

By: Senator(s) Furniss

To: Finance

## SENATE BILL NO. 2454

1 AN ACT TO AMEND SECTIONS 25-11-301, 25-11-303, 25-11-305,  
2 25-11-307, 25-11-309, 25-11-311, 25-11-313, 25-11-315 AND  
3 25-11-319, MISSISSIPPI CODE OF 1972, TO INCLUDE MEMBERS OF THE  
4 STATE JUDICIARY WITHIN THE SUPPLEMENTAL LEGISLATIVE RETIREMENT  
5 PLAN; AND FOR RELATED PURPOSES. BE IT ENACTED BY THE  
6 LEGISLATURE OF THE STATE OF MISSISSIPPI:  
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8 SECTION 1. Section 25-11-301, Mississippi Code of 1972, is  
9 amended as follows:

10 25-11-301. There is hereby established and placed under the  
11 management of the Board of Trustees of the Public Employees'  
12 Retirement System of Mississippi the Supplemental Legislative and  
13 State Judiciary Retirement Plan for the purpose of providing  
14 supplemental retirement allowances and other benefits under the  
15 provisions of this article for elected members of the state  
16 Legislature, \* \* \* the President of the Senate, the state  
17 judiciary and their beneficiaries. The retirement plan provided  
18 by this article shall go into operation on July 1, 1989, for  
19 members of the state Legislature and the President of the Senate,  
20 and on July 1, 1999, for members of the state judiciary, when  
21 contributions by members shall begin and benefits shall become  
22 payable. This retirement plan is designed to supplement and is in  
23 addition to the provisions of Section 25-11-1 et seq. Under the  
24 terms of this article, the members of the state Legislature, \* \* \*  
25 the President of the Senate and the state judiciary shall retain  
26 all social security benefits under Article 1 and additional state  
27 retirement and disability benefits under Article 3 of the Public  
28 Employees' Retirement Law of 1952, as amended. This article is a

29 supplement to those sections, and is designed to provide more  
30 benefits for members of the state Legislature, \* \* \* the President  
31 of the Senate and the state judiciary by reason of their service  
32 to the state.

33 SECTION 2. Section 25-11-303, Mississippi Code of 1972, is  
34 amended as follows:

35 25-11-303. For the purposes of this article, the definitions  
36 in Section 25-11-5 and Section 25-11-103 shall apply unless a  
37 different meaning is plainly expressed by the context. The term  
38 "state judiciary" means justices of the Mississippi Supreme Court,  
39 judges of the court of appeals, and judges of the circuit,  
40 chancery, county and family courts of this state, and the term  
41 "plan" means the Supplemental Legislative and State Judiciary  
42 Retirement Plan established by Section 25-11-301.

43 SECTION 3. Section 25-11-305, Mississippi Code of 1972, is  
44 amended as follows:

45 25-11-305. (1) The membership of the Supplemental  
46 Legislative and State Judiciary Retirement Plan shall be composed  
47 as follows:

48 (a) All members of the state Legislature who are  
49 currently serving in the capacity of an elected official of the  
50 state Legislature and the person currently serving as President of  
51 the Senate shall become members of this system on July 1, 1989,  
52 unless they file with the board within thirty (30) days after July  
53 1, 1989, on a form prescribed by the board, a notice of election  
54 not to be covered in the membership of the \* \* \* plan and a duly  
55 executed waiver of all present and prospective benefits which  
56 would otherwise inure to them on account of their participation in  
57 the plan. All persons who are currently serving as an elected  
58 member of the state judiciary shall become members of the system  
59 on July 1, 1999, unless they file with the board within thirty  
60 (30) days after July 1, 1999, on a form prescribed by the board, a  
61 notice of election not to be covered in the membership of the plan  
62 and a duly executed waiver of all present and prospective benefits  
63 that would otherwise inure to them on account of their  
64 participation in the plan.

65 (b) All members of the state Legislature and the

66 President of the Senate who are elected after July 1, 1989, and  
67 all members of the state judiciary who are elected after July 1,  
68 1999.

69 (2) Any state legislators who would have otherwise qualified  
70 for membership in the plan under subsection (1) of this section  
71 but who were excluded from membership by other provisions of this  
72 section as it read before March 26, 1991, shall become members of  
73 the plan upon March 26, 1991, and shall receive creditable service  
74 in the plan for the period from July 1, 1989, to March 26, 1991,  
75 upon payment of the proper employee and employer contributions for  
76 that period.

77 (3) Membership in the plan shall cease by a member  
78 withdrawing his accumulated contributions, or by a member  
79 withdrawing from active service with a retirement allowance, or by  
80 death of the member.

