

By: Senator(s) Gollott, Hewes

To: Local and Private

SENATE BILL NO. 3058

1 AN ACT TO AMEND SECTIONS 2, 3 AND 4 OF CHAPTER 931, LOCAL AND
2 PRIVATE LAWS OF 1993, AS LAST AMENDED BY CHAPTER 988, LOCAL AND
3 PRIVATE LAWS OF 1996, TO AUTHORIZE THE GOVERNING AUTHORITIES OF
4 THE CITY OF BILOXI TO PROVIDE FOR ANNUAL COST-OF-LIVING INCREASES
5 FOR CURRENT AND FUTURE RETIRED MEMBERS OF THE BILOXI DISABILITY
6 AND RELIEF FUND FOR FIREMEN AND POLICEMEN, AND BENEFICIARIES
7 THEREOF, IN AN AMOUNT EQUAL TO 3% OF THE ANNUAL RETIREMENT
8 ALLOWANCE; TO PROVIDE THAT THE COST-OF-LIVING INCREASES SHALL BE
9 PAID IN ONE ADDITIONAL ANNUAL PAYMENT OR IN 12 EQUAL MONTHLY
10 INSTALLMENTS, AS ELECTED BY THE RETIREE; TO PROVIDE THAT THE
11 MAXIMUM CUMULATIVE PERCENTAGE OF ALL ANNUAL COST-OF-LIVING
12 INCREASES RECEIVED UNDER THIS ACT SHALL NOT EXCEED 30% OF THE
13 ANNUAL RETIREMENT ALLOWANCE, UNLESS THE GOVERNING AUTHORITIES
14 AUTHORIZE THE PAYMENT OF ADDITIONAL ANNUAL COST-OF-LIVING
15 INCREASES ABOVE 30% AND CERTAIN CONDITIONS ARE MET; TO PROVIDE
16 THAT THE COST-OF-LIVING INCREASES AUTHORIZED UNDER THIS ACT SHALL
17 BE SUSPENDED IF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM AT ANY
18 TIME DETERMINES THAT CONTINUING THE PAYMENT OF THE COST-OF-LIVING
19 INCREASES WOULD MAKE THE DISABILITY AND RELIEF FUND ACTUARIALLY
20 UNSOUND; TO PROVIDE THAT THE COST-OF-LIVING INCREASES AUTHORIZED
21 UNDER THIS ACT SHALL NOT BE IMPLEMENTED UNLESS THE DISABILITY AND
22 RELIEF FUND CURRENTLY IS ACTUARIALLY SOUND AND WILL REMAIN
23 ACTUARIALLY SOUND IF THE COST-OF-LIVING INCREASES ARE MADE; TO
24 PROVIDE THAT IF THE COST-OF-LIVING INCREASES AUTHORIZED UNDER THIS
25 ACT WOULD MAKE THE DISABILITY AND RELIEF FUND ACTUARIALLY UNSOUND,
26 THE GOVERNING AUTHORITIES ARE AUTHORIZED TO PROVIDE FOR A REDUCED
27 VERSION OF THE COST-OF-LIVING INCREASES THAT WOULD LEAVE THE FUND
28 ACTUARIALLY SOUND; TO AUTHORIZE THE GOVERNING AUTHORITIES TO USE
29 ANY AVAILABLE FUNDS TO SUPPLEMENT THE DISABILITY AND RELIEF FUND
30 TO MAKE IT ACTUARIALLY SOUND; AND FOR RELATED PURPOSES.

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

32 SECTION 1. Sections 2, 3 and 4 of Chapter 931, Local and
33 Private Laws of 1993, as amended by Chapter 979, Local and Private
34 Laws of 1995, as amended by Chapter 988, Local and Private Laws of
35 1996, are amended as follows:

36 Section 1. (1) Subject to the provisions of Section 3, the
37 governing authorities of the City of Biloxi, Mississippi, in their
38 discretion, are authorized to take any of the following actions:

39 (a) Establish an additional payment for each retired
40 member and beneficiary of the Biloxi Disability and Relief Fund
41 for Firemen and Policemen who is now or hereafter entitled to
42 receive benefits under any provision of Section 21-29-101,
43 Mississippi Code of 1972. The amount of the additional payment
44 shall be equal to the annual percentage change in the Consumer
45 Price Index set by the United States government, not to exceed
46 three percent (3%) per annum, and shall be computed based upon the
47 amount of the benefits received by the members and beneficiaries
48 in the fiscal year of the disability and relief fund before the
49 effective date of the resolution of the governing authorities of
50 the city establishing the additional payments.

