

By: Representative Brown

To: Appropriations

HOUSE BILL NO. 1181

1 AN ACT TO AMEND SECTION 25-11-121, MISSISSIPPI CODE OF 1972,  
 2 TO PROVIDE THAT FUNDS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
 3 MAY BE DEPOSITED IN FEDERALLY INSURED INSTITUTIONS THAT MAINTAIN A  
 4 FACILITY THAT TAKES DEPOSITS IN THE STATE OF MISSISSIPPI; TO  
 5 DELETE THE PERCENTAGE LIMITATION ON INVESTMENTS BY THE SYSTEM IN  
 6 BONDS HAVING CERTAIN RATINGS; TO INCREASE THE AMOUNT OF THE FUNDS  
 7 OF THE SYSTEM THAT MAY BE INVESTED IN CERTAIN POOLED OR COMMINGLED  
 8 REAL ESTATE FUNDS OR REAL ESTATE SECURITIES; AND FOR RELATED  
 9 PURPOSES.

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

11 **SECTION 1.** Section 25-11-121, Mississippi Code of 1972, is  
 12 amended as follows:

13 25-11-121. (1) The board shall, from time to time,  
 14 determine the current requirements for benefit payments and  
 15 administrative expense that shall be maintained as a cash working  
 16 balance, except that the cash working balance shall not exceed at  
 17 any time an amount necessary to meet the current obligations of  
 18 the system for a period of ninety (90) days. Any amounts in  
 19 excess of the cash working balance shall be invested, as follows,  
 20 at such periodic intervals as the board may determine, \* \* \*  
 21 however, all purchases shall be made from competitive offerings  
 22 except short-term obligations referred to in Section 25-11-121(d):

23 (a) Bonds, notes, certificates and other valid general  
 24 obligations of the State of Mississippi, or of any county, or of  
 25 any city, or of any supervisors district of any county of the  
 26 State of Mississippi, or of any school district bonds of the State  
 27 of Mississippi; notes or certificates of indebtedness issued by  
 28 the Veterans' Home Purchase Board of Mississippi, provided that  
 29 those notes or certificates of indebtedness are secured by the  
 30 pledge of collateral equal to two hundred percent (200%) of the

31 amount of the loan, which collateral is also guaranteed at least  
32 for fifty percent (50%) of the face value by the United States  
33 government, and provided that not more than five percent (5%) of  
34 the total investment holdings of the system shall be in Veterans'  
35 Home Purchase Board notes or certificates at any time; real estate  
36 mortgage loans one hundred percent (100%) insured by the Federal  
37 Housing Administration on single family homes located in the State  
38 of Mississippi, where monthly collections and all servicing  
39 matters are handled by Federal Housing Administration approved  
40 mortgagees authorized to make those loans in the State of  
41 Mississippi;

42 (b) State of Mississippi highway bonds;

43 (c) Funds may be deposited in federally insured  
44 institutions that maintain a facility that takes deposits in the  
45 State of Mississippi or a custodial bank;

46 (d) Corporate bonds and taxable municipal bonds of  
47 investment grade as rated by Standard and Poor's or by Moody's  
48 Investment Service \* \* \*; or corporate short-term obligations of  
49 corporations or of wholly-owned subsidiaries of corporations,  
50 whose short-term obligations are rated A-3 or better by Standard  
51 and Poor's or rated P-3 or better by Moody's Investment Service;

52 (e) Bonds of the Tennessee Valley Authority;

53 (f) Bonds, notes, certificates and other valid  
54 obligations of the United States, and other valid obligations of  
55 any federal instrumentality that issues securities under authority  
56 of an act of Congress and are exempt from registration with the  
57 Securities and Exchange Commission;

58 (g) Bonds, notes, debentures and other securities  
59 issued by any federal instrumentality and fully guaranteed by the  
60 United States;

61 (h) Interest-bearing bonds or notes that are general  
62 obligations of any other state in the United States or of any city  
63 or county in that state, provided that the city or county had a

64 population as shown by the federal census next preceding the  
65 investment of not less than twenty-five thousand (25,000)  
66 inhabitants and provided that the state, city or county has not  
67 defaulted for a period longer than thirty (30) days in the payment  
68 of principal or interest on any of its general obligation  
69 indebtedness during a period of ten (10) calendar years  
70 immediately preceding the investment;

71 (i) Shares of stocks, common and/or preferred, of  
72 corporations created by or existing under the laws of the United  
73 States or any state, district or territory of the United States,  
74 provided that:

75 (i) The maximum investments in stocks shall not  
76 exceed fifty percent (50%) of the book value of the total  
77 investment fund of the system;

78 (ii) The stock of that corporation shall:

79 A. Be listed on a national stock exchange; or

80 B. Be traded in the over-the-counter market,

81 provided that price quotations for those over-the-counter stocks

82 are quoted by the National Association of Securities Dealers

83 Automated Quotation System (NASDAQ);

84 (iii) The outstanding shares of that corporation

85 shall have a total market value of not less than Fifty Million

86 Dollars (\$50,000,000.00);

87 (iv) The amount of investment in any one (1)

88 corporation shall not exceed three percent (3%) of the book value

89 of the assets of the system; and

90 (v) The shares of any one (1) corporation owned by

91 the system shall not exceed five percent (5%) of that

92 corporation's outstanding stock;

93 (j) Bonds rated Single A or better, stocks and

94 convertible securities of established non-United States companies,

95 which companies are listed on only primary national stock

96 exchanges of foreign nations; and in foreign government securities

97 rated Single A or better by a recognized rating agency; however,  
98 the total book value of investments under this paragraph shall at  
99 no time exceed thirty percent (30%) of the total book value of all  
100 investments of the system. The board may take requisite action to  
101 effectuate or hedge such transactions through foreign banks,  
102 including the purchase and sale, transfer, exchange, or otherwise  
103 disposal of, and generally deal in foreign exchange through the  
104 use of foreign currency, interbank forward contracts, futures  
105 contracts, options contracts, swaps and other related derivative  
106 instruments, notwithstanding any other provisions of this article  
107 to the contrary;

108 (k) Covered call and put options on securities traded  
109 on one or more of the regulated exchanges;

110 (l) Pooled or commingled funds managed by a corporate  
111 trustee or by a Securities and Exchange Commission registered  
112 investment advisory firm retained as an investment manager by the  
113 board of trustees, and shares of investment companies and unit  
114 investment trusts registered under the Investment Company Act of  
115 1940, where those pooled or commingled funds or shares are  
116 comprised of common or preferred stocks, bonds, money market  
117 instruments or other investments authorized under this section.  
118 That investment in commingled funds or shares shall be held in  
119 trust; however, the total book value of investments under this  
120 paragraph shall at no time exceed five percent (5%) of the total  
121 book value of all investments of the system. Any investment  
122 manager approved by the board of trustees shall invest those  
123 commingled funds or shares as a fiduciary;

124 (m) Pooled or commingled real estate funds or real  
125 estate securities managed by a corporate trustee or by a  
126 Securities and Exchange Commission registered investment advisory  
127 firm retained as an investment manager by the board of trustees.  
128 That investment in commingled funds or shares shall be held in  
129 trust; however, that the total book value of investments under

130 this paragraph shall at no time exceed ten percent (10%) of the  
131 total book value of all investments of the system. Any investment  
132 manager approved by the board of trustees shall invest those  
133 commingled funds or shares as a fiduciary. The ten percent (10%)  
134 limitation in this subsection shall not be subject to the five  
135 percent (5%) limitation in paragraph (1) of this subsection.

136 (2) All investments shall be acquired by the board at prices  
137 not exceeding the prevailing market values for those securities.

138 (3) Any limitations \* \* \* set forth in this section shall be  
139 applicable only at the time of purchase and shall not require the  
140 liquidation of any investment at any time. All investments shall  
141 be clearly marked to indicate ownership by the system and, to the  
142 extent possible, shall be registered in the name of the system.

