

By: Representative Fleming

To: Appropriations

HOUSE BILL NO. 58

1 AN ACT TO AMEND SECTION 25-11-123, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO
3 ELECT TO INCREASE THEIR EMPLOYEE'S CONTRIBUTION RATE BY FIVE
4 PERCENT OR TEN PERCENT ABOVE THE REGULAR CONTRIBUTION RATE,
5 SUBJECT TO CERTAIN LIMITATIONS; TO AMEND SECTION 25-11-111,
6 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY MEMBER WHO ELECTS TO
7 INCREASE HIS OR HER EMPLOYEE'S CONTRIBUTION RATE SHALL HAVE THE
8 AMOUNT OF HIS OR HER ANNUAL RETIREMENT ALLOWANCE INCREASED AT THE
9 TIME OF RETIREMENT BY THE SAME PERCENTAGE THAT THE EMPLOYEE'S
10 CONTRIBUTION RATE IS INCREASED, EITHER FIVE PERCENT OR TEN
11 PERCENT, IF THE INCREASED CONTRIBUTION RATE IS IN EFFECT FOR AT
12 LEAST FIVE CONSECUTIVE YEARS; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** Section 25-11-123, Mississippi Code of 1972, is
15 amended as follows:

16 25-11-123. All of the assets of the system shall be credited
17 according to the purpose for which they are held to one (1) of
18 four (4) reserves; namely, the annuity savings account, the
19 annuity reserve, the employer's accumulation account, and the
20 expense account.

21 (a) **Annuity savings account.** In the annuity savings account
22 shall be accumulated the contributions made by members to provide
23 for their annuities, including interest thereon which shall be
24 posted monthly. Credits to and charges against the annuity
25 savings account shall be made as follows:

26 (1) Beginning July 1, 1991, the employer shall cause to
27 be deducted from the salary of each member on each and every
28 payroll of the employer for each and every payroll period seven
29 and one-fourth percent (7-1/4%) of earned compensation as defined
30 in Section 25-11-103. Future contributions shall be fixed
31 biennially by the board on the basis of the liabilities of the
32 retirement system for the various allowances and benefits as shown

33 by actuarial valuation; however, any member earning at a rate less
34 than Sixteen Dollars and Sixty-seven Cents (\$16.67) per month, or
35 Two Hundred Dollars (\$200.00) per year, shall contribute not less
36 than One Dollar (\$1.00) per month, or Twelve Dollars (\$12.00) per
37 year.

38 (2) The deductions provided herein shall be made
39 notwithstanding that the minimum compensation provided by law for
40 any member is reduced thereby. Every member shall be deemed to
41 consent and agree to the deductions made and provided for herein
42 and shall receipt for his full salary or compensation, and payment
43 of salary or compensation less the deduction shall be a full and
44 complete discharge and acquittance of all claims and demands
45 whatsoever for the services rendered by the person during the
46 period covered by the payment, except as to the benefits provided
47 under Articles 1 and 3. The board shall provide by rules for the
48 methods of collection of contributions from members and the
49 employer. The board shall have full authority to require the
50 production of evidence necessary to verify the correctness of
51 amounts contributed.

52 (3) (i) Subject to the limitation in subparagraph (ii)
53 of this paragraph, any member may elect to increase his or her
54 employee's contribution rate by either five percent (5%) or ten
55 percent (10%) above the rate specified under paragraph (1), so
56 that the member's contribution rate will be either twelve and
57 one-fourth percent (12-1/4%) or seventeen and one-fourth percent
58 (17-1/4%). Any member who wishes to increase his or her
59 employee's contribution rate shall request the increase in writing
60 to the office of the board of trustees. The member shall specify
61 the amount of the increased contribution rate that will be used,
62 the date that the increased contribution rate will begin, and the
63 period during which the increased contribution rate will be in
64 effect.

65 (ii) The total amount of additional contributions
66 that a member may make in any one (1) year from the increased
67 employee's contribution rate under this paragraph (3), when
68 combined with the total amount of contributions that the member
69 makes to all other tax-deferred retirement plans during the same
70 year, shall not exceed the maximum limitation on those
71 contributions provided under Section 415 of the Internal Revenue
72 Code. It is the duty of each member who has increased his or her
73 employee's contribution rate under this paragraph (3) to report to
74 the retirement system the amount of contributions that the member
75 makes to all other tax-deferred retirement plans, in the manner
76 and at the time prescribed by the board of trustees.

