obligations of the retirement system to the member on account of any creditable service rendered by the member before the receipt of the refund. By the acceptance of the refund, the member shall waive and relinquish all accrued rights in the plan.

(2) Under the Unemployment Compensation Amendments of 1992 (Public Law 102-318 (UCA)), a member or eligible beneficiary making application for a refund under this section may elect, on a form prescribed by the board of trustees under rules and regulations established by the board, to have an eligible rollover distribution of accumulated contributions payable under this section paid directly to an eligible retirement plan or individual retirement account. If the member or eligible beneficiary makes that election and specifies the eligible retirement plan or individual retirement account to which the distribution is to be
paid, the distribution will be made in the form of a direct 
trustee-to-trustee transfer to the specified eligible retirement 
plan. Flexible rollovers under this subsection shall not be 
considered assignments under Section 25-11-129.

(3) If any person who has received a refund reenters state 
service and again becomes a member of the plan, the member may 
repay all or part of the amounts previously received as a refund, 
together with regular interest covering the period from the date 
of refund to the date of repayment; however, the amounts that are 
repaid by the member and the creditable service related thereto 
shall not be used in any benefit calculation or determination 
until the member has remained a contributor to the retirement 
system and the plan for a period of at least four (4) years after 
the member's reentry into state service. Repayment for that time 
shall be made in increments of not less than one-quarter (1/4) 
year of creditable service beginning with the most recent service 
for which refund has been made. Upon the repayment of all or part 
of the refund and interest, the member shall again receive credit 
for the period of creditable service for which full repayment has 
been made to the system.

SECTION 7. The following shall be codified as Section 
25-11-511.1, Mississippi Code of 1972:

25-11-511.1. (1) Except as provided in subsection (2) of 
this section, where benefits are payable to a designated 
beneficiary or beneficiaries and the designated beneficiary or 
beneficiaries as provided by the member on the most recent form 
filed with the system are deceased or otherwise disqualified at 
the time the benefits become payable, the following persons, in 
descending order of precedence, shall be eligible to receive the 
benefits:

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

(b) The children of the member or retiree or their 
descendants, per stirpes;
(c) The brothers and sisters of the member or retiree or their descendants, per stirpes;
(d) The parents of the member or retiree;
(e) The executor or administrator on behalf of the member or retiree's estate;
(f) The persons entitled by law to distribution of the member or retiree's estate.

(2) Any monthly benefits payable to a beneficiary who dies before cashing his or her final check(s) shall be paid as follows:
(a) The surviving spouse of the beneficiary;
(b) The children of the beneficiary or their descendants, per stirpes;
(c) The brothers and sisters of the beneficiary or their descendants, per stirpes;
(d) The parents of the beneficiary;
(e) The executor or administrator on behalf of the beneficiary's estate;
(f) The persons entitled by law to distribution of the beneficiary's estate.

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

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

SECTION 8. The following shall be codified as Section 25-11-512, Mississippi Code of 1972:

25-11-512. Subject to the rules adopted by the board of trustees, the Public Employees' Supplemental Retirement Plan shall accept an eligible rollover distribution or a direct transfer of
funds from another qualified plan in payment of all or a portion of the cost to reinstate previously withdrawn service credit as permitted by the plan. The plan may only accept rollover payments in an amount equal to or less than the balance due for reinstatement of service credit. The rules adopted by the board of trustees shall condition the acceptance of a rollover or transfer from another qualified plan on the receipt from the other plan of information necessary to enable the plan to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

SECTION 9. The following shall be codified as Section 25-11-513, Mississippi Code of 1972:

25-11-513. The employer shall pick up the member contributions required by this article for all compensation earned on and after a person becomes a member of the Public Employees' Supplemental Retirement Plan, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and the Mississippi Income Tax Code. However, the employer shall continue to withhold federal and state income taxes based upon those contributions until the Internal Revenue Service or the federal courts rule that, under Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the member until such time as they are distributed or made available. The employer shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The employer may pick up these contributions by a reduction in the cash salary of the member, or by offset against future salary increase, or by a combination of a reduction in salary and offset against future salary increase. If member contributions are picked up, they shall be treated for all purposes of the plan in the same manner and to the same extent as member contributions made before the date picked up.
SECTION 10. The following shall be codified as Section 25-11-515, Mississippi Code of 1972:

25-11-515. (1) The general administration and responsibility for the proper operation of the Public Employees' Supplemental Retirement Plan and for making effective the provisions of this article are vested in the Board of Trustees of the Public Employees' Retirement System.

(2) The board of trustees shall invest all funds in accordance with Section 25-11-121.

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

(4) At least once in each two-year period following the date of establishment, the actuary shall make an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries of the plan and shall make a valuation of the contingent assets and liabilities of the plan.

(5) On the basis of regular interest and tables last adopted by the board of trustees, the actuary shall make biennial valuation of the contingent assets and liabilities of the plan.

(6) The board of trustees shall keep such data as shall be necessary for the actuarial valuation of the contingent assets and liabilities of the plan and for checking the experience of the plan.

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

(8) Subject to the limitations of this article, the board of trustees from time to time shall establish rules and regulations...
for the administration of the plan and for the transaction of
business.

(9) The board of trustees shall keep a record of all its
proceedings under this article which shall be open to public
inspection, except for individual member records. The retirement
system shall not disclose the name, address or contents of any
individual member records without the prior written consent of the
individual to whom the record pertains.

(10) The Executive Director of the Public Employees'
Retirement System shall serve as the executive director of the
plan.

SECTION 11. The following shall be codified as Section
25-11-517, Mississippi Code of 1972:

25-11-517. The right of a person to an annuity, a retirement
allowance or benefit, or to the return of contributions, or to any
optional benefit or any other right accrued or accruing to any
person under the provisions of the Public Employees' Supplemental
Retirement Plan, and the monies in the plan created by this
article, are exempt from any state or municipal tax, and exempt
from levy and sale, garnishment, attachment or any other process
whatsoever, and shall be unassignable except as specifically
otherwise provided in this article.

SECTION 12. Sections 1 through 11 of this act shall be
codified as a new Article 13 of Chapter 11, Title 25, Mississippi

SECTION 13. This act shall take effect and be in force from
and after July 1, 2001.