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

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

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

66 (e) Provide that the additional payments authorized by
67 paragraph (a) may be based upon a percentage specified by the
68 governing authorities of the city, regardless of the maximum
69 percentage allowed in paragraph (a), if the governing authorities
70 also transfer sufficient monies to the Public Employees'

71 Retirement System to fund the increase at the specified
72 percentage.

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

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

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

99 (3) Persons eligible to receive the payments authorized
100 under this section shall receive such payments in one (1)
101 additional payment, except that such person may elect by an
102 irrevocable agreement on a form prescribed by the Board of
103 Trustees of the Public Employees' Retirement System to receive

104 such payments in not less than equal monthly installments not to
105 exceed six (6) months during the remaining months of the current
106 fiscal year. In the event of death of a person or a beneficiary
107 thereof receiving monthly benefits, any remaining amounts shall be
108 paid in a lump sum to the estate of the retired member or
109 beneficiary.

110 (4) After the effective date of Senate Bill No. 3058, 2001
111 Regular Session, all new cost-of-living increases for retirees of
112 the Biloxi Disability and Relief Fund for Firemen and Policemen
113 and beneficiaries thereof shall be made under Section 6 and not
114 under this section. All cost-of-living increases previously made
115 under this section shall continue to be paid each year, but no new
116 or additional cost-of-living increases shall be made under this
117 section after the effective date of Senate Bill No. 3058, 2001
118 Regular Session.

119 Section 2. (1) Subject to the provisions of Section
120 3 * * *, the governing authorities of the City of Biloxi,
121 Mississippi, are authorized, in their discretion, to provide for
122 the payment of minimum monthly benefits in any amount determined
123 by the governing authorities to all persons now or hereafter
124 entitled to receive benefits under any provision of Section
125 21-29-101 et seq., Mississippi Code of 1972.

126 (2) After the governing authorities of the city * * * have
127 adopted a resolution to establish the minimum monthly benefits
128 authorized under subsection (1) of this section, specifying the
129 amount of the minimum monthly benefits in the resolution, and the
130 advisory board provided for in Section 21-29-105, Mississippi Code
131 of 1972, has adopted a resolution supporting the payment of the
132 specified amount of the minimum monthly benefits, and after the
133 Board of Trustees of the Public Employees' Retirement System has
134 received these resolutions and received the most recent actuarial
135 study of the disability and relief fund and the certified
136 statement from the actuarial firm, pursuant to Section 3 * * *,

137 that the fund will remain actuarially sound if the minimum monthly
138 benefits are paid, then the board of trustees shall pay those
139 benefits to the persons authorized and entitled to receive the
140 payments.

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

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

163 (2) Creditable service for unused, uncompensated leave as
164 authorized under subsection (1) of this section shall not be
165 provided unless the Biloxi Disability and Relief Fund for Firemen
166 and Policemen is actuarially sound, as shown by the most recent
167 actuarial study required by Section 21-29-119, Mississippi Code of
168 1972, and the fund will remain actuarially sound if creditable
169 service for unused, uncompensated leave as authorized under

170 subsection (1) of this section is provided, as shown by a
171 certified statement from the actuarial firm that prepared the most
172 recent actuarial study.

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

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

198 Section 5. (1) Subject to the provisions of subsection (2)
199 of this section, the governing authorities of the City of Biloxi,
200 Mississippi, in their discretion, are authorized to provide that
201 for the purpose of computing retirement benefits of members of the
202 Biloxi Disability and Relief Fund for Firemen and Policemen under

203 the provisions of Section 21-29-101 et seq., Mississippi Code of
204 1972, who retire after April 11, 1996, earned compensation may
205 include all or a portion of any payment made to a member upon
206 termination of employment for up to thirty (30) days of unused,
207 accumulated personal leave.

