

By: Representative Fleming

To: Appropriations

HOUSE BILL NO. 154

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

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

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

16 25-11-123. All of the assets of the system shall be credited
 17 according to the purpose for which they are held to one (1) of
 18 four (4) reserves; namely, the annuity savings account, the
 19 annuity reserve, the employer's accumulation account, and the
 20 expense account.

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

26 (1) Beginning July 1, 1991, the employer shall cause to
 27 be deducted from the salary of each member on each and every
 28 payroll of the employer for each and every payroll period seven
 29 and one-fourth percent (7-1/4%) of earned compensation as defined
 30 in Section 25-11-103. Future contributions shall be fixed
 31 biennially by the board on the basis of the liabilities of the
 32 retirement system for the various allowances and benefits as shown



33 by actuarial valuation; however, any member earning at a rate less
34 than Sixteen Dollars and Sixty-seven Cents (\$16.67) per month, or
35 Two Hundred Dollars (\$200.00) per year, shall contribute not less
36 than One Dollar (\$1.00) per month, or Twelve Dollars (\$12.00) per
37 year.

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

52 (3) (i) Subject to the limitation in subparagraph (ii)
53 of this paragraph, any member may elect to increase his or her
54 employee's contribution rate by either five percent (5%) or ten
55 percent (10%) above the rate specified under paragraph (1), so
56 that the member's contribution rate will be either twelve and
57 one-fourth percent (12-1/4%) or seventeen and one-fourth percent
58 (17-1/4%). Any member who wishes to increase his or her
59 employee's contribution rate shall request the increase in writing
60 to the office of the board of trustees. The member shall specify
61 the amount of the increased contribution rate that will be used,
62 the date that the increased contribution rate will begin, and the
63 period during which the increased contribution rate will be in
64 effect.



65 (ii) The total amount of additional contributions
66 that a member may make in any one (1) year from the increased
67 employee's contribution rate under this paragraph (3), when
68 combined with the total amount of contributions that the member
69 makes to all other tax-deferred retirement plans during the same
70 year, shall not exceed twenty-five percent (25%) of the member's
71 annual compensation, as provided under Section 415 of the Internal
72 Revenue Code. It is the duty of each member who has increased his
73 or her employee's contribution rate under this paragraph (3) to
74 report to the retirement system the amount of contributions that
75 the member makes to all other tax-deferred retirement plans, in
76 the manner and at the time prescribed by the board of trustees.

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

87 (b) **Annuity reserve.** The annuity reserve shall be the
88 account representing the actuarial value of all annuities in
89 force, and to it shall be charged all annuities and all benefits
90 in lieu of annuities, payable as provided in this article. If a
91 beneficiary retired on account of disability is restored to active
92 service with a compensation not less than his average final
93 compensation at the time of his last retirement, the remainder of
94 his contributions shall be transferred from the annuity reserve to
95 the annuity savings account and credited to his individual account
96 therein, and the balance of his annuity reserve shall be
97 transferred to the employer's accumulation account.



98 (c) **Employer's accumulation account.** The employer's
99 accumulation account shall represent the accumulation of all
100 reserves for the payment of all retirement allowances and other
101 benefits payable from contributions made by the employer, and
102 against this account shall be charged all retirement allowances
103 and other benefits on account of members. Credits to and charges
104 against the employer's accumulation account shall be made as
105 follows:

106 (1) On account of each member there shall be paid
107 monthly into the employer's accumulation account by the employers
108 for the preceding fiscal year an amount equal to a certain
109 percentage of the total earned compensation, as defined in Section
110 25-11-103, of each member. The percentage rate of those
111 contributions shall be fixed biennially by the board on the basis
112 of the liabilities of the retirement system for the various
113 allowances and benefits as shown by actuarial valuation.
114 Beginning January 1, 1990, the rate shall be fixed at nine and
115 three-fourths percent (9-3/4%). The board shall reduce the
116 employer's contribution rate by one percent (1%) from and after
117 July 1 of the year following the year in which the board
118 determines and the board's actuary certifies that the employer's
119 contribution rate can be reduced by that amount without causing
120 the unfunded accrued actuarial liability amortization period for
121 the retirement system to exceed twenty (20) years. Political
122 subdivisions joining Article 3 of the Public Employees' Retirement
123 System after July 1, 1968, may adjust the employer's contributions
124 by agreement with the Board of Trustees of the Public Employees'
125 Retirement System to provide service credits for any period before
126 execution of the agreement based upon an actuarial determination
127 of employer's contribution rates.

