

By: Representative Stringer

To: Appropriations

HOUSE BILL NO. 1233

1 AN ACT TO AMEND SECTION 25-11-121, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE BOARD OF TRUSTEES OF THE PUBLIC EMPLOYEES'
3 RETIREMENT SYSTEM TO INVEST UP TO TEN PERCENT OF THE BOOK VALUE OF
4 THE TOTAL INVESTMENT FUND OF THE SYSTEM IN CERTAIN TYPES OF
5 INVESTMENTS; AND FOR RELATED PURPOSES.

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

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

9 25-11-121. (1) The board shall, from time to time,
10 determine the current requirements for benefit payments and
11 administrative expense, which shall be maintained as a cash
12 working balance, except that the cash working balance shall not
13 exceed at any time an amount necessary to meet the current
14 obligations of the system for a period of ninety (90) days. Any
15 amounts in excess of the cash working balance shall be invested,
16 as follows, at such periodic intervals as the board may determine;
17 however, all purchases shall be made from competitive offerings
18 except short-term obligations referred to in Section 25-11-121(d):

19 (a) Bonds, notes, certificates and other valid general
20 obligations of the State of Mississippi, or of any county, or of
21 any municipality, or of any supervisors district of any county of
22 the State of Mississippi, or of any school district bonds of the
23 State of Mississippi; notes or certificates of indebtedness issued
24 by the Veterans' Home Purchase Board of Mississippi, provided
25 those notes or certificates of indebtedness are secured by the
26 pledge of collateral equal to two hundred percent (200%) of the
27 amount of the loan, which collateral is also guaranteed at least
28 for fifty percent (50%) of the face value by the United States

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

38 (b) State of Mississippi highway bonds;

39 (c) Funds may be deposited in any institution insured
40 by the Federal Deposit Insurance Corporation that maintains a
41 facility that takes deposits in the State of Mississippi or a
42 custodial bank;

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

49 (e) Bonds of the Tennessee Valley Authority;

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

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

58 (h) Interest-bearing bonds or notes that are general
59 obligations of any other state in the United States or of any
60 municipality or county in that state, provided that the
61 municipality or county had a population as shown by the federal

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

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

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

74 (ii) The stock of the corporation shall:

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

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

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

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

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

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

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

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

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

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

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

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

132 (n) Notwithstanding paragraph (1) of this subsection,
133 and so long as doing so satisfies the prudent person standard
134 under subsection (12) of this section, the board may invest up to
135 ten percent (10%) of the book value of the total investment fund
136 of the system in other types of investments not specifically
137 listed in paragraph (1) of this subsection so long as the
138 investments are in the form of a limited partnership, commingled
139 fund or separate account managed by a Securities and Exchange
140 Commission registered investment advisory firm retained as an
141 investment manager by the board.

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

144 (3) Any limitations * * * set forth in this section shall be
145 applicable only at the time of purchase and shall not require the
146 liquidation of any investment at any time. All investments shall
147 be clearly marked to indicate ownership by the system and to the
148 extent possible shall be registered in the name of the system.

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

157 (5) Except as otherwise provided in this section, no trustee
158 and no employee of the board shall have any direct or indirect
159 interest in the income, gains or profits of any investment made by
160 the board, nor shall any such person receive any pay or emolument

161 for his services in connection with any investment made by the
162 board. No trustee or employee of the board shall become an
163 endorser or surety, or in any manner an obligor for money loaned
164 by or borrowed from the system.

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

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

181 (8) The board of trustees shall be the custodian of the
182 funds of the system. All expense vouchers and retirement
183 allowance payrolls shall be certified by the executive director,
184 who shall furnish the board a surety bond in a company authorized
185 to do business in Mississippi in such an amount as shall be
186 required by the board, the premium to be paid by the board from
187 the expense account.

188 (9) For the purpose of meeting disbursements for retirement
189 allowances, annuities and other payments, cash may be kept
190 available, not exceeding the requirements of the system for a
191 period of ninety (90) days, on deposit in one or more banks or
192 trust companies organized under the laws of the State of
193 Mississippi or the laws of the United States, provided that the

194 sum on deposit in any one (1) bank or trust company shall not
195 exceed thirty-five percent (35%) of the paid-up capital and
196 regular surplus of the bank or trust company.

197 (10) Except as otherwise provided, the monies or properties
198 of the Public Employees' Retirement System of Mississippi
199 deposited in any bank or banks of the United States shall, where
200 possible, be safeguarded and guaranteed by the posting as security
201 by the depository of bonds, notes and other securities purchasable
202 by the system, as provided elsewhere in this section. The bonds,
203 notes and other securities offered as security shall be posted to
204 the credit of the system by the depository with the board or with
205 an unaffiliated bank or trust company domiciled within the United
206 States or the State of Mississippi acceptable to both the board
207 and to the fiscal agent bank. If the board and the fiscal agent
208 bank cannot reach an agreement, the bonds, notes and other
209 securities shall be deposited in a bank or trust company
210 designated by the State Commissioner of Banking and Consumer
211 Finance. * * * However, * * * bonds or notes of the United States
212 government owned by the system may be deposited for safekeeping in
213 any federal reserve bank.

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

219 (12) The board, the executive secretary and employees shall
220 discharge their duties with respect to the investments of the
221 system solely for the interest of the system with the care, skill,
222 prudence and diligence under the circumstances then prevailing
223 that a prudent person acting in a like capacity and familiar with
224 those matters would use in the conduct of an enterprise of a like
225 character and with like aims, including diversifying the
226 investments of the system so as to minimize the risk of large

227 losses, unless under the circumstances it is clearly prudent not
228 to do so.

229 **SECTION 2.** This act shall take effect and be in force from
230 and after July 1, 2005.