To: Local and Private Legislation

MISSISSIPPI LEGISLATURE REGULAR SESSION 2001
By: Representatives Creel, Janus

HOUSE BILL NO. 639

1 AN ACT TO AMEND SECTIONS 2, 3 AND 4 OF CHAPTER 931, LOCAL AND
PRIVATE LAWS OF 1993, AS LAST AMENDED BY CHAPTER 988, LOCAL AND
PRIVATE LAWS OF 1996, TO AUTHORIZE THE GOVERNING AUTHORITIES OF
THE CITY OF BILOXI TO PROVIDE FOR ANNUAL COST-OF-LIVING INCREASES
FOR CURRENT AND FUTURE RETIRED MEMBERS OF THE BILOXI DISABILITY
AND RELIEF FUND FOR FIREMEN AND POLICEMEN, AND BENEFICIARIES
THEREOF, IN AN AMOUNT EQUAL TO THREE PERCENT OF THE ANNUAL
RETIREMENT ALLOWANCE; TO PROVIDE THAT MEMBERS OF THE DISABILITY
AND RELIEF FUND WHO RETIRED BEFORE JULY 1, 2000, WILL ALSO RECEIVE
A THREE PERCENT COST-OF-LIVING INCREASE FOR THE 2000-2001 FISCAL
YEAR; TO PROVIDE THAT THE COST-OF-LIVING INCREASES SHALL BE PAID
IN ONE ADDITIONAL ANNUAL PAYMENT OR IN 12 EQUAL MONTHLY
INSTALLMENTS, AS ELECTED BY THE RETIREE; TO PROVIDE THAT THE
MAXIMUM CUMULATIVE PERCENTAGE OF ALL ANNUAL COST-OF-LIVING
INCREASES RECEIVED UNDER THIS ACT SHALL NOT EXCEED 30% OF THE
ANNUAL RETIREMENT ALLOWANCE, UNLESS THE GOVERNING AUTHORITIES
AUTHORIZE THE PAYMENT OF ADDITIONAL ANNUAL COST-OF-LIVING
INCREASES ABOVE 30% AND CERTAIN CONDITIONS ARE MET; TO PROVIDE
THAT THE COST-OF-LIVING INCREASES AUTHORIZED UNDER THIS ACT SHALL
BE SUSPENDED IF THE PUBLIC EMPLOYEES’ RETIREMENT SYSTEM AT ANY
TIME DETERMINES THAT CONTINUING THE PAYMENT OF THE COST-OF-LIVING
INCREASES WOULD MAKE THE DISABILITY AND RELIEF FUND ACTUARially
UNSOUND; TO PROVIDE THAT THE COST-OF-LIVING INCREASES AUTHORIZED
UNDER THIS ACT SHALL NOT BE IMPLEMENTED UNLESS THE DISABILITY AND
RELIEF FUND CURRENTLY IS ACTUARially SOUND AND WILL REMAIN
ACTUARially SOUND IF THE COST-OF-LIVING INCREASES ARE MADE; TO
PROVIDE THAT IF THE COST-OF-LIVING INCREASES AUTHORIZED UNDER THIS
ACT WOULD MAKE THE DISABILITY AND RELIEF FUND ACTUARially UNSOUND,
THE GOVERNING AUTHORITIES ARE AUTHORIZED TO PROVIDE FOR A REDUCED
VERSION OF THE COST-OF-LIVING INCREASES THAT WOULD LEAVE THE FUND
ACTUARially SOUND; TO AUTHORIZE THE GOVERNING AUTHORITIES TO USE
ANY AVAILABLE FUNDS TO SUPPLEMENT THE DISABILITY AND RELIEF FUND
TO MAKE IT ACTUARially SOUND; AND FOR RELATED PURPOSES.

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

SECTION 1. Sections 2, 3 and 4 of Chapter 931, Local and
Private Laws of 1993, as amended by Chapter 979, Local and Private
Laws of 1995, as amended by Chapter 988, Local and Private Laws of
1996, are amended as follows:

Section 1. (1) Subject to the provisions of Section 3, the
governing authorities of the City of Biloxi, Mississippi, in their
discretion, are authorized to take any of the following actions:
(a) Establish an additional payment for each retired member and beneficiary of the Biloxi Disability and Relief Fund for Firemen and Policemen who is now or hereafter entitled to receive benefits under any provision of Section 21-29-101, Mississippi Code of 1972. The amount of the additional payment shall be equal to the annual percentage change in the Consumer Price Index set by the United States government, not to exceed three percent (3%) per annum, and shall be computed based upon the amount of the benefits received by the members and beneficiaries in the fiscal year of the disability and relief fund before the effective date of the resolution of the governing authorities of the city establishing the additional payments.