77 (iii) The additional contributions that are made
78 from the increased employee's contribution rate under this
79 paragraph (3) shall become a part of the member's contributions.
80 The accumulated contributions of a member that are withdrawn by
81 the member, or paid to his or her estate or designated beneficiary
82 in event of the member's death as provided in this article, shall
83 be charged to the annuity savings account. Upon the retirement of
84 a member, his or her accumulated contributions shall be
85 transferred from the annuity savings account to the annuity
86 reserve.

87 (b) **Annuity reserve.** The annuity reserve shall be the
88 account representing the actuarial value of all annuities in
89 force, and to it shall be charged all annuities and all benefits
90 in lieu of annuities, payable as provided in this article. If a
91 beneficiary retired on account of disability is restored to active
92 service with a compensation not less than his average final
93 compensation at the time of his last retirement, the remainder of
94 his contributions shall be transferred from the annuity reserve to
95 the annuity savings account and credited to his individual account
96 therein, and the balance of his annuity reserve shall be
97 transferred to the employer's accumulation account.

98 (c) **Employer's accumulation account.** The employer's
99 accumulation account shall represent the accumulation of all
100 reserves for the payment of all retirement allowances and other
101 benefits payable from contributions made by the employer, and
102 against this account shall be charged all retirement allowances
103 and other benefits on account of members. Credits to and charges
104 against the employer's accumulation account shall be made as
105 follows:

106 (1) On account of each member there shall be paid
107 monthly into the employer's accumulation account by the employers
108 for the preceding fiscal year an amount equal to a certain
109 percentage of the total earned compensation, as defined in Section
110 25-11-103, of each member. The percentage rate of those
111 contributions shall be fixed biennially by the board on the basis
112 of the liabilities of the retirement system for the various
113 allowances and benefits as shown by actuarial valuation.
114 Beginning January 1, 1990, the rate shall be fixed at nine and
115 three-fourths percent (9-3/4%). The board shall reduce the
116 employer's contribution rate by one percent (1%) from and after
117 July 1 of the year following the year in which the board
118 determines and the board's actuary certifies that the employer's
119 contribution rate can be reduced by that amount without causing
120 the unfunded accrued actuarial liability amortization period for
121 the retirement system to exceed twenty (20) years. Political
122 subdivisions joining Article 3 of the Public Employees' Retirement
123 System after July 1, 1968, may adjust the employer's contributions
124 by agreement with the Board of Trustees of the Public Employees'
125 Retirement System to provide service credits for any period before
126 execution of the agreement based upon an actuarial determination
127 of employer's contribution rates.

128 (2) On the basis of regular interest and of such
129 mortality and other tables as are adopted by the board of
130 trustees, the actuary engaged by the board to make each valuation

131 required by this article during the period over which the accrued
132 liability contribution is payable, immediately after making that
133 valuation, shall determine the uniform and constant percentage of
134 the earnable compensation of each member which, if contributed by
135 the employer on the basis of compensation of the member throughout
136 his entire period of membership service, would be sufficient to
137 provide for the payment of any retirement allowance payable on his
138 account for that service. The percentage rate so determined shall
139 be known as the "normal contribution rate." After the accrued
140 liability contribution has ceased to be payable, the normal
141 contribution rate shall be the percentage rate of the salary of
142 all members obtained by deducting from the total liabilities on
143 account of membership service the amount in the employer's
144 accumulation account, and dividing the remainder by one percent
145 (1%) of the present value of the prospective future salaries of
146 all members as computed on the basis of the mortality and service
147 tables adopted by the board of trustees and regular interest. The
148 normal rate of contributions shall be determined by the actuary
149 after each valuation.

150 (3) The total amount payable in each year to the
151 employer's accumulation account shall not be less than the sum of
152 the percentage rate known as the "normal contribution" rate and
153 the "accrued liability contribution" rate of the total
154 compensation earnable by all members during the preceding year,
155 provided that the payment by the employer shall be sufficient,
156 when combined with the amounts in the account, to provide the
157 allowances and other benefits chargeable to this account during
158 the year then current.

