

By: Representative Stringer

To: Appropriations

HOUSE BILL NO. 1233
(As Sent to Governor)

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 NOT MORE THAN 10% OF THE TOTAL BOOK
4 VALUE OF THE SYSTEM IN TYPES OF INVESTMENTS NOT SPECIFICALLY
5 LISTED IN THIS SECTION IF THE INVESTMENTS ARE IN THE FORM OF A
6 LIMITED PARTNERSHIP, COMMINGLED FUND OR SEPARATE ACCOUNT MANAGED
7 BY A SECURITIES AND EXCHANGE COMMISSION REGISTERED INVESTMENT
8 ADVISORY FIRM RETAINED AS AN INVESTMENT MANAGER BY THE BOARD; AND
9 FOR RELATED PURPOSES.

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

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

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

21 however, all purchases shall be made from competitive offerings
22 except short-term obligations referred to in Section 25-11-121(d):

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

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

42 (b) State of Mississippi highway bonds;

43 (c) Funds may be deposited in any institution insured
44 by the Federal Deposit Insurance Corporation that maintains a
45 facility that takes deposits in the State of Mississippi or a
46 custodial bank;

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

53 (e) Bonds of the Tennessee Valley Authority;

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

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

62 (h) Interest-bearing bonds or notes which are general
63 obligations of any other state in the United States or of any city

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

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

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

78 (ii) The stock of such corporation shall:

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

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

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

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

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

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

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

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

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

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

124 (m) Pooled or commingled real estate funds or real
125 estate securities managed by a corporate trustee or by a
126 Securities and Exchange Commission registered investment advisory
127 firm retained as an investment manager by the board of trustees.
128 Such investment in commingled funds or shares shall be held in
129 trust; provided that the total book value of investments under

130 this paragraph shall at no time exceed ten percent (10%) of the
131 total book value of all investments of the system. Any investment
132 manager approved by the board of trustees shall invest such
133 commingled funds or shares as a fiduciary. The ten percent (10%)
134 limitation in this subsection shall not be subject to the five
135 percent (5%) limitation in paragraph (1) of this subsection.

136 (n) Types of investments not specifically authorized by
137 this subsection if the investments are in the form of a limited
138 partnership, commingled fund or separate account managed by a
139 Securities and Exchange Commission registered investment advisory
140 firm retained as an investment manager by the board; provided that
141 the total book value of investments under this paragraph shall at
142 no time exceed ten percent (10%) of the total book value of all
143 investments of the system.

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

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

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

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

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

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

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

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

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

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

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

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

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

229 losses, unless under the circumstances it is clearly prudent not
230 to do so.

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