(b) Provide that the additional payments authorized in paragraph (a) shall be either automatically made each year, made for a specified number of years, or authorized on an annual basis by the governing authorities of the city.

(c) Provide that the additional payments authorized in paragraph (a) shall cease or shall not be made for any subsequent fiscal year, regardless of whether a prior action of the governing authorities of the city called for the payments to be made automatically or without additional authorization by the governing authorities.

(d) Provide that if the governing authorities of the city choose to reinstate the additional payments authorized in paragraph (a) after ceasing them for a period of time, the percentage increase shall not be compounded during the interim period unless specifically directed by the governing authorities.

(e) Provide that the additional payments authorized by paragraph (a) may be based upon a percentage specified by the governing authorities of the city, regardless of the maximum percentage allowed in paragraph (a), if the governing authorities also transfer sufficient monies to the Public Employees'
Retirement System to fund the increase at the specified percentage.

(f) Provide that the additional payments authorized in paragraph (a) shall automatically cease if continuing the additional payments could make the disability and relief fund actuarially unsound; however, before ceasing the payments, the Board of Trustees of the Public Employees' Retirement System shall notify the governing authorities of the city and give them the opportunity to transfer sufficient funds, if the governing authorities choose to do so, to make the additional payments while keeping the disability and relief fund actuarially sound.

(g) Use funds from any available source to supplement the disability and relief fund to make the fund actuarially sound, and transfer those funds to the Board of Trustees of the Public Employees' Retirement System for that purpose.

(2) After the governing authorities of the city * * * have adopted a resolution to establish the additional payments authorized under subsection (1) of this section and the advisory board provided for in Section 21-29-105, Mississippi Code of 1972, has adopted a resolution supporting the establishment of the additional payments, and after the Board of Trustees of the Public Employees' Retirement System has received these resolutions and received the most recent actuarial study of the disability and relief fund and the certified statement from the actuarial firm, pursuant to Section 3 * * *, that the fund will remain actuarially sound if the additional payments are made, then the board of trustees shall make the payments to the persons authorized and entitled to receive the payments.

(3) Persons eligible to receive the payments authorized under this section shall receive such payments in one (1) additional payment, except that such person may elect by an irrevocable agreement on a form prescribed by the Board of Trustees of the Public Employees' Retirement System to receive
such payments in not less than equal monthly installments not to exceed six (6) months during the remaining months of the current fiscal year. In the event of death of a person or a beneficiary thereof receiving monthly benefits, any remaining amounts shall be paid in a lump sum to the estate of the retired member or beneficiary.

(4) After the effective date of House Bill No. , 2001 Regular Session, all new cost-of-living increases for retirees of the Biloxi Disability and Relief Fund for Firemen and Policemen and beneficiaries thereof shall be made under Section 6 and not under this section. All cost-of-living increases previously made under this section shall continue to be paid each year, but no new or additional cost-of-living increases shall be made under this section after the effective date of House Bill No. , 2001 Regular Session.

Section 2. (1) Subject to the provisions of Section 3 , the governing authorities of the City of Biloxi, Mississippi, are authorized, in their discretion, to provide for the payment of minimum monthly benefits in any amount determined by the governing authorities to all persons now or hereafter entitled to receive benefits under any provision of Section 21-29-101 et seq., Mississippi Code of 1972.

(2) After the governing authorities of the city have adopted a resolution to establish the minimum monthly benefits authorized under subsection (1) of this section, specifying the amount of the minimum monthly benefits in the resolution, and the advisory board provided for in Section 21-29-105, Mississippi Code of 1972, has adopted a resolution supporting the payment of the specified amount of the minimum monthly benefits, and after the Board of Trustees of the Public Employees' Retirement System has received these resolutions and received the most recent actuarial study of the disability and relief fund and the certified statement from the actuarial firm, pursuant to Section 3 ,
that the fund will remain actuarially sound if the minimum monthly
benefits are paid, then the board of trustees shall pay those
benefits to the persons authorized and entitled to receive the
payments.

