

By: Representative Fleming

To: Appropriations

HOUSE BILL NO. 1

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22 annuity savings account, provided that the member has withdrawn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

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

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

61 (3) If any person who has received a refund reenters the
62 state service and again becomes a member of the system, the member
63 may repay all or part of the amounts previously received as a
64 refund, together with regular interest covering the period from
65 the date of refund to the date of repayment; however, the amounts
66 that are repaid by the member and the creditable service related
67 thereto shall not be used in any benefit calculation or

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

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

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

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

99 (5) (a) In order to provide a source of income to members
100 who have applied for disability benefits under Sections 25-11-113

101 or 25-11-114, the board may provide, at the employee's election, a
102 temporary benefit to be paid from the member's accumulated
103 contributions, if any, without forfeiting the right to pursue
104 disability benefits, provided that the member has exhausted all
105 personal and medical leave and has terminated his or her
106 employment. The board may prescribe rules and regulations for
107 carrying out the provisions of this subsection (4).

108 (b) If a member who has elected to receive temporary
109 benefits under this subsection later applies for a refund of his
110 or her accumulated contributions, all amounts paid under this
111 subsection shall be deducted from the accumulated contributions
112 and the balance will be paid to the member. If a member who has
113 elected to receive temporary benefits under this subsection is
114 later approved for a disability retirement allowance, and a
115 service retirement allowance or survivor benefits are paid on the
116 account, the board shall adjust the benefits in such a manner that
117 no more than the actuarial equivalent of the benefits to which the
118 member or beneficiary was or is entitled shall be paid.

119 (c) The board may study, develop and propose a
120 disability benefit structure, including short and long term
121 disability benefits, provided that it is the actuarial equivalent
122 of the benefits currently provided in Sections 25-11-113 or
123 25-11-114.

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

126 25-11-115. (1) Upon application for superannuation or
127 disability retirement, any member may elect to receive his benefit
128 in a retirement allowance payable throughout life with no further
129 payments to anyone at his death, except that in the event his
130 total retirement payments under this article do not equal his
131 total contributions under this article, his named beneficiary
132 shall receive the difference in cash at his death. Or he may
133 elect upon retirement, or upon becoming eligible for retirement,

134 to receive the actuarial equivalent subject to the provisions of
135 subsection (3) of this section of his retirement allowance in a
136 reduced retirement allowance payable throughout life with the
137 provision that:

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

143 **Option 2.** Upon his death, his reduced retirement allowance
144 shall be continued throughout the life of, and paid to, such
145 person as he has nominated by written designation duly
146 acknowledged and filed with the board of trustees at the time of
147 his retirement;

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

154 **Option 4-A.** Upon his death, one-half (1/2) of his reduced
155 retirement allowance, or such other specified amount, shall be
156 continued throughout the life of, and paid to, such person as he
157 shall have nominated by written designation duly acknowledged and
158 filed with the board of trustees at the time of his retirement; or

159 **Option 4-B.** A reduced retirement allowance shall be
160 continued throughout the life of the retirant, but with the
161 further guarantee of payments to the named beneficiary,
162 beneficiaries or to the estate for a specified number of years
163 certain. If the retired member or the last designated beneficiary
164 receiving annuity payments dies prior to receiving all guaranteed
165 payments due, the actuarial equivalent of the remaining payments
166 shall be paid pursuant to Section 25-11-117.1(1);

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

176 **Option 6.** Any member who has at least twenty-eight (28)
177 years of creditable service at the time of retirement or who is at
178 least sixty-three (63) years of age and eligible to retire, may
179 select the maximum retirement benefit or an optional benefit as
180 provided in this subsection together with a partial lump sum
181 distribution. The amount of the lump sum distribution under this
182 option shall be equal to the maximum monthly benefit multiplied by
183 twelve (12), twenty-four (24) or thirty-six (36) as selected by
184 the member. The maximum retirement benefit shall be actuarially
185 reduced to reflect the amount of the lump sum distribution
186 selected and further reduced for any other optional benefit
187 selected. The annuity and lump sum distribution shall be computed
188 to result in no actuarial loss to the system. The lump sum
189 distribution shall be made as a single payment payable at the time
190 the first monthly annuity payment is paid to the retiree. The
191 amount of the lump sum distribution shall be deducted from the
192 member's annuity savings account in computing what contributions
193 remain at the death of the retiree and/or a beneficiary. The lump
194 sum distribution option may be elected only once by a member upon
195 initial retirement, and may not be elected by a retiree, by
196 members applying for a disability retirement annuity, by survivors
197 or by a member selecting Option 4-C.