143 (4) Subject to the above terms, conditions, limitations and  
144 restrictions, the board shall have power to sell, assign, transfer  
145 and dispose of any of the securities and investments of the  
146 system, provided that the sale, assignment or transfer has the  
147 majority approval of the entire board. The board may employ or  
148 contract with investment managers, evaluation services or other  
149 such services as determined by the board to be necessary for the  
150 effective and efficient operation of the system.

151 (5) Except as otherwise provided in this section, no trustee  
152 and no employee of the board shall have any direct or indirect  
153 interest in the income, gains or profits of any investment made by  
154 the board, nor shall any such person receive any pay or emolument  
155 for his services in connection with any investment made by the  
156 board. No trustee or employee of the board shall become an  
157 endorser or surety, or in any manner an obligor for money loaned  
158 by or borrowed from the system.

159 (6) All interest derived from investments and any gains from  
160 the sale or exchange of investments shall be credited by the board  
161 to the account of the system.

162           (7) The board of trustees annually shall credit regular  
163 interest on the mean amount for the preceding year in each of the  
164 reserves maintained by the board, with the exception of the  
165 expense account. This credit shall be made annually from interest  
166 and other earnings on the invested assets of the system. Any  
167 additional amount required to meet the regular interest on the  
168 funds of the system shall be charged to the employer's  
169 accumulation account, and any excess of earnings over the regular  
170 interest required shall be credited to the employer's accumulation  
171 account. Regular interest shall mean such per centum rate to be  
172 compounded annually as \* \* \* determined by the board of trustees  
173 on the basis of the interest earnings of the system for the  
174 preceding year.

175           (8) The board of trustees shall be the custodian of the  
176 funds of the system. All expense vouchers and retirement  
177 allowance payrolls shall be certified by the executive director,  
178 who shall furnish the board a surety bond in a company authorized  
179 to do business in Mississippi in such an amount as \* \* \* required  
180 by the board, the premium to be paid by the board from the expense  
181 account.

182           (9) For the purpose of meeting disbursements for retirement  
183 allowances, annuities and other payments, cash may be kept  
184 available, not exceeding the requirements of the system for a  
185 period of ninety (90) days, on deposit in one or more banks or  
186 trust companies organized under the laws of the State of  
187 Mississippi or the laws of the United States, provided that the  
188 sum on deposit in any one (1) bank or trust company shall not  
189 exceed thirty-five percent (35%) of the paid-up capital and  
190 regular surplus of the bank or trust company.

191           (10) Except as otherwise provided, the monies or properties  
192 of the Public Employees' Retirement System of Mississippi  
193 deposited in any bank or banks of the United States shall, where  
194 possible, be safeguarded and guaranteed by the posting as security

195 by the depository of bonds, notes and other securities purchasable  
196 by the system, as provided elsewhere in this section. The bonds,  
197 notes and other securities offered as security shall be posted to  
198 the credit of the system by the depository with the board or with  
199 an unaffiliated bank or trust company domiciled within the United  
200 States or the State of Mississippi acceptable to both the board  
201 and to the fiscal agent bank. If the board and the fiscal agent  
202 bank cannot reach an agreement, the bonds, notes and other  
203 securities shall be deposited in a bank or trust company  
204 designated by the State Commissioner of Banking and Consumer  
205 Finance. \* \* \* However, \* \* \* bonds or notes of the United States  
206 government owned by the system may be deposited for safekeeping in  
207 any federal reserve bank.

208 (11) The board of trustees shall determine the degree of  
209 collateralization necessary for both foreign and domestic demand  
210 deposit accounts in addition to that which is guaranteed by the  
211 Federal Deposit Insurance Corporation or such other federal  
212 insurance program as may be in effect.

213 (12) The board, the executive director and employees shall  
214 discharge their duties with respect to the investments of the  
215 system solely for the interest of the system with the care, skill,  
216 prudence and diligence under the circumstances then prevailing  
217 that a prudent person acting in a like capacity and familiar with  
218 those matters would use in the conduct of an enterprise of a like  
219 character and with like aims, including diversifying the  
220 investments of the system so as to minimize the risk of large  
221 losses, unless under the circumstances it is clearly prudent not  
222 to do so.

223 **SECTION 2.** This act shall take effect and be in force from  
224 and after July 1, 2004.