Section 3. Payment of the additional payments authorized
under Section 1 ** * * or the minimum monthly benefits authorized
under Section 2 ** *, or both, shall not be established unless
the Biloxi Disability and Relief Fund for Firemen and Policemen is
actuarially sound, as shown by the most recent actuarial study
required by Section 21-29-119, Mississippi Code of 1972, and the
fund will remain actuarially sound if the additional payments
authorized under Section 1 ** * * or the minimum monthly benefits
authorized under Section 2 ** *, or both, are made, as shown by a
certified statement from the actuarial firm that prepared the most
recent actuarial study.

Section 4. (1) Subject to the provisions of subsection (2)
of this section, the governing authorities of the City of Biloxi,
Mississippi, in their discretion, are authorized to provide that
members of the Biloxi Disability and Relief Fund for Firemen and
Policemen under the provisions of Section 21-29-101 et seq.,
Mississippi Code of 1972, who retire after April 7, 1995, shall
receive creditable service in the fund at the time of retirement
for lawfully credited unused, uncompensated annual leave and sick
leave earned under the vacation and sick leave policies of the
city, in amounts equal to the amounts authorized for members of
the Public Employees' Retirement System.

(2) Creditable service for unused, uncompensated leave as
authorized under subsection (1) of this section shall not be
provided unless the Biloxi Disability and Relief Fund for Firemen
and Policemen is actuarially sound, as shown by the most recent
actuarial study required by Section 21-29-119, Mississippi Code of
1972, and the fund will remain actuarially sound if creditable
service for unused, uncompensated leave as authorized under
subsection (1) of this section is provided, as shown by a certified statement from the actuarial firm that prepared the most recent actuarial study.

(3) After the governing authorities of the city have adopted a resolution to provide creditable service for unused, uncompensated leave as authorized under subsection (1) of this section and the advisory board provided for in Section 21-29-105, Mississippi Code of 1972, has adopted a resolution supporting the providing of creditable service for unused, uncompensated leave, and after the Board of Trustees of the Public Employees' Retirement System has received these resolutions and received the most recent actuarial study of the disability and relief fund and the certified statement from the actuarial firm that the fund will remain actuarially sound if creditable service for unused, uncompensated leave is provided, then the board of trustees shall provide creditable service for unused, uncompensated leave to members of the disability and relief fund at the time of retirement in accordance with subsection (1) of this section, and such creditable service shall be used in calculating the members' retirement benefits under Section 21-29-101 et seq., Mississippi Code of 1972.

(4) Except to limit creditable service reported to the disability and relief fund for the purpose of computing a member's retirement benefits provided under Section 21-29-101 et seq., Mississippi Code of 1972, nothing in this section shall limit or otherwise restrict the power of the governing authorities of the city to adopt such vacation and sick leave policies as they deem necessary.

Section 5. (1) Subject to the provisions of subsection (2) of this section, the governing authorities of the City of Biloxi, Mississippi, in their discretion, are authorized to provide that for the purpose of computing retirement benefits of members of the Biloxi Disability and Relief Fund for Firemen and Policemen under...
the provisions of Section 21-29-101 et seq., Mississippi Code of 1972, who retire after April 11, 1996, earned compensation may include all or a portion of any payment made to a member upon termination of employment for up to thirty (30) days of unused, accumulated personal leave.

(2) The inclusion within earned compensation of those payments as provided in subsection (1) of this section shall not be authorized by the governing authorities unless the disability and relief fund is actuarially sound, as shown by the most recent actuarial study required by Section 21-29-119, Mississippi Code of 1972, and the disability and relief fund will remain actuarially sound if the inclusion of such payments is authorized, as shown by a certified statement from the actuarial firm that prepared the most recent actuarial study.

(3) After the governing authorities of the city have adopted a resolution to include within earned compensation payments as provided under subsection (1) of this section, and after the Board of Trustees of the Public Employees' Retirement System has received the most recent actuarial study of the disability and relief fund and the certified statement from the actuarial firm that the disability and relief fund will remain actuarially sound if the inclusion of such payments is authorized, then the board of trustees may include such payments within the earned compensation of members at the time of retirement, in accordance with subsection (1) of this section, when calculating the members' retirement benefits under the provisions of Section 21-29-101 et seq., Mississippi Code of 1972.

(4) Nothing in this section shall limit or otherwise restrict the power of the governing authorities of the city to adopt such vacation and sick leave policies as they deem necessary.

Section 6. (1) Subject to the provisions of subsection (2) of this section, the governing authorities of the City of Biloxi,
Mississippi, in their discretion, are authorized to provide for
cost-of-living increases for each retired member of the Biloxi
Disability and Relief Fund for Firemen and Policemen, or any
beneficiary thereof, who is now or hereafter entitled to receive a
retirement allowance under any provision of Section 21-29-101 et
seq., Mississippi Code of 1972, in accordance with the following
provisions:

(a) Any person who is receiving a retirement allowance
on the effective date of House Bill No. , 2001 Regular
Session, and who was receiving a retirement allowance on May 1,
2000, shall receive a cost-of-living increase on December 1, 2001,
or on July 1, 2001, as provided in paragraph (d) of this
subsection, in an amount equal to six percent (6%) of the annual
retirement allowance. In subsequent years, in addition to and
cumulative to the cost-of-living increase received in the year
2001, any such person or beneficiary thereof shall receive a
cost-of-living increase on December 1 or July 1 of the year, as
provided in paragraph (d) of this subsection, in an amount equal
to three percent (3%) of the annual retirement allowance for each
full fiscal year in retirement after June 30, 2001. The
cost-of-living increases provided for under this paragraph (a)
shall be in addition to and cumulative to any cost-of-living
increases previously received under the provisions of Section 1.

(b) Any person who retires on or after May 1, 2000, or
any beneficiary thereof, who has received a monthly retirement
allowance for at least one (1) full fiscal year after June 30,
2000, shall receive a cost-of-living increase on December 1 or
July 1 of the year, as provided in paragraph (d) of this section,
in an amount equal to three percent (3%) of the annual retirement
allowance for each full fiscal year in retirement.
(c) Notwithstanding the provisions of paragraph (b) of this subsection, any person who retired under the Biloxi Disability and Relief Fund for Firemen and Policemen before May 1, 2000, and later was reemployed by the City of Biloxi or employed by any other municipality or other governmental entity in a position that caused the person to stop receiving a retirement allowance from the disability and relief fund during the person's period of reemployment or subsequent employment, who retires from his or her reemployment or subsequent employment on or after January 1, 2001, and is again receiving a retirement allowance from the disability and relief fund, shall begin receiving the cost-of-living increases authorized under this section in the year that the person retires from his or her reemployment or subsequent employment, if more than one (1) full fiscal year has passed since the person's initial retirement from the City of Biloxi. In the year that the person retires from his or her reemployment or subsequent employment, the person or beneficiary thereof shall receive a cost-of-living increase on December 1 or July 1 of the year, as provided in paragraph (d) of this subsection, in an amount equal to three percent (3%) of the annual retirement allowance. In subsequent years, in addition to and cumulative to the cost-of-living increase received in the year of retirement, any such person or beneficiary thereof shall receive a cost-of-living increase on December 1 or July 1 of the year, as provided in paragraph (d) of this subsection, in an amount equal to three percent (3%) of the annual retirement allowance for each full fiscal year after June 30 of the year of retirement.

(d) The cost-of-living increases authorized under this section shall be paid in one (1) payment in December of each year to any person who is receiving a retirement allowance on December 1 of that year, unless an election is made as follows: Any person or beneficiary thereof who is receiving a retirement allowance on July 1, 2001, or July 1 of any fiscal year thereafter, may elect
by an irrevocable agreement in writing filed in the office of the
Public Employees' Retirement System not less than thirty (30) days
before July 1 of the appropriate year, to begin receiving the
cost-of-living increases authorized under this section in twelve
(12) equal monthly installments beginning July 1, 2001, or July 1
of any fiscal year thereafter. This irrevocable agreement shall
be binding on the retiree and subsequent beneficiaries. Payment
of those monthly installments shall not extend beyond the month in
which a retirement allowance is due and payable. If a person who
is receiving a retirement allowance that will terminate upon the
person's death is receiving the cost-of-living increases in one
(1) payment and dies on or after July 1 but before December 1, the
beneficiary or estate of the person shall receive in a single
payment a fractional part of the cost-of-living increase based on
the number of months in which a retirement allowance was received
during the fiscal year.