81 (4) No benefits under the plan shall accrue or otherwise be  
82 payable to any person who does not qualify for membership in the  
83 plan under subsection (1) of this section.

84 SECTION 4. Section 25-11-307, Mississippi Code of 1972, is  
85 amended as follows:

86 25-11-307. (1) The Board of Trustees of the Public  
87 Employees' Retirement System of Mississippi shall act as custodian  
88 of the funds for members \* \* \* and shall receive to the credit of  
89 such fund all donations, bequests, appropriations, and all funds  
90 available as an employer's contribution thereto from any source  
91 whatsoever. The state Legislature and state judiciary shall each  
92 month deduct from the compensation of each member three percent  
93 (3%) thereof, and shall pay the amount so deducted to the board of  
94 trustees to be credited to the fund for the members. The  
95 compensation of each member shall include all remuneration or  
96 amounts paid, except mileage allowance. From the funds credited  
97 to this account, the board of trustees shall pay retirement  
98 allowances, disability benefits, survivors' benefits and expenses,

99 and shall refund contributions as provided. The fund for  
100 the \* \* \* plan shall be maintained as a separate fund, separate  
101 from all other funds held by the board of trustees and shall be  
102 used only for the payment of benefits provided for by the plan, or  
103 amendments thereto.

104 (2) On account of each member there shall be paid monthly  
105 into the fund for members of the \* \* \* plan by the state  
106 Legislature and by the state judiciary from funds available an  
107 amount equal to a certain percentage of the compensation of each  
108 member to be known as the "normal contributions," and an  
109 additional amount equal to a percentage of his compensation to be  
110 known as the "accrued liability contribution." The percentage  
111 rate of such contributions shall be fixed by the board of trustees  
112 on the basis of the liabilities of the plan for the various  
113 allowances and benefits as shown by the actuarial valuation.  
114 Until changed by the board of trustees, the contribution rate  
115 shall be six and one-third percent (6-1/3%) of the annual  
116 compensation of all members, which shall include all remuneration  
117 or amounts paid, except mileage allowance.

118 (3) The board of trustees is hereby authorized to deduct two  
119 percent (2%) of all employer's contributions paid into the fund  
120 for members of the state Legislature, \* \* \* the President of the  
121 Senate and the state judiciary to be transferred to the expense  
122 fund of the Public Employees' Retirement System of Mississippi to  
123 defray the cost of administering this fund.

124 SECTION 5. Section 25-11-309, Mississippi Code of 1972, is  
125 amended as follows:

126 25-11-309. The retirement allowance from the \* \* \* plan  
127 shall consist of fifty percent (50%) of an amount equal to the  
128 retirement allowance determined by creditable service as an  
129 elected Senator or Representative of the state Legislature, or as  
130 President of the Senate, or as a member of the state judiciary,  
131 payable by the Public Employees' Retirement System in accordance

132 with Section 25-11-101 et seq. However, in no case shall the  
133 aggregate amount of the retirement allowance from the \* \* \*  
134 plan and the Public Employees' Retirement System on legislative  
135 service, \* \* \* service as President of the Senate, or state  
136 judiciary service exceed one hundred percent (100%) of the average  
137 compensation.

138 The percentage of the retirement allowance as provided in  
139 this section shall be transferred from the annuity savings account  
140 of the member and the employer accumulation account in the \* \* \*  
141 plan to the retirement account of the member in the Public  
142 Employees' Retirement System \* \* \*.

143 SECTION 6. Section 25-11-311, Mississippi Code of 1972, is  
144 amended as follows:

145 25-11-311. (1) A member may be paid a refund of the amount  
146 of accumulated contributions to the credit of the member in the  
147 annuity savings account, provided the member has withdrawn from  
148 state service and further provided the member has not returned to  
149 state service on the date the refund of the accumulated  
150 contributions would be paid. Such refund of the contributions to  
151 the credit of the member in the annuity savings account shall be  
152 paid within ninety (90) days from receipt in the office of the  
153 retirement system of the properly completed form requesting such  
154 payment. In the event of death prior to retirement of any member  
155 whose spouse and/or children are not entitled to a retirement  
156 allowance, the accumulated contributions to the credit of the  
157 deceased member in the annuity savings account shall be paid to  
158 the designated beneficiary on file in writing in the office of  
159 executive secretary of the board of trustees within ninety (90)  
160 days from receipt of a properly completed form requesting such  
161 payment. If there is no such designated beneficiary on file for  
162 such deceased member in the office of the system, upon the filing  
163 of a proper request with the board, the contributions to the  
164 credit of the deceased member in the annuity savings account shall

165 be refