MISSISSIPPI LEGISLATURE  
REGULAR SESSION 2001  

By: Representatives Barnett (116th), Creel, Janus, Simpson  

To: Local and Private Legislation  

HOUSE BILL NO. 1554  


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

SECTION 1. Chapter 435, Local and Private Laws of 1944, as amended by Chapter 573, Local and Private Laws of 1954, as amended by Chapter 96, Local and Private Laws of the Extraordinary Session of 1954, as amended by Chapter 945, Local and Private Laws of...

Section 1. As used in this act:

(a) "City" means the City of Biloxi, Mississippi.

(b) "Board" means the Board of Trustees of the Public Employees' Retirement System.

(c) "Retirement system" means the General Municipal Employees' Retirement System of the city.

(d) "Member" means a member of the retirement system.

The words and phrases defined in Section 21-29-3, Mississippi Code of 1972, when used in this act, shall have the meanings ascribed to them in that section unless a different meaning is plainly required by the context.

Section 2. The retirement system shall operate and be administered pursuant to provisions of the general law governing general municipal employees' retirement systems, being Section 21-29-1 et seq., Mississippi Code of 1972, except that where provisions of this act conflict with the general law, this act shall prevail.

Section 3. Upon the retirement from service of any member, the board shall order the payment of a monthly sum to such retired member in an amount equal to fifty percent (50%) of the average monthly salary or compensation received by such member in the six-month period next before the filing of application for such retirement or the minimum monthly benefits authorized in
accordance with Section 7, whichever is greater, and such payments shall thereafter be made to such retired member for life.

Section 4. Present members who have five (5) years or more of service may be entitled to draw benefits upon the completion of twenty (20) years' active service. Members having less than five (5) years' service at this time, although completing twenty (20) years' service, cannot draw retirement benefits until they reach the age of fifty-five (55) years.

Section 5. A member with not less than ten (10) years' service who may be discharged or may voluntarily resign may waive the return of his contributions and at a time prior to April 18, 1974, elect in lieu thereof to receive an annual pension, beginning at the age of fifty-five (55) years, equal to one-fortieth (1/40) of his average final compensation multiplied by the number of years of service; provided, however, in no case shall such pension be more than fifty percent (50%) of the average final compensation of such member. From and after April 18, 1974, the option to elect to receive an annual pension under the provision of this paragraph shall not be available.

For any person who resigned from the employment of the city before July 9, 1983, and to whom the Disability and Relief Fund Board for the city approved the payment of forty percent (40%) of such person's average monthly compensation upon such person reaching the age of fifty-five (55) years, the board may pay the amount of such agreed upon retirement benefits. Such benefits shall be retroactive and will be payable back to the date the person reached the age of fifty-five (55) years. Before the board may make any payments under this paragraph, the board must receive from the city funds necessary to make the payments authorized under this paragraph.

Upon retirement from service on disability, the member shall receive a minimum payment equal to the greatest of the following:

One Hundred Dollars ($100.00) per month; one-fortieth (1/40) of...
the final annual compensation multiplied by the number of years of
actual service; or the minimum monthly benefits authorized
pursuant to Section 7.

Section 6. (1) Subject to the provisions of Section 8, the
governing authorities of the city, 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 retirement system who is now or
hereafter entitled to receive benefits under any provision of
Section 21-29-1 et seq., Mississippi Code of 1972, or Sections 3
through 5. 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 retirement system 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 retirement system 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 retirement system actuarially sound.

(g) Use funds from any available source to supplement the retirement system to make the system 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 after the board has received the most recent actuarial study of the retirement system and the certified statement from the actuarial firm, pursuant to Section 8, that the retirement system will remain actuarially sound if the additional payments are made, then the board shall make the additional 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 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. 1554, 2001 Regular Session, all new cost-of-living increases for retirees of the retirement system and beneficiaries thereof shall be made under Section 11 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. 1554, 2001 Regular Session.

Section 7. (1) Subject to the provisions of Section 8, the governing authorities of the city 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 21-29-1 et seq., Mississippi Code of 1972, or Sections 3 through 5.

(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 after the board has received the most recent actuarial study of the retirement system and the certified statement from the actuarial firm, pursuant to Section 8, that the retirement system will remain actuarially sound if the minimum monthly benefits are paid, then the board shall pay those benefits to the persons authorized and entitled to receive the payments.