159 (4) The accrued liability contribution shall be
160 discontinued as soon as the accumulated balance in the employer's
161 accumulation account shall equal the present value, computed on
162 the basis of the normal contribution rate then in force, or the

163 prospective normal contributions to be received on account of all
164 persons who are at that time members.

165 (5) All allowances and benefits in lieu thereof, with
166 the exception of those payable on account of members who receive
167 no prior service credit, payable from contributions of the
168 employer, shall be paid from the employer's accumulation account.

169 (6) Upon the retirement of a member, an amount equal to
170 his retirement allowance shall be transferred from the employer's
171 accumulation account to the annuity reserve.

172 (d) **Expense account.** The expense account shall be the
173 account to which the expenses of the administration of the system
174 shall be charged, exclusive of amounts payable as retirement
175 allowances and as other benefits provided herein. The Legislature
176 shall make annual appropriations in amounts sufficient to
177 administer the system, which shall be credited to this account.
178 There shall be transferred to the State Treasury from this
179 account, not less than once per month, an amount sufficient for
180 payment of the estimated expenses of the system for the succeeding
181 thirty (30) days. Any interest earned on the expense account
182 shall accrue to the benefit of the system. However,
183 notwithstanding the provisions of Sections 25-11-15(10) and
184 25-11-105(f)(5)E, all expenses of the administration of the system
185 shall be paid from the interest earnings, provided the interest
186 earnings are in excess of the actuarial interest assumption as
187 determined by the board, and provided the present cost of the
188 administrative expense fee of two percent (2%) of the
189 contributions reported by the political subdivisions and
190 instrumentalities shall be reduced to one percent (1%) from and
191 after July 1, 1983, through June 30, 1984, and shall be eliminated
192 thereafter.

193 (e) **Collection of contributions.** The employer shall cause
194 to be deducted on each and every payroll of a member for each and
195 every payroll period, beginning subsequent to January 31, 1953,

196 the contributions payable by the member as provided in Articles 1
197 and 3.

198 The employer shall make deductions from salaries of employees
199 as provided in Articles 1 and 3 and shall transmit monthly, or at
200 such time as the board of trustees designates, the amount
201 specified to be deducted to the Executive Director of the Public
202 Employees' Retirement System. The executive director, after
203 making a record of all those receipts, shall deposit such amounts
204 as provided by law.

205 (f) (1) Upon the basis of each actuarial valuation provided
206 herein, the board of trustees shall biennially determine the
207 normal contribution rate and the accrued liability contribution
208 rate as provided in this section. The sum of these two (2) rates
209 shall be known as the "employer's contribution rate." Beginning
210 on earned compensation effective January 1, 1990, the rate
211 computed as provided in this section shall be nine and
212 three-fourths percent (9-3/4%). The board shall reduce the
213 employer's contribution rate by one percent (1%) from and after
214 July 1 of the year following the year in which the board
215 determines and the board's actuary certifies that the employer's
216 contribution rate can be reduced by that amount without causing
217 the unfunded accrued actuarial liability amortization period for
218 the retirement system to exceed twenty (20) years. The percentage
219 rate of those contributions shall be fixed biennially by the board
220 on the basis of the liabilities of the retirement system for the
221 various allowances and benefits as shown by actuarial
222 valuation.

223 (2) The amount payable by the employer on account of
224 normal and accrued liability contributions shall be determined by
225 applying the employer's contribution rate to the amount of
226 compensation earned by employees who are members of the system.
227 Monthly, or at such time as the board of trustees designates, each
228 department or agency shall compute the amount of the employer's

229 contribution payable, with respect to the salaries of its
230 employees who are members of the system, and shall cause that
231 amount to be paid to the board of trustees from the personal
232 service allotment of the amount appropriated for the operation of
233 the department or agency, or from funds otherwise available to the
234 agency, for the payment of salaries to its employees.

235 (3) Constables shall pay employer and employee
236 contributions on their net fee income as well as the employee
237 contributions on all direct treasury or county payroll income.
238 The county shall be responsible for the employer contribution on
239 all direct treasury or county payroll income of constables.

240 (4) Chancery and circuit clerks shall be responsible
241 for both the employer and employee share of contributions on the
242 proportionate share of net income attributable to fees, as well as
243 the employee share of net income attributable to direct treasury
244 or county payroll income, and the employing county shall be
245 responsible for the employer contributions on the net income
246 attributable to direct treasury or county payroll income.

247 (5) Once each year, under procedures established by the
248 system, each employer shall submit to the Public Employees'
249 Retirement System a copy of their report to Social Security of all
250 employees' earnings.

251 (6) The board shall provide by rules for the methods of
252 collection of contributions of employers and members. The amounts
253 determined due by an agency to the various funds as specified in
254 Articles 1 and 3 are made obligations of the agency to the board
255 and shall be paid as provided herein. Failure to deduct those
256 contributions shall not relieve the employee and employer from
257 liability thereof. Delinquent employee contributions and any
258 accrued interest shall be the obligation of the employee and
259 delinquent employer contributions and any accrued interest shall
260 be the obligation of the employer. The employer may, in its
261 discretion, elect to pay any or all of the interest on delinquent

262 employee contributions. From and after July 1, 1996, under rules
263 and regulations established by the board, all employers are
264 authorized and shall transfer all funds due to the Public
265 Employees' Retirement System electronically and shall transmit any
266 wage or other reports by computerized reporting systems.

267 **SECTION 2.** Section 25-11-111, Mississippi Code of 1972, is
268 amended as follows:

269 25-11-111. (a) Any member upon withdrawal from service upon
270 or after attainment of the age of sixty (60) years who has
271 completed at least four (4) years of creditable service, or any
272 member upon withdrawal from service regardless of age who has
273 completed at least twenty-five (25) years of creditable service,
274 shall be entitled to receive a retirement allowance, which shall
275 begin on the first of the month following the date the member's
276 application for the allowance is received by the board, but in no
277 event before withdrawal from service.

278 (b) Any member whose withdrawal from service occurs before
279 attaining the age of sixty (60) years who has completed four (4)
280 or more years of creditable service and has not * * * received a
281 refund of his accumulated contributions shall be entitled to
282 receive a retirement allowance, beginning upon his attaining the
283 age of sixty (60) years, of the amount earned and accrued at the
284 date of withdrawal from service.

285 (c) Any member in service who has qualified for retirement
286 benefits may select any optional method of settlement of
287 retirement benefits by notifying the Executive Director of the
288 Board of Trustees of the Public Employees' Retirement System in
289 writing, on a form prescribed by the board, of the option he has
290 selected and by naming the beneficiary of that option and
291 furnishing necessary proof of age. That option, once selected,
292 may be changed at any time before actual retirement or death, but
293 upon the death or retirement of the member, the optional

294 settlement shall be placed in effect upon proper notification to
295 the executive director.

296 (d) The annual amount of the retirement allowance shall
297 consist of:

298 (1) A member's annuity, which shall be the actuarial
299 equivalent of the accumulated contributions of the member at the
300 time of retirement computed according to the actuarial table in
301 use by the system; and

302 (2) An employer's annuity, which, together with the
303 member's annuity provided above, shall be equal to one and
304 seven-eighths percent (1-7/8%) of the average compensation for
305 each year of state service up to and including twenty-five (25)
306 years of membership service, and two and one-fourth percent
307 (2-1/4%) of the average compensation for each year of state
308 service exceeding twenty-five (25) years of membership service.
309 However, after the board of trustees has begun implementing the
310 changes in the computation of the retirement allowance as provided
311 in subsection (e), the employer's annuity shall be equal to:

312 (i) One and seven-eighths percent (1-7/8%) of the
313 average compensation for each year of membership service up to and
314 including the number of years specified in Column A of the table
315 in subsection (e) for the latest phase that has been implemented,
316 and

317 (ii) Two percent (2%) of the average compensation
318 for each year of membership service exceeding the number of years
319 specified in Column A of the table in subsection (e) for the
320 latest phase that has been implemented up to and including
321 twenty-five (25) years, and

322 (iii) The percentage of the average compensation
323 specified in Column B of the table in subsection (e) for the
324 latest phase that has been implemented for each year of membership
325 service exceeding twenty-five (25) years.

