

By: Representative Fleming

To: Appropriations

HOUSE BILL NO. 264

1 AN ACT TO AMEND SECTION 25-11-117, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE ACTIVE MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT
3 SYSTEM WHO HAVE AT LEAST TEN YEARS OF MEMBERSHIP SERVICE TO
4 RECEIVE A DISTRIBUTION OF UP TO ONE-THIRD OF THE AMOUNT OF THE
5 MEMBER'S CONTRIBUTIONS, WHICH SHALL BE USED ONLY FOR CERTAIN
6 SPECIFIED PURPOSES; TO PROVIDE THAT A MEMBER MAY RECEIVE A
7 DISTRIBUTION UNDER THIS PROVISION ONLY ONE TIME; TO PROVIDE THAT
8 IF A MEMBER RECEIVES A DISTRIBUTION UNDER THIS PROVISION AND LATER
9 IS PAID A REFUND OF THE AMOUNT OF THE MEMBER'S CONTRIBUTIONS AFTER
10 WITHDRAWAL FROM STATE SERVICE, THE AMOUNT OF THE DISTRIBUTION
11 SHALL BE DEDUCTED FROM THE MEMBER'S CONTRIBUTIONS IN COMPUTING THE
12 AMOUNT OF THE REFUND; TO AMEND SECTION 25-11-115, MISSISSIPPI CODE
13 OF 1972, TO PROVIDE THAT IF A MEMBER RECEIVES A DISTRIBUTION UNDER
14 THE PRECEDING SECTION BEFORE RETIREMENT, THE MEMBER'S RETIREMENT
15 BENEFITS SHALL BE ACTUARIALY REDUCED TO REFLECT THE AMOUNT OF THE
16 DISTRIBUTION RECEIVED; AND FOR RELATED PURPOSES.

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

18 **SECTION 1.** Section 25-11-117, Mississippi Code of 1972, is
19 amended as follows:

20 25-11-117. (1) A member may be paid a refund of the amount
21 of accumulated contributions to the credit of the member in the
22 annuity savings account provided the member has withdrawn from
23 state service and further provided the member has not returned to
24 state service on the date the refund of the accumulated
25 contributions would be paid. Such refund of the contributions to
26 the credit of the member in the annuity savings account shall be
27 paid within ninety (90) days from receipt in the office of the
28 retirement system of the properly completed form requesting such
29 payment. In the event of death prior to retirement of any member
30 whose spouse and/or children are not entitled to a retirement
31 allowance, the accumulated contributions to the credit of the
32 deceased member in the annuity savings account shall be paid to
33 the designated beneficiary on file in writing in the office of the
34 executive director of the board of trustees within ninety (90)

35 days from receipt of a properly completed form requesting such
36 payment. If there is no such designated beneficiary on file for
37 such deceased member in the office of the system, upon the filing
38 of a proper request with the board, the contributions to the
39 credit of the deceased member in the annuity savings account shall
40 be refunded pursuant to Section 25-11-117.1(1). The payment of
41 the refund shall discharge all obligations of the retirement
42 system to the member on account of any creditable service rendered
43 by the member prior to the receipt of the refund. By the
44 acceptance of the refund, the member shall waive and relinquish
45 all accrued rights in the system.

46 (2) Pursuant to the Unemployment Compensation Amendments of
47 1992 (Public Law 102-318 (UCA)), a member or the spouse of a
48 member who is an eligible beneficiary entitled to a refund under
49 this section may elect, on a form prescribed by the board under
50 rules and regulations established by the board, to have an
51 eligible rollover distribution of accumulated contributions
52 payable under this section paid directly to an eligible retirement
53 plan, as defined under applicable federal law, or an individual
54 retirement account. If the member or the spouse of a member who
55 is an eligible beneficiary makes such election and specifies the
56 eligible retirement plan or individual retirement account to which
57 such distribution is to be paid, the distribution will be made in
58 the form of a direct trustee-to-trustee transfer to the specified
59 eligible retirement plan. Flexible rollovers under this
60 subsection shall not be considered assignments under Section
61 25-11-129.

62 (3) If any person who has received a refund reenters the
63 state service and again becomes a member of the system, the member
64 may repay all or part of the amounts previously received as a
65 refund, together with regular interest covering the period from
66 the date of refund to the date of repayment; provided, however,
67 that the amounts that are repaid by the member and the creditable

68 service related thereto shall not be used in any benefit
69 calculation or determination until the member has remained a
70 contributor to the system for a period of at least four (4) years
71 subsequent to such member's reentry into state service. Repayment
72 for such time shall be made in increments of not less than
73 one-quarter (1/4) year of creditable service beginning with the
74 most recent service for which refund has been made. Upon the
75 repayment of all or part of such refund and interest, the member
76 shall again receive credit for the period of creditable service
77 for which full repayment has been made to the system.

