

By: Representatives Masterson, Carlton,  
Ishee

To: Appropriations

HOUSE BILL NO. 962

1 AN ACT TO AMEND SECTIONS 21-29-145 AND 21-29-147, MISSISSIPPI  
2 CODE OF 1972, TO PROVIDE THAT THE SURVIVING SPOUSE OF A DECEASED  
3 MEMBER OF THE DISABILITY AND RELIEF FUND FOR FIREMEN AND POLICEMEN  
4 IN CERTAIN MUNICIPALITIES SHALL CONTINUE TO RECEIVE THE DECEASED  
5 MEMBER'S RETIREMENT BENEFITS FOR LIFE, NOT JUST UNTIL REMARRIAGE;  
6 AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 21-29-145, Mississippi Code of 1972, is  
9 amended as follows:

10 21-29-145. (1) If any member of the fire or police  
11 department dies in active service, or dies in inactive service on  
12 account of disability approved for disability relief under the  
13 provisions of Section 21-29-133, as a result of injury received  
14 while in the discharge of duty in the service of the fire  
15 department or police department, or dies as a result of sickness  
16 or disease due to the discharge of duty while in service as a  
17 member of the fire or police department, or if the member \* \* \*  
18 dies while entitled to relief after retirement under Section  
19 21-29-139, the amount of disability relief or retirement being  
20 paid, or which should have been properly paid, shall continue to  
21 be paid from the fund to the spouse of the deceased member for  
22 life for the use of the spouse \* \* \* and the child or children of  
23 the deceased member. If the deceased member is not survived by a  
24 spouse but there \* \* \* remains a child or children of the deceased  
25 member the payments shall \* \* \* be made to a parent or lawful  
26 custodian of the child or children without the necessity of  
27 appointment as guardian for the benefit of the child or children.  
28 After the death \* \* \* of the spouse, all payments to the spouse  
29 shall cease, and after the death of any child or children of the

30 deceased member, all payments to the child or children shall  
31 cease. If the deceased member is not survived by spouse or child  
32 or children, but is survived by a father, mother \* \* \* or \* \* \*  
33 unmarried sister dependent upon him or her, the payments shall  
34 continue to be made to the dependent father or mother or both, so  
35 long as each \* \* \* lives. If there is no dependent father or  
36 mother surviving the deceased member, the payments shall continue  
37 to be made to the unmarried dependent sister or \* \* \* sisters of  
38 the deceased member, so long as the beneficiary or  
39 beneficiaries \* \* \* remain unmarried. Upon the death or marriage  
40 of any such sister, all payments shall cease to her. Payments to  
41 dependents under this section are for services rendered by the  
42 members of the fire and/or police department, and the amount of  
43 payment is within the discretion of the board of disability and  
44 relief, but in no event shall the amount payable under this  
45 section be in excess of the amount that would have been payable as  
46 disability and relief to a member of the department. If the  
47 father, mother \* \* \* or \* \* \* sisters are not wholly dependent,  
48 then they shall not receive any amount in excess of the difference  
49 between the income of the father, mother, sister or sisters and  
50 the amount that the deceased member would have been entitled to.

51 (2) For the purposes of this section:

52 (a) \* \* \* "Dependent" \* \* \* means wholly dependent upon  
53 the deceased member at the time of his or her death.

54 (b) \* \* \* "Child" or "children" \* \* \* means;

55 (i) Children of the deceased member under the age  
56 of eighteen (18);

57 (ii) Children of the deceased member who are  
58 eighteen (18) years of age or older, have not yet reached their  
59 twenty-third birthday and are pursuing a full-time education; or

60 (iii) Children of the deceased member who, though  
61 eighteen (18) years of age or older, are wholly dependent upon the

62 deceased member and incapable of self support by reason of mental  
63 or physical disability.

64 (3) Any spouse who received a spouse retirement benefit  
65 under this section before July 1, 2004, and whose benefits were  
66 terminated because of remarriage, may again receive his or her  
67 spouse retirement benefit from and after making application with  
68 the board of trustees to reinstate the spouse retirement benefit.  
69 Any reinstatement of the spouse retirement benefit shall be  
70 prospective only from and after the first of the month following  
71 the date of application for reinstatement.

72 **SECTION 2.** Section 21-29-147, Mississippi Code of 1972, is  
73 amended as follows:

74 21-29-147. (1) If any member of a fire or police department  
75 dies while a member of the fire or police department and who has  
76 had not less than five (5) years' service with the department,  
77 there shall be paid from the firemen's and policemen's disability  
78 and relief fund benefits as follows:

79 (a) For each year's active service, not to exceed a  
80 period of twenty (20) years, one-fortieth (1/40) of the average  
81 monthly salary or compensation received by the member in the  
82 six-month period next preceding his death; and

83 (b) For each full year of active service in excess of  
84 twenty (20) years service, an additional payment in a sum equal to  
85 one and seven-tenths percent (1-7/10%) of the same average monthly  
86 base salary and longevity pay received by the member in the  
87 six-month period next preceding his death (provided that no such  
88 payment shall exceed sixty-six and two-thirds percent (66-2/3%) of  
89 the average monthly base salary and longevity pay received by a  
90 member for the six-month period next preceding his death) to the  
91 spouse of the deceased member for life for the use of the spouse  
92 and the child or children of the deceased member under the age of  
93 eighteen (18) years. If the deceased member is not survived by a  
94 spouse but there \* \* \* remains a child or children of the deceased

95 member still under the age of eighteen (18) years, the payments  
96 shall \* \* \* be made to a parent or lawful custodian of the child  
97 or children without the necessity of appointment as guardian for  
98 the benefit of the child or children, so long as the child or  
99 children are under the age of eighteen (18) years. After the  
100 death \* \* \* of the spouse, all payments to the spouse shall cease,  
101 and after the death or attainment of the age of eighteen (18)  
102 years of any child or children of the deceased member, all  
103 payments to the child or children over eighteen (18) years of age  
104 shall cease. If the deceased member is not survived by a spouse  
105 or child or children under the age of eighteen (18) years, but is  
106 survived by a father, mother \* \* \* or \* \* \* unmarried sister  
107 dependent upon him or her, the payments shall continue to be made  
108 to the dependent father or mother or both, so long as each \* \* \*  
109 lives. If there is no dependent father or mother surviving the  
110 deceased member, the payments shall continue to be made to the  
111 dependent sister or \* \* \* sisters of the deceased member, or to  
112 dependent incurable children of the deceased member, so long as  
113 the beneficiary or beneficiaries \* \* \* remain unmarried. Upon the  
114 death or marriage of any such sisters, all payments shall cease to  
115 her. The word "dependent," as used in this section, means wholly  
116 dependent.

117 (2) It is the intention of the Legislature that the benefits  
118 authorized by paragraph (b) of subsection (1) of this section  
119 shall be paid to all qualified and eligible spouses whose deceased  
120 spouses died before the March 27, 1978.

121 (3) Any spouse who received a spouse retirement benefit  
122 under this section before July 1, 2004, and whose benefits were  
123 terminated because of remarriage, may again receive his or her  
124 spouse retirement benefit from and after making application with  
125 the board of trustees to reinstate the spouse retirement benefit.  
126 Any reinstatement of the spouse retirement benefit shall be

127 prospective only from and after the first of the month following  
128 the date of application for reinstatement.

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