326 (3) A prior service annuity equal to one and
327 seven-eighths percent (1-7/8%) of the average compensation for
328 each year of state service up to and including twenty-five (25)
329 years of prior service, and two and one-fourth percent (2-1/4%) of
330 the average compensation for each year of state service exceeding
331 twenty-five (25) years of prior service for which the member is
332 allowed credit. However, after the board of trustees has begun
333 implementing the changes in the computation of the retirement
334 allowance as provided in subsection (e), the prior service annuity
335 shall be equal to:

336 (i) One and seven-eighths percent (1-7/8%) of the
337 average compensation for each year of prior service up to and
338 including the number of years specified in Column A of the table
339 in subsection (e) for the latest phase that has been implemented,
340 and

341 (ii) Two percent (2%) of the average compensation
342 for each year of prior service exceeding the number of years
343 specified in Column A of the table in subsection (e) for the
344 latest phase that has been implemented up to and including
345 twenty-five (25) years, and

346 (iii) The percentage of the average compensation
347 specified in Column B of the table in subsection (e) for the
348 latest phase that has been implemented for each year of prior
349 service exceeding twenty-five (25) years.

350 (4) Any retired member or beneficiary thereof who was
351 eligible to receive a retirement allowance before July 1, 1991,
352 and who is still receiving a retirement allowance on July 1, 1992,
353 shall receive an increase in the annual retirement allowance of
354 the retired member equal to one-eighth of one percent (1/8 of 1%)
355 of the average compensation for each year of state service in
356 excess of twenty-five (25) years of membership service up to and
357 including thirty (30) years. The maximum increase shall be
358 five-eighths of one percent (5/8 of 1%). In no case shall a

359 member who has been retired before July 1, 1987, receive less than
360 Ten Dollars (\$10.00) per month for each year of creditable service
361 and proportionately for each quarter year thereof. Persons
362 retired on or after July 1, 1987, shall receive at least Ten
363 Dollars (\$10.00) per month for each year of service and
364 proportionately for each quarter year thereof reduced for the
365 option selected. However, the Ten Dollars (\$10.00) minimum per
366 month for each year of creditable service shall not apply to a
367 retirement allowance computed under Section 25-11-114 based on a
368 percentage of the member's average compensation.

369 (5) The board shall recalculate the retirement
370 allowance of any member or the beneficiary of such a member, if
371 the member or beneficiary is eligible to receive a retirement
372 allowance before July 1, 1999, by using the criteria in paragraphs
373 (2) and (3) of this subsection (d) that provides for two and
374 one-fourth percent (2-1/4%) of the average compensation for each
375 year of service exceeding twenty-five (25) years.

376 (6) Any member upon withdrawal from service upon or
377 after attaining the age of sixty (60) years who has completed at
378 least four (4) years of creditable service, or any member upon
379 withdrawal from service regardless of age who has completed at
380 least twenty-five (25) years of creditable service, shall be
381 entitled to receive a retirement allowance computed in accordance
382 with the formula set forth in this section. The retirement
383 allowance otherwise payable may be converted into a retirement
384 allowance of equivalent actuarial value in such an amount that,
385 with the member's benefit under Title II of the federal Social
386 Security Act, the member will receive, so far as possible,
387 approximately the same amount annually before and after the
388 earliest age at which the member becomes eligible to receive a
389 social security benefit.

390 (e) Beginning on July 1, 2000, the board of trustees shall
391 implement changes in the computation of the amount of the annual

392 retirement allowance, which changes shall be implemented in phases
 393 as set forth in the table in this subsection. The board of
 394 trustees shall implement the phases systematically upon July 1
 395 after the board's actuary certifies that implementation of a phase
 396 will not cause the unfunded accrued actuarial liability
 397 amortization period for the retirement system to exceed twenty-two
 398 (22) years. The board of trustees shall have the exclusive
 399 authority to set the assumptions that are used in the actuarial
 400 evaluation in accordance with Section 25-11-119(9). The board of
 401 trustees shall recalculate the retirement allowance of any retired
 402 member or beneficiary of such a member as each phase is
 403 implemented.