208 (2) The inclusion within earned compensation of those
209 payments as provided in subsection (1) of this section shall not
210 be authorized by the governing authorities unless the disability
211 and relief fund is actuarially sound, as shown by the most recent
212 actuarial study required by Section 21-29-119, Mississippi Code of
213 1972, and the disability and relief fund will remain actuarially
214 sound if the inclusion of such payments is authorized, as shown by
215 a certified statement from the actuarial firm that prepared the
216 most recent actuarial study.

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

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

234 Section 6. (1) Subject to the provisions of subsection (2)
235 of this section, the governing authorities of the City of Biloxi,

236 Mississippi, in their discretion, are authorized to provide for
237 cost-of-living increases for each retired member of the Biloxi
238 Disability and Relief Fund for Firemen and Policemen, or any
239 beneficiary thereof, who is now or hereafter entitled to receive a
240 retirement allowance under any provision of Section 21-29-101 et
241 seq., Mississippi Code of 1972, in accordance with the following
242 provisions:

243 (a) Any person who is receiving a retirement allowance
244 on the effective date of Senate Bill No. 3058 , 2001 Regular
245 Session, shall receive a cost-of-living increase on December 1,
246 2001, or on July 1, 2001, as provided in paragraph (d) of this
247 subsection, in an amount equal to three percent (3%) of the annual
248 retirement allowance. In subsequent years, in addition to and
249 cumulative to the cost-of-living increase received in the year
250 2001, any such person or beneficiary thereof shall receive a
251 cost-of-living increase on December 1 or July 1 of the year, as
252 provided in paragraph (d) of this subsection, in an amount equal
253 to three percent (3%) of the annual retirement allowance for each
254 full fiscal year in retirement after June 30, 2001. The
255 cost-of-living increases provided for under this paragraph (a)
256 shall be in addition to and cumulative to any cost-of-living
257 increases previously received under the provisions of Section 1.
258 For the purposes of this section, "fiscal year" means the period
259 from July 1 of any year through June 30 of the following year.

260 (b) Any person who retires on or after the effective
261 date of Senate Bill No. 3058 , 2001 Regular Session, or any
262 beneficiary thereof, who has received a monthly retirement
263 allowance for at least one (1) full fiscal year, shall receive a
264 cost-of-living increase on December 1 or July 1 of the year, as
265 provided in paragraph (d) of this section, in an amount equal to
266 three percent (3%) of the annual retirement allowance for each
267 full fiscal year in retirement.

268 (c) Notwithstanding the provisions of paragraph (b) of
269 this subsection, any person who, before the effective date of
270 Senate Bill No. 3058, 2001 Regular Session, retired under the
271 Biloxi Disability and Relief Fund for Firemen and Policemen and
272 later was reemployed by the City of Biloxi or employed by any
273 other municipality or other governmental entity in a position that
274 caused the person to stop receiving a retirement allowance from
275 the disability and relief fund during the person's period of
276 reemployment or subsequent employment, who retires from his or her
277 reemployment or subsequent employment after the effective date of
278 Senate Bill No. 3058, 2001 Regular Session, and is again receiving
279 a retirement allowance from the disability and relief fund, shall
280 begin receiving the cost-of-living increases authorized under
281 this section in the year that the person retires from his or her
282 reemployment or subsequent employment, if more than one (1) full
283 fiscal year has passed since the person's initial retirement from
284 the City of Biloxi. In the year that the person retires from his
285 or her reemployment or subsequent employment, the person or
286 beneficiary thereof shall receive a cost-of-living increase on
287 December 1 or July 1 of the year, as provided in paragraph (d) of
288 this subsection, in an amount equal to three percent (3%) of the
289 annual retirement allowance. In subsequent years, in addition to
290 and cumulative to the cost-of-living increase received in the year
291 of retirement, any such person or beneficiary thereof shall
292 receive a cost-of-living increase on December 1 or July 1 of the
293 year, as provided in paragraph (d) of this subsection, in an
294 amount equal to three percent (3%) of the annual retirement
295 allowance for each full fiscal year after June 30 of the year of
296 retirement.