Section 8. Payment of the additional payments authorized under Section 6 or the minimum monthly benefits authorized under
Section 7, or both, shall not be established unless the retirement system is actuarially sound, as shown by the most recent actuarial study required by Section 21-29-27, Mississippi Code of 1972, and the retirement system will remain actuarially sound if the additional payments authorized under Section 6 or the minimum monthly benefits authorized under Section 7, or both, are made, as shown by a certified statement from the actuarial firm that prepared the most recent actuarial study.

Section 9. (1) Subject to the provisions of subsection (2) of this section, the governing authorities of the city, in their discretion, are authorized to provide that members of the retirement system under the provisions of Section 21-29-1 et seq., Mississippi Code of 1972, and Sections 3 through 5 who retire after April 7, 1995, shall receive creditable service in the retirement system 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 retirement system is actuarially sound, as shown by the most recent actuarial study required by Section 21-29-27, Mississippi Code of 1972, and the retirement system 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 after the board has received the most recent actuarial study of the retirement system and the certified
statement from the actuarial firm that the retirement system will remain actuarially sound if creditable service for unused, uncompensated leave is provided, then the board shall provide creditable service for unused, uncompensated leave to members of the retirement system 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 21-29-1 et seq., Mississippi Code of 1972, and Sections 3 through 5.

(4) Except to limit creditable service reported to the retirement system for the purpose of computing a member's retirement benefits provided under Section 21-29-1 et seq., Mississippi Code of 1972, and Sections 3 through 5, 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 10. (1) Subject to the provisions of subsection (2) of this section, the governing authorities of the city, in their discretion, are authorized to provide that for the purpose of computing the retirement benefits of members of the retirement system under the provisions of Section 21-29-1 et seq., Mississippi Code of 1972, and Sections 3 through 5 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 retirement system is actuarially sound, as shown by the most recent actuarial study required by Section 21-29-27, Mississippi Code of 1972, and the retirement system will remain actuarially sound if the inclusion of such payments is authorized, as shown by a certified
(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 has received the most recent actuarial study of the retirement system and the certified statement from the actuarial firm that the retirement system will remain actuarially sound if the inclusion of such payments is authorized, then the board 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 Section 21-29-1 et seq., Mississippi Code of 1972, and Sections 3 through 5.

(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 11. (1) Subject to the provisions of subsection (2) of this section, the governing authorities of the city, in their discretion, are authorized to provide for cost-of-living increases for each retired member of the retirement system, or any beneficiary thereof, who is now or hereafter entitled to receive a retirement allowance under any provision of Section 21-29-1 et seq., Mississippi Code of 1972, or Sections 3 through 5, in accordance with the following provisions:

(a) Any person who is receiving a retirement allowance on the effective date of House Bill No. 1554, 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 6. For the purposes of this section, "fiscal year" means the period from July 1 of any year through June 30 of the following year.

(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 retirement system before May 1, 2000, and later was reemployed by the city 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 retirement system 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 retirement system, 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. 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 6 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 retirement system, 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, if the board at any time determines that continuing the payment of the cost-of-living increases would make the retirement system actuarially unsound; however, before suspending the cost-of-living increases, the board 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 retirement system actuarially sound.

(2) (a) The cost-of-living increases authorized under this section shall not be implemented unless the retirement system is actuarially sound, as shown by the most recent actuarial study required by Section 21-29-27, Mississippi Code of 1972, and the retirement system 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 after the board has received the resolution and received the most recent actuarial study of the retirement system and the certified statement from the actuarial firm, under paragraph (a) of this subsection, that the retirement system will remain actuarially sound if the cost-of-living increases are made, then the board 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 retirement system 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 retirement system actuarially sound, as determined by a certified statement of the actuary.

(3) After the effective date of House Bill No. 1554, 2001 Regular Session, all new cost-of-living increases for retirees of the retirement system and beneficiaries thereof shall be made under this section and not under Section 6. All cost-of-living increases previously made under Section 6 shall continue to be paid each year, but no new or additional cost-of-living increases shall be made under Section 6 after the effective date of House Bill No. 1554, 2001 Regular Session.

Section 12. The governing authorities of the city, in their discretion, are authorized to use funds from any available source to supplement the retirement system to make the system actuarially sound, and transfer those funds to the board for that purpose.

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