198 (2) No change in the option selected shall be permitted
199 after the member's death or after the member has received his

200 first retirement check except as provided in subsections (3) and
201 (4) of this section and in Section 25-11-127. Members who are
202 pursuing a disability retirement allowance and simultaneously or
203 subsequently elect to begin to receive a service retirement
204 allowance while continuing to pursue a disability retirement
205 allowance, shall not be eligible to select Option 4-C or Option 6
206 and those options may not be selected at a later time if the
207 application for a disability retirement allowance is voided or
208 denied. However, any retired member who is receiving a retirement
209 allowance under Option 2 or Option 4-A upon July 1, 1992, and
210 whose designated beneficiary predeceased him or whose marriage to
211 a spouse who is his designated beneficiary is terminated by
212 divorce or other dissolution, upon written notification to the
213 retirement system of the death of the designated beneficiary or of
214 the termination of his marriage to his designated beneficiary, the
215 retirement allowance payable to the member after receipt of such
216 notification by the retirement system shall be equal to the
217 retirement allowance which would have been payable had the member
218 not elected the option. In addition, any retired member who is
219 receiving the maximum retirement allowance for life, a retirement
220 allowance under Option 1 or who is receiving a retirement
221 allowance under Option 2 or Option 4-A on July 1, 1992, may elect
222 to provide survivor benefits under Option 2 or Option 4-A to a
223 spouse who was not previously the member's beneficiary and whom
224 the member married before July 1, 1992.

225 (3) Any retired member who is receiving a reduced retirement
226 allowance under Option 2 or Option 4-A whose designated
227 beneficiary predeceases him, or whose marriage to a spouse who is
228 his designated beneficiary is terminated by divorce or other
229 dissolution, may elect to cancel his reduced retirement allowance
230 and receive the maximum retirement allowance for life in an amount
231 equal to the amount that would have been payable if the member had
232 not elected Option 2 or Option 4-A. Such election must be made in

233 writing to the office of the executive director of the system on a
234 form prescribed by the board. Any such election shall be
235 effective the first of the month following the date the election
236 is received by the system.

237 (4) Any retired member who is receiving the maximum
238 retirement allowance for life, or a retirement allowance under
239 Option 1, and who marries after his retirement may elect to cancel
240 his maximum retirement allowance and receive a reduced retirement
241 allowance under Option 2 or Option 4-A to provide continuing
242 lifetime benefits to his spouse. Such election must be made in
243 writing to the office of the executive director of the system on a
244 form prescribed by the board not earlier than the date of the
245 marriage. Any such election shall be effective the first of the
246 month following the date the election is received by the system.

247 (5) In the event the election of an optional benefit is made
248 after the member has attained the age of sixty-five (65) years,
249 the actuarial equivalent factor shall be used to compute the
250 reduced retirement allowance as if the election had been made on
251 his sixty-fifth birthday; however, from and after January 1, 2003,
252 if there is an election of Option 6 after the member has attained
253 the age of sixty-five (65) years, the actuarial equivalent factor
254 based on the retiree's age at the time of retirement shall be used
255 to compute the reduced maximum monthly retirement allowance.

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

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

266 (7) If a retirant and his eligible beneficiary, if any, both
267 die before they have received in annuity payments a total amount
268 equal to the accumulated contributions standing to the retirant's
269 credit in the annuity savings account at the time of his
270 retirement, the difference between the accumulated contributions
271 and the total amount of annuities received by them shall be paid
272 to such persons as the retirant has nominated by written
273 designation duly executed and filed in the office of the executive
274 director. If no designated person survives the retirant and his
275 beneficiary, the difference, if any, shall be paid pursuant to
276 Section 25-11-117.1(1).

277 (8) Any retired member who retired on Option 2(5) or 4-A(5)
278 prior to July 1, 1992, who is still receiving a retirement
279 allowance on July 1, 1994, shall receive an increase in the annual
280 retirement allowance effective July 1, 1994, equal to the amount
281 they would have received under Option 2 or Option 4-A without a
282 reduction for Option 5 based on the ages at retirement of the
283 retiree and beneficiary and option factors in effect on July 1,
284 1992. Such increase shall be prospective only.

285 (9) If a member receives a distribution under Section
286 25-11-117(4) before retirement, the maximum retirement benefit of
287 the member at the time of retirement shall be actuarially reduced
288 to reflect the amount of the distribution received and shall be
289 further reduced for any other optional benefit selected. The
290 amount of the member's annuity shall be computed to result in no
291 actuarial loss to the system. In addition, the amount of a
292 distribution received under Section 25-11-117(4) shall be deducted
293 from the member's annuity savings account in computing what
294 contributions remain at the death of the retiree and/or a
295 beneficiary.

296 **SECTION 3.** This act shall take effect and be in force from
297 and after July 1, 2005.