(e) Except as otherwise provided in paragraph (f) of
this subsection, the maximum cumulative percentage of all annual
cost-of-living increases received by a retiree or beneficiary
thereof under this section shall not exceed thirty percent (30%)
of the annual retirement allowance. Any cost-of-living increases
previously received by a retiree or beneficiary thereof under the
provisions of Section 1 shall not be included in determining when
the cumulative percentage of the cost-of-living increases received
under this section has reached thirty percent (30%). After the
cumulative percentage of the cost-of-living increases received by
a retiree or beneficiary thereof under this section has reached
thirty percent (30%), the retiree or beneficiary thereof shall
continue to receive the cost-of-living payments each year in an
amount equal to thirty percent (30%) of the annual retirement
allowance for as long as the retiree or beneficiary thereof is
entitled to receive a retirement allowance, unless additional
annual cost-of-living increases are authorized under paragraph (f)
of this subsection or cost-of-living increases are suspended under paragraph (g) of this subsection.

(f) Notwithstanding the provisions of paragraph (e) of this subsection, the governing authorities of the city, by resolution adopted by the city council, may authorize the payment of additional annual cost-of-living increases after the cumulative percentage of the cost-of-living increases received by a retiree or beneficiary thereof under this section has reached thirty percent (30%), if the governing authorities have examined the actual impact of inflation upon the retirement and cost-of-living benefits being paid at that time, examined the effect of paying additional annual cost-of-living increases on the actuarial soundness of the disability and relief fund, and determined that municipal finances will permit the payment of additional annual cost-of-living increases above a cumulative percentage of thirty percent (30%). In addition, any payment of additional annual cost-of-living increases after the cumulative percentage has reached thirty percent (30%) shall be subject to subsection (2) of this section and paragraph (g) of this subsection.

(g) The cost-of-living increases authorized under this section shall be suspended, either in whole or in part as determined to be necessary by the governing authorities of the city and the Board of Trustees of the Public Employees' Retirement System, if the board of trustees at any time determines that continuing the payment of the cost-of-living increases would make the disability and relief fund actuarially unsound; however, before suspending the cost-of-living increases, the board of trustees shall notify the governing authorities of the city and give them the opportunity to transfer sufficient funds, if the governing authorities choose to do so, to make the cost-of-living increases while keeping the disability and relief fund actuarially sound.
(2) (a) The cost-of-living increases authorized under this section shall not be implemented unless the Biloxi Disability and Relief Fund for Firemen and Policemen is actuarially sound, as shown by the most recent actuarial study required by Section 21-29-119, Mississippi Code of 1972, and the fund will remain actuarially sound if the cost-of-living increases authorized under this section are made, as shown by a certified statement from the actuarial firm that prepared the most recent actuarial study.

(b) After the governing authorities of the city have adopted a resolution to establish the cost-of-living increases authorized under this section and the advisory board provided for in Section 21-29-105, Mississippi Code of 1972, has adopted a resolution supporting the cost-of-living increases, and after the Board of Trustees of the Public Employees' Retirement System has received these resolutions and received the most recent actuarial study of the disability and relief fund and the certified statement from the actuarial firm, under paragraph (a) of this subsection, that the fund will remain actuarially sound if the cost-of-living increases are made, then the board of trustees shall make the cost-of-living increases to the persons authorized and entitled to receive the cost-of-living increases.

(c) If the certified statement of the actuary under paragraph (a) of this subsection concludes that the cost-of-living increases authorized under this section cannot be implemented because they would make the disability and relief fund actuarially unsound, then the governing authorities of the city are authorized to provide for a reduced version of the cost-of-living increases authorized under this section that would leave the disability and relief fund actuarially sound, as determined by a certified statement of the actuary.

(3) After the effective date of House Bill No. 639, 2001 Regular Session, all new cost-of-living increases for retirees of the Biloxi Disability and Relief Fund for Firemen and Policemen...
and beneficiaries thereof shall be made under this section and not
under Section 1. All cost-of-living increases previously made
under Section 1 shall continue to be paid each year, but no new or
additional cost-of-living increases shall be made under Section 1
after the effective date of House Bill No. , 2001 Regular
Session.

Section 7. The governing authorities of the City of Biloxi,
Mississippi, in their discretion, are authorized to use funds from
any available source to supplement the Biloxi Disability and
Relief Fund for Firemen and Policemen to make the fund actuarially
sound, and transfer those funds to the Board of Trustees of the
Public Employees' Retirement System for that purpose.

Section 8. The provisions of this act are supplemental to
the provisions of Section 21-29-101 et seq., Mississippi Code of
1972, and if there is any conflict between the provisions of this
act and any provision of Section 21-29-101 et seq., Mississippi
Code of 1972, the provisions of this act shall control.

SECTION 2. This act shall take effect and be in force from
and after its passage.