404 RETIREMENT ALLOWANCE COMPUTATION

405 IMPLEMENTATION TABLE

406	(A)	(B)
407 PHASE	2% FOR YEARS	PERCENTAGE
408	ABOVE THIS	FOR YEARS
409	NUMBER AND	ABOVE 25
410	≤25 YEARS	YEARS

412	Phase 1	20 years	2.250%
413	Phase 2	15 years	2.250%
414	Phase 3	10 years	2.250%
415	Phase 4	5 years	2.250%
416	Phase 5	0 years	2.250%
417	Phase 6	0 years	2.375%
418	Phase 7	0 years	2.500%

419 Column A shows the years to which two percent (2%) is
 420 applicable in computing the retirement allowance, which are all
 421 the years of service exceeding the number specified in Column A
 422 for the phase that has been implemented up to and including
 423 twenty-five (25) years.

424 Column B shows the percentage that is applicable to the
425 number of years of service exceeding twenty-five (25) years in
426 computing the retirement allowance.

427 (f) If a member elects under Section 25-11-123(a)(3) to
428 increase his or her employee's contribution rate by five percent
429 (5%), and that increased contribution rate is in effect for at
430 least five (5) consecutive years before the member's retirement,
431 the member shall have the amount of his or her annual retirement
432 allowance that is calculated under subsections (d) and (e) of this
433 section increased by five percent (5%) at the time of his or her
434 retirement. If a member elects under Section 25-11-123(a)(3) to
435 increase his or her employee's contribution rate by ten percent
436 (10%), and that increased contribution rate is in effect for at
437 least five (5) consecutive years before the member's retirement,
438 the member shall have the amount of his or her annual retirement
439 allowance that is calculated under subsections (d) and (e) of this
440 section increased by ten percent (10%) at the time of his or her
441 retirement. The provisions of this subsection (f) are subject to
442 the following:

443 (1) The increase in the amount of the annual retirement
444 allowance provided for under this subsection shall not be made if
445 the five (5) years during which the increased contribution rate is
446 in effect are not consecutive years, or if the increased
447 contribution rate is not the same rate during the five-year
448 period.

449 (2) The increased contribution rates of five percent
450 (5%) and ten percent (10%) may not be combined, accumulated or
451 averaged to further increase the amount of the member's annual
452 retirement allowance above the amount provided for in this
453 subsection. For example, if a member has an increased
454 contribution rate of five percent (5%) in effect for fewer than
455 five (5) years and then elects to use an increased contribution
456 rate of ten percent (10%), the increased contribution rate of ten

457 percent (10%) must be in effect for five (5) consecutive years in
458 order for the member to receive a ten percent (10%) increase in
459 the annual retirement allowance; the years during which the member
460 had an increased contribution rate of five percent (5%) will not
461 be combined, accumulated or averaged together with the years
462 during which the member had an increased contribution rate of ten
463 percent (10%).

464 (g) No member, except members excluded by the Age
465 Discrimination in Employment Act Amendments of 1986 (Public Law
466 99-592), under either Article 1 or Article 3 in state service
467 shall be required to retire because of age.

468 (h) No payment on account of any benefit granted under the
469 provisions of this section shall become effective or begin to
470 accrue until January 1, 1953.

471 (i) (1) A retiree or beneficiary may, on a form prescribed
472 by and filed with the retirement system, irrevocably waive all or
473 a portion of any benefits from the retirement system to which the
474 retiree or beneficiary is entitled. The waiver shall be binding
475 on the heirs and assigns of any retiree or beneficiary and the
476 same must agree to forever hold harmless the Public Employees'
477 Retirement System of Mississippi from any claim to the waived
478 retirement benefits.

479 (2) Any waiver under this subsection shall apply only
480 to the person executing the waiver. A beneficiary shall be
481 entitled to benefits according to the option selected by the
482 member at the time of retirement. However, a beneficiary may, at
483 the option of the beneficiary, execute a waiver of benefits under
484 this subsection.

485 (3) The retirement system shall retain in the annuity
486 reserve account amounts that are not used to pay benefits because
487 of a waiver executed under this subsection.

488 (4) The board of trustees may provide rules and
489 regulations for the administration of waivers under this
490 subsection.

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