297 (d) The cost-of-living increases authorized under this
298 section shall be paid in one (1) payment in December of each year
299 to any person who is receiving a retirement allowance on December
300 1 of that year, unless an election is made as follows: Any person

301 or beneficiary thereof who is receiving a retirement allowance on
302 July 1, 2001, or July 1 of any fiscal year thereafter, may elect
303 by an irrevocable agreement in writing filed in the office of the
304 Public Employees' Retirement System not less than thirty (30) days
305 before July 1 of the appropriate year, to begin receiving the
306 cost-of-living increases authorized under this section in twelve
307 (12) equal monthly installments beginning July 1, 2001, or July 1
308 of any fiscal year thereafter. This irrevocable agreement shall
309 be binding on the retiree and subsequent beneficiaries. Payment
310 of those monthly installments shall not extend beyond the month in
311 which a retirement allowance is due and payable. If a person who
312 is receiving a retirement allowance that will terminate upon the
313 person's death, is receiving the cost-of-living increases in one
314 (1) payment and dies on or after July 1 but before December 1, the
315 beneficiary or estate of the person shall receive in a single
316 payment a fractional part of the cost-of-living increase based on
317 the number of months in which a retirement allowance was received
318 during the fiscal year.

319 (e) Except as otherwise provided in paragraph (f) of
320 this subsection, the maximum cumulative percentage of all annual
321 cost-of-living increases received by a retiree or beneficiary
322 thereof under this section shall not exceed thirty percent (30%)
323 of the annual retirement allowance. Any cost-of-living increases
324 previously received by a retiree or beneficiary thereof under the
325 provisions of Section 1 shall not be included in determining when
326 the cumulative percentage of the cost-of-living increases received
327 under this section has reached thirty percent (30%). After the
328 cumulative percentage of the cost-of-living increases received by
329 a retiree or beneficiary thereof under this section has reached
330 thirty percent (30%), the retiree or beneficiary thereof shall
331 continue to receive the cost-of-living payments each year in an
332 amount equal to thirty percent (30%) of the annual retirement
333 allowance for as long as the retiree or beneficiary thereof is

334 entitled to receive a retirement allowance, unless additional
335 annual cost-of-living increases are authorized under paragraph (f)
336 of this subsection or cost-of-living increases are suspended under
337 paragraph (g) of this subsection.

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

355 (g) The cost-of-living increases authorized under this
356 section shall be suspended, either in whole or in part as
357 determined to be necessary by the governing authorities of the
358 city and the Board of Trustees of the Public Employees' Retirement
359 System, if the board of trustees at any time determines that
360 continuing the payment of the cost-of-living increases would make
361 the disability and relief fund actuarially unsound; however,
362 before suspending the cost-of-living increases, the board of
363 trustees shall notify the governing authorities of the city and
364 give them the opportunity to transfer sufficient funds, if the
365 governing authorities choose to do so, to make the cost-of-living

366 increases while keeping the disability and relief fund actuarially
367 sound.

368 (2) (a) The cost-of-living increases authorized under this
369 section shall not be implemented unless the Biloxi Disability and
370 Relief Fund for Firemen and Policemen is actuarially sound, as
371 shown by the most recent actuarial study required by Section
372 21-29-119, Mississippi Code of 1972, and the fund will remain
373 actuarially sound if the cost-of-living increases authorized under
374 this section are made, as shown by a certified statement from the
375 actuarial firm that prepared the most recent actuarial study.

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

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

398 (3) After the effective date of Senate Bill No. 3058, 2001
399 Regular Session, all new cost-of-living increases for retirees of
400 the Biloxi Disability and Relief Fund for Firemen and Policemen
401 and beneficiaries thereof shall be made under this section and not
402 under Section 1. All cost-of-living increases previously made
403 under Section 1 shall continue to be paid each year, but no new or
404 additional cost-of-living increases shall be made under Section 1
405 after the effective date of Senate Bill No. 3058, 2001 Regular
406 Session.

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

413 Section 8. The provisions of this act are supplemental to
414 the provisions of Section 21-29-101 et seq., Mississippi Code of
415 1972, and if there is any conflict between the provisions of this
416 act and any provision of Section 21-29-101 et seq., Mississippi
417 Code of 1972, the provisions of this act shall control.

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