78 (4) (a) An active member who has not less than ten (10)
79 years of membership service may receive a distribution of up to
80 one-third (1/3) of the amount of accumulated contributions to the
81 credit of the member in the annuity savings account, which shall
82 be used only for the following purposes: purchase of a home;
83 purchase of an automobile; college tuition; start up of a
84 business; funeral expenses; wedding expenses; medical expenses; or
85 any combination of those purposes. A member may receive a
86 distribution under this subsection only one (1) time during the
87 person's membership in the system.

88 (b) The distribution of the member's contributions in
89 the annuity savings account as authorized by this subsection shall
90 be paid to the member within ninety (90) days from receipt in the
91 office of the retirement system of the properly completed form
92 requesting the distribution, which shall specify the amount and
93 the purpose of expenditure of the distribution.

94 (c) If a member receives a distribution under this
95 subsection and later is paid a refund of the amount of accumulated
96 contributions to the member's credit in the annuity savings
97 account under subsection (1) of this section, the amount of the
98 distribution shall be deducted from the member's annuity savings
99 account in computing the amount of the refund.

100 **SECTION 2.** Section 25-11-115, Mississippi Code of 1972, is
101 amended as follows:

102 25-11-115. (1) Upon application for superannuation or
103 disability retirement, any member may elect to receive his benefit
104 in a retirement allowance payable throughout life with no further
105 payments to anyone at his death, except that in the event his
106 total retirement payments under this article do not equal his
107 total contributions under this article, his named beneficiary
108 shall receive the difference in cash at his death. Or he may
109 elect upon retirement, or upon becoming eligible for retirement,
110 to receive the actuarial equivalent subject to the provisions of
111 subsection (3) of this section of his retirement allowance in a
112 reduced retirement allowance payable throughout life with the
113 provision that:

114 **Option 1.** If he dies before he has received in annuity
115 payment the value of the member's annuity savings account as it
116 was at the time of his retirement, the balance shall be paid to
117 his legal representative or to such person as he shall nominate by
118 written designation duly acknowledged and filed with the board; or

119 **Option 2.** Upon his death, his reduced retirement allowance
120 shall be continued throughout the life of, and paid to, such
121 person as he has nominated by written designation duly
122 acknowledged and filed with the board of trustees at the time of
123 his retirement;

124 **Option 3.** Upon his death, one-half (1/2) of his reduced
125 retirement allowance shall be continued throughout the life of,
126 and paid to, such person as he shall have nominated by written
127 designation duly acknowledged and filed with the board of trustees
128 at the time of his retirement, and the other one-half (1/2) of his
129 reduced retirement allowance to some other designated beneficiary;

130 **Option 4-A.** Upon his death, one-half (1/2) of his reduced
131 retirement allowance, or such other specified amount, shall be
132 continued throughout the life of, and paid to, such person as he

133 shall have nominated by written designation duly acknowledged and
134 filed with the board of trustees at the time of his retirement; or

135 **Option 4-B.** A reduced retirement allowance shall be
136 continued throughout the life of the retirant, but with the
137 further guarantee of payments to the named beneficiary,
138 beneficiaries or to the estate for a specified number of years
139 certain. If the retired member or the last designated beneficiary
140 receiving annuity payments dies prior to receiving all guaranteed
141 payments due, the actuarial equivalent of the remaining payments
142 shall be paid pursuant to Section 25-11-117.1(1);

143 **Option 4-C.** Such retirement allowance otherwise payable may
144 be converted into a retirement allowance of equivalent actuarial
145 value in such an amount that, with the member's benefit under
146 Title II of the federal Social Security Act, the member will
147 receive, so far as possible, approximately the same amount
148 annually before and after the earliest age at which the member
149 becomes eligible to receive a social security benefit. This
150 option shall not be available to retirees whose retirement is
151 effective on or after July 1, 2004.

152 **Option 6.** Any member who has at least twenty-eight (28)
153 years of creditable service at the time of retirement or who is at
154 least sixty-three (63) years of age and eligible to retire, may
155 select the maximum retirement benefit or an optional benefit as
156 provided in this subsection together with a partial lump sum
157 distribution. The amount of the lump sum distribution under this
158 option shall be equal to the maximum monthly benefit multiplied by
159 twelve (12), twenty-four (24) or thirty-six (36) as selected by
160 the member. The maximum retirement benefit shall be actuarially
161 reduced to reflect the amount of the lump sum distribution
162 selected and further reduced for any other optional benefit
163 selected. The annuity and lump sum distribution shall be computed
164 to result in no actuarial loss to the system. The lump sum
165 distribution shall be made as a single payment payable at the time

166 the first monthly annuity payment is paid to the retiree. The
167 amount of the lump sum distribution shall be deducted from the
168 member's annuity savings account in computing what contributions
169 remain at the death of the retiree and/or a beneficiary. The lump
170 sum distribution option may be elected only once by a member upon
171 initial retirement, and may not be elected by a retiree, by
172 members applying for a disability retirement annuity, by survivors
173 or by a member selecting Option 4-C.

174 (2) No change in the option selected shall be permitted
175 after the member's death or after the member has received his
176 first retirement check except as provided in subsections (3) and
177 (4) of this section and in Section 25-11-127. Members who are
178 pursuing a disability retirement allowance and simultaneously or
179 subsequently elect to begin to receive a service retirement
180 allowance while continuing to pursue a disability retirement
181 allowance, shall not be eligible to select Option 4-C or Option 6
182 and those options may not be selected at a later time if the
183 application for a disability retirement allowance is voided or
184 denied. However, any retired member who is receiving a retirement
185 allowance under Option 2 or Option 4-A upon July 1, 1992, and
186 whose designated beneficiary predeceased him or whose marriage to
187 a spouse who is his designated beneficiary is terminated by
188 divorce or other dissolution, upon written notification to the
189 retirement system of the death of the designated beneficiary or of
190 the termination of his marriage to his designated beneficiary, the
191 retirement allowance payable to the member after receipt of such
192 notification by the retirement system shall be equal to the
193 retirement allowance which would have been payable had the member
194 not elected the option. In addition, any retired member who is
195 receiving the maximum retirement allowance for life, a retirement
196 allowance under Option 1 or who is receiving a retirement
197 allowance under Option 2 or Option 4-A on July 1, 1992, may elect
198 to provide survivor benefits under Option 2 or Option 4-A to a

199 spouse who was not previously the member's beneficiary and whom
200 the member married before July 1, 1992.

201 (3) Any retired member who is receiving a reduced retirement
202 allowance under Option 2 or Option 4-A whose designated
203 beneficiary predeceases him, or whose marriage to a spouse who is
204 his designated beneficiary is terminated by divorce or other
205 dissolution, may elect to cancel his reduced retirement allowance
206 and receive the maximum retirement allowance for life in an amount
207 equal to the amount that would have been payable if the member had
208 not elected Option 2 or Option 4-A. Such election must be made in
209 writing to the office of the executive director of the system on a
210 form prescribed by the board. Any such election shall be
211 effective the first of the month following the date the election
212 is received by the system.

213 (4) Any retired member who is receiving the maximum
214 retirement allowance for life, or a retirement allowance under
215 Option 1, and who marries after his retirement may elect to cancel
216 his maximum retirement allowance and receive a reduced retirement
217 allowance under Option 2 or Option 4-A to provide continuing
218 lifetime benefits to his spouse. Such election must be made in
219 writing to the office of the executive director of the system on a
220 form prescribed by the board not earlier than the date of the
221 marriage. Any such election shall be effective the first of the
222 month following the date the election is received by the system.

223 (5) In the event the election of an optional benefit is made
224 after the member has attained the age of sixty-five (65) years,
225 the actuarial equivalent factor shall be used to compute the
226 reduced retirement allowance as if the election had been made on
227 his sixty-fifth birthday; however, from and after January 1, 2003,
228 if there is an election of Option 6 after the member has attained
229 the age of sixty-five (65) years, the actuarial equivalent factor
230 based on the retiree's age at the time of retirement shall be used
231 to compute the reduced maximum monthly retirement allowance.

232 However, if a retiree marries or remarries after retirement and
233 elects either Option 2 or Option 4-A as provided in subsection (2)
234 or (4) of this section, the actuarial equivalent factor used to
235 compute the reduced retirement allowance shall be the factor for
236 the age of the retiree and his or her beneficiary at the time such
237 election for recalculation of benefits is made.

238 (6) Notwithstanding any provision of Section 25-11-1 et
239 seq., no payments may be made for a retirement allowance on a
240 monthly basis for a period of time in excess of that allowed by
241 federal law.

242 (7) If a retirant and his eligible beneficiary, if any, both
243 die before they have received in annuity payments a total amount
244 equal to the accumulated contributions standing to the retirant's
245 credit in the annuity savings account at the time of his
246 retirement, the difference between the accumulated contributions
247 and the total amount of annuities received by them shall be paid
248 to such persons as the retirant has nominated by written
249 designation duly executed and filed in the office of the executive
250 director. If no designated person survives the retirant and his
251 beneficiary, the difference, if any, shall be paid pursuant to
252 Section 25-11-117.1(1).

253 (8) Any retired member who retired on Option 2(5) or 4-A(5)
254 prior to July 1, 1992, who is still receiving a retirement
255 allowance on July 1, 1994, shall receive an increase in the annual
256 retirement allowance effective July 1, 1994, equal to the amount
257 they would have received under Option 2 or Option 4-A without a
258 reduction for Option 5 based on the ages at retirement of the
259 retiree and beneficiary and option factors in effect on July 1,
260 1992. Such increase shall be prospective only.

261 (9) If a member receives a distribution under Section
262 25-11-117(4) before retirement, the maximum retirement benefit of
263 the member at the time of retirement shall be actuarially reduced
264 to reflect the amount of the distribution received and shall be

265 further reduced for any other optional benefit selected. The
266 amount of the member's annuity shall be computed to result in no
267 actuarial loss to the system. In addition, the amount of a
268 distribution received under Section 25-11-117(4) shall be deducted
269 from the member's annuity savings account in computing what
270 contributions remain at the death of the retiree and/or a
271 beneficiary.

272 **SECTION 3.** This act shall take effect and be in force from
273 and after July 1, 2004.