

By: Senator(s) Thames

To: Finance

COMMITTEE SUBSTITUTE
FOR
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 INSTITUTIONS INSURED BY THE FEDERAL DEPOSIT
4 INSURANCE CORPORATION THAT MAINTAIN A FACILITY THAT TAKES DEPOSITS
5 IN THE STATE OF MISSISSIPPI; TO INCREASE THE AMOUNT OF THE FUNDS
6 OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM THAT MAY INVEST IN
7 CERTAIN BONDS AND CERTAIN POOLED OR COMMINGLED REAL ESTATE FUNDS
8 OR REAL ESTATE SECURITIES; 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 any institution insured
43 by the Federal Deposit Insurance Corporation that maintains a
44 facility that takes deposits in the State of Mississippi or a
45 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 which are general
62 obligations of any other state in the United States or of any city
63 or county therein, provided such city or county had a population

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

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

77 (ii) The stock of such corporation shall:

78 A. Be listed on a national stock exchange; or
79 B. Be traded in the over-the-counter market,
80 provided price quotations for such over-the-counter stocks are
81 quoted by the National Association of Securities Dealers Automated
82 Quotation System (NASDAQ);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

161 (7) The board of trustees annually shall credit regular
162 interest on the mean amount for the preceding year in each of the

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

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

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

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

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

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

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

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