

By: Senator(s) Thames

To: Finance

SENATE BILL NO. 2708

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 INCREASE THE AMOUNT OF THE FUNDS OF THE PUBLIC EMPLOYEES'
 6 RETIREMENT SYSTEM THAT MAY INVEST IN CERTAIN BONDS AND CERTAIN
 7 POOLED OR COMMINGLED REAL ESTATE FUNDS OR REAL ESTATE SECURITIES;
 8 AND FOR RELATED PURPOSES.

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

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

12 25-11-121. (1) The board shall, from time to time,
 13 determine the current requirements for benefit payments and
 14 administrative expense which shall be maintained as a cash working
 15 balance, except that such cash working balance shall not exceed at
 16 any time an amount necessary to meet the current obligations of
 17 the system for a period of ninety (90) days. Any amounts in
 18 excess of such cash working balance shall be invested, as follows,
 19 at such periodic intervals as the board may determine, provided
 20 however, all purchases shall be made from competitive offerings
 21 except short-term obligations referred to in Section 25-11-121(d):

22 (a) Bonds, notes, certificates and other valid general
 23 obligations of the State of Mississippi, or of any county, or of
 24 any city, or of any supervisors district of any county of the
 25 State of Mississippi, or of any school district bonds of the State
 26 of Mississippi; notes or certificates of indebtedness issued by
 27 the Veterans' Home Purchase Board of Mississippi, provided such
 28 notes or certificates of indebtedness are secured by the pledge of
 29 collateral equal to two hundred percent (200%) of the amount of
 30 the loan, which collateral is also guaranteed at least for fifty

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

41 (b) State of Mississippi highway bonds;

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

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

51 (e) Bonds of the Tennessee Valley Authority;

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

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

60 (h) Interest-bearing bonds or notes which are general
61 obligations of any other state in the United States or of any city
62 or county therein, provided such city or county had a population
63 as shown by the federal census next preceding such investment of

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

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

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

76 (ii) The stock of such corporation shall:

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

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

79 provided price quotations for such over-the-counter stocks are
80 quoted by the National Association of Securities Dealers Automated
81 Quotation System (NASDAQ);

82 (iii) The outstanding shares of such corporation
83 shall have a total market value of not less than Fifty Million
84 Dollars (\$50,000,000.00);

85 (iv) The amount of investment in any one (1)
86 corporation shall not exceed three percent (3%) of the book value
87 of the assets of the system; and

88 (v) The shares of any one (1) corporation owned by
89 the system shall not exceed five percent (5%) of that
90 corporation's outstanding stock;

91 (j) Bonds rated Single A or better, stocks and
92 convertible securities of established non-United States companies,
93 which companies are listed on only primary national stock
94 exchanges of foreign nations; and in foreign government securities
95 rated Single A or better by a recognized rating agency; provided
96 that the total book value of investments under this paragraph

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

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

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

122 (m) Pooled or commingled real estate funds or real
123 estate securities managed by a corporate trustee or by a
124 Securities and Exchange Commission registered investment advisory
125 firm retained as an investment manager by the board of trustees.
126 Such investment in commingled funds or shares shall be held in
127 trust; provided that the total book value of investments under
128 this paragraph shall at no time exceed ten percent (10%) of the
129 total book value of all investments of the system. Any investment

130 manager approved by the board of trustees shall invest such
131 commingled funds or shares as a fiduciary. The ten percent (10%)
132 limitation in this subsection shall not be subject to the five
133 percent (5%) limitation in paragraph (1) of this subsection.

134 (2) All investments shall be acquired by the board at prices
135 not exceeding the prevailing market values for such securities.

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

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

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

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

160 (7) The board of trustees annually shall credit regular
161 interest on the mean amount for the preceding year in each of the
162 reserves maintained by the board, with the exception of the

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

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

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

189 (10) Except as otherwise provided, the monies or properties
190 of the Public Employees' Retirement System of Mississippi
191 deposited in any bank or banks of the United States shall, where
192 possible, be safeguarded and guaranteed by the posting as security
193 by the depository of bonds, notes and other securities purchasable
194 by the system, as provided elsewhere in this section. The bonds,
195 notes and other securities offered as security shall be posted to

196 the credit of the system by the depository with the board or with
197 an unaffiliated bank or trust company domiciled within the United
198 States or the State of Mississippi acceptable to both the board
199 and to the fiscal agent bank. In the event the board and the
200 fiscal agent bank cannot reach an agreement, the bonds, notes and
201 other securities shall be deposited in a bank or trust company
202 designated by the State Commissioner of Banking and Consumer
203 Finance. Provided, however, that bonds or notes of the United
204 States government owned by the system may be deposited for
205 safekeeping in any federal reserve bank.

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

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

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