128 (2) On the basis of regular interest and of such
129 mortality and other tables as are adopted by the board of
130 trustees, the actuary engaged by the board to make each valuation



131 required by this article during the period over which the accrued
132 liability contribution is payable, immediately after making that
133 valuation, shall determine the uniform and constant percentage of
134 the earnable compensation of each member which, if contributed by
135 the employer on the basis of compensation of the member throughout
136 his entire period of membership service, would be sufficient to
137 provide for the payment of any retirement allowance payable on his
138 account for that service. The percentage rate so determined shall
139 be known as the "normal contribution rate." After the accrued
140 liability contribution has ceased to be payable, the normal
141 contribution rate shall be the percentage rate of the salary of
142 all members obtained by deducting from the total liabilities on
143 account of membership service the amount in the employer's
144 accumulation account, and dividing the remainder by one percent
145 (1%) of the present value of the prospective future salaries of
146 all members as computed on the basis of the mortality and service
147 tables adopted by the board of trustees and regular interest. The
148 normal rate of contributions shall be determined by the actuary
149 after each valuation.

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

159 (4) The accrued liability contribution shall be
160 discontinued as soon as the accumulated balance in the employer's
161 accumulation account shall equal the present value, computed on
162 the basis of the normal contribution rate then in force, or the



163 prospective normal contributions to be received on account of all
164 persons who are at that time members.

165 (5) All allowances and benefits in lieu thereof, with
166 the exception of those payable on account of members who receive
167 no prior service credit, payable from contributions of the
168 employer, shall be paid from the employer's accumulation account.

169 (6) Upon the retirement of a member, an amount equal to
170 his retirement allowance shall be transferred from the employer's
171 accumulation account to the annuity reserve.

172 (d) **Expense account.** The expense account shall be the
173 account to which the expenses of the administration of the system
174 shall be charged, exclusive of amounts payable as retirement
175 allowances and as other benefits provided herein. The Legislature
176 shall make annual appropriations in amounts sufficient to
177 administer the system, which shall be credited to this account.
178 There shall be transferred to the State Treasury from this
179 account, not less than once per month, an amount sufficient for
180 payment of the estimated expenses of the system for the succeeding
181 thirty (30) days. Any interest earned on the expense account
182 shall accrue to the benefit of the system. However,
183 notwithstanding the provisions of Sections 25-11-15(10) and
184 25-11-105(f)(5)E, all expenses of the administration of the system
185 shall be paid from the interest earnings, provided the interest
186 earnings are in excess of the actuarial interest assumption as
187 determined by the board, and provided the present cost of the
188 administrative expense fee of two percent (2%) of the
189 contributions reported by the political subdivisions and
190 instrumentalities shall be reduced to one percent (1%) from and
191 after July 1, 1983, through June 30, 1984, and shall be eliminated
192 thereafter.

193 (e) **Collection of contributions.** The employer shall cause
194 to be deducted on each and every payroll of a member for each and
195 every payroll period, beginning subsequent to January 31, 1953,



196 the contributions payable by the member as provided in Articles 1
197 and 3.

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

205 (f) (1) Upon the basis of each actuarial valuation provided
206 herein, the board of trustees shall biennially determine the
207 normal contribution rate and the accrued liability contribution
208 rate as provided in this section. The sum of these two (2) rates
209 shall be known as the "employer's contribution rate." Beginning
210 on earned compensation effective January 1, 1990, the rate
211 computed as provided in this section shall be nine and
212 three-fourths percent (9-3/4%). The board shall reduce the
213 employer's contribution rate by one percent (1%) from and after
214 July 1 of the year following the year in which the board
215 determines and the board's actuary certifies that the employer's
216 contribution rate can be reduced by that amount without causing
217 the unfunded accrued actuarial liability amortization period for
218 the retirement system to exceed twenty (20) years. The percentage
219 rate of those contributions shall be fixed biennially by the board
220 on the basis of the liabilities of the retirement system for the
221 various allowances and benefits as shown by actuarial valuation.

222 (2) The amount payable by the employer on account of
223 normal and accrued liability contributions shall be determined by
224 applying the employer's contribution rate to the amount of
225 compensation earned by employees who are members of the system.
226 Monthly, or at such time as the board of trustees designates, each
227 department or agency shall compute the amount of the employer's
228 contribution payable, with respect to the salaries of its



229 employees who are members of the system, and shall cause that
230 amount to be paid to the board of trustees from the personal
231 service allotment of the amount appropriated for the operation of
232 the department or agency, or from funds otherwise available to the
233 agency, for the payment of salaries to its employees.

234 (3) Constables shall pay employer and employee
235 contributions on their net fee income as well as the employee
236 contributions on all direct treasury or county payroll income.
237 The county shall be responsible for the employer contribution on
238 all direct treasury or county payroll income of constables.

239 (4) Chancery and circuit clerks shall be responsible
240 for both the employer and employee share of contributions on the
241 proportionate share of net income attributable to fees, as well as
242 the employee share of net income attributable to direct treasury
243 or county payroll income, and the employing county shall be
244 responsible for the employer contributions on the net income
245 attributable to direct treasury or county payroll income.

246 (5) Once each year, under procedures established by the
247 system, each employer shall submit to the Public Employees'
248 Retirement System a copy of their report to Social Security of all
249 employees' earnings.

250 (6) The board shall provide by rules for the methods of
251 collection of contributions of employers and members. The amounts
252 determined due by an agency to the various funds as specified in
253 Articles 1 and 3 are made obligations of the agency to the board
254 and shall be paid as provided herein. Failure to deduct those
255 contributions shall not relieve the employee and employer from
256 liability thereof. Delinquent employee contributions and any
257 accrued interest shall be the obligation of the employee and
258 delinquent employer contributions and any accrued interest shall
259 be the obligation of the employer. The employer may, in its
260 discretion, elect to pay any or all of the interest on delinquent
261 employee contributions. From and after July 1, 1996, under rules



262 and regulations established by the board, all employers are
263 authorized and shall transfer all funds due to the Public
264 Employees' Retirement System electronically and shall transmit any
265 wage or other reports by computerized reporting systems.

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

268 25-11-111. (a) Any member upon withdrawal from service upon
269 or after attainment of the age of sixty (60) years who has
270 completed at least four (4) years of creditable service, or any
271 member upon withdrawal from service regardless of age who has
272 completed at least twenty-five (25) years of creditable service,
273 shall be entitled to receive a retirement allowance, which shall
274 begin on the first of the month following the date the member's
275 application for the allowance is received by the board, but in no
276 event before withdrawal from service.

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

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



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

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

301 (2) An employer's annuity, which, together with the
302 member's annuity provided above, shall be equal to one and
303 seven-eighths percent (1-7/8%) of the average compensation for
304 each year of state service up to and including twenty-five (25)
305 years of membership service, and two and one-fourth percent
306 (2-1/4%) of the average compensation for each year of state
307 service exceeding twenty-five (25) years of membership service.
308 However, after the board of trustees has begun implementing the
309 changes in the computation of the retirement allowance as provided
310 in subsection (e), the employer's annuity shall be equal to:

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

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

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

325 (3) A prior service annuity equal to one and
326 seven-eighths percent (1-7/8%) of the average compensation for
327 each year of state service up to and including twenty-five (25)



328 years of prior service, and two and one-fourth percent (2-1/4%) of
329 the average compensation for each year of state service exceeding
330 twenty-five (25) years of prior service for which the member is
331 allowed credit. However, after the board of trustees has begun
332 implementing the changes in the computation of the retirement
333 allowance as provided in subsection (e), the prior service annuity
334 shall be equal to:

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

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

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

349 (4) Any retired member or beneficiary thereof who was
350 eligible to receive a retirement allowance before July 1, 1991,
351 and who is still receiving a retirement allowance on July 1, 1992,
352 shall receive an increase in the annual retirement allowance of
353 the retired member equal to one-eighth of one percent (1/8 of 1%)
354 of the average compensation for each year of state service in
355 excess of twenty-five (25) years of membership service up to and
356 including thirty (30) years. The maximum increase shall be
357 five-eighths of one percent (5/8 of 1%). In no case shall a
358 member who has been retired before July 1, 1987, receive less than
359 Ten Dollars (\$10.00) per month for each year of creditable service
360 and proportionately for each quarter year thereof. Persons



361 retired on or after July 1, 1987, shall receive at least Ten
362 Dollars (\$10.00) per month for each year of service and
363 proportionately for each quarter year thereof reduced for the
364 option selected. However, the Ten Dollars (\$10.00) minimum per
365 month for each year of creditable service shall not apply to a
366 retirement allowance computed under Section 25-11-114 based on a
367 percentage of the member's average compensation.

368 (5) The board shall recalculate the retirement
369 allowance of any member or the beneficiary of such a member, if
370 the member or beneficiary is eligible to receive a retirement
371 allowance before July 1, 1999, by using the criteria in paragraphs
372 (2) and (3) of this subsection (d) that provides for two and
373 one-fourth percent (2-1/4%) of the average compensation for each
374 year of service exceeding twenty-five (25) years.

375 (6) Any member upon withdrawal from service upon or
376 after attaining the age of sixty (60) years who has completed at
377 least four (4) years of creditable service, or any member upon
378 withdrawal from service regardless of age who has completed at
379 least twenty-five (25) years of creditable service, shall be
380 entitled to receive a retirement allowance computed in accordance
381 with the formula set forth in this section. The retirement
382 allowance otherwise payable may be converted into a retirement
383 allowance of equivalent actuarial value in such an amount that,
384 with the member's benefit under Title II of the federal Social
385 Security Act, the member will receive, so far as possible,
386 approximately the same amount annually before and after the
387 earliest age at which the member becomes eligible to receive a
388 social security benefit.

389 (e) Beginning on July 1, 2000, the board of trustees shall
390 implement changes in the computation of the amount of the annual
391 retirement allowance, which changes shall be implemented in phases
392 as set forth in the table in this subsection. The board of
393 trustees shall implement the phases systematically upon July 1



394 after the board's actuary certifies that implementation of a phase
 395 will not cause the unfunded accrued actuarial liability
 396 amortization period for the retirement system to exceed twenty-two
 397 (22) years. The board of trustees shall have the exclusive
 398 authority to set the assumptions that are used in the actuarial
 399 evaluation in accordance with Section 25-11-119(9). The board of
 400 trustees shall recalculate the retirement allowance of any retired
 401 member or beneficiary of such a member as each phase is
 402 implemented.

403 RETIREMENT ALLOWANCE COMPUTATION

404 IMPLEMENTATION TABLE

405		(A)	(B)
406	PHASE	2% FOR YEARS	PERCENTAGE
407		ABOVE THIS	FOR YEARS
408		NUMBER AND	ABOVE 25
409		≤25 YEARS	YEARS
410	<hr/>		
411	Phase 1	20 years	2.250%
412	Phase 2	15 years	2.250%
413	Phase 3	10 years	2.250%
414	Phase 4	5 years	2.250%
415	Phase 5	0 years	2.250%
416	Phase 6	0 years	2.375%
417	Phase 7	0 years	2.500%

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

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



426 (f) If a member elected under Section 25-11-123(3) to
427 increase his or her employee's contribution rate by five percent
428 (5%), and the increased contribution rate was in effect for at
429 least five (5) consecutive years, the member shall have the amount
430 of his or her annual retirement allowance that is calculated under
431 subsections (d) and (e) of this section increased by five percent
432 (5%) at the time of his or her retirement. If a member elected
433 under Section 25-11-123(3) to increase his or her employee's
434 contribution rate by ten percent (10%), and the increased
435 contribution rate was in effect for at least five (5) consecutive
436 years, the member shall have the amount of his or her annual
437 retirement allowance that is calculated under subsections (d) and
438 (e) of this section increased by ten percent (10%) at the time of
439 his or her retirement. The provisions of this subsection (f) are
440 subject to the following:

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

447 (2) The increased contribution rates of five percent
448 (5%) and ten percent (10%) cannot be combined, accumulated or
449 averaged to further increase the amount of the member's annual
450 retirement allowance above the amount provided for in this
451 subsection. For example, if a member has an increased
452 contribution rate of five percent (5%) in effect for fewer than
453 five (5) years and then elects to use an increased contribution
454 rate of ten percent (10%), the increased contribution rate of ten
455 percent (10%) must be in effect for five (5) consecutive years in
456 order for the member to receive a ten percent (10%) increase in
457 the annual retirement allowance; the years during which the member
458 had an increased contribution rate of five percent (5%) will not



459 be combined, accumulated or averaged together with the years
460 during which the member had an increased contribution rate of ten
461 percent (10%).

462 (g) No member, except members excluded by the Age
463 Discrimination in Employment Act Amendments of 1986 (Public Law
464 99-592), under either Article 1 or Article 3 in state service
465 shall be required to retire because of age.

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

469 (i) (1) A retiree or beneficiary may, on a form prescribed
470 by and filed with the retirement system, irrevocably waive all or
471 a portion of any benefits from the retirement system to which the
472 retiree or beneficiary is entitled. The waiver shall be binding
473 on the heirs and assigns of any retiree or beneficiary and the
474 same must agree to forever hold harmless the Public Employees'
475 Retirement System of Mississippi from any claim to the waived
476 retirement benefits.

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

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

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

489 **SECTION 3.** This act shall take effect and be in force from
490 and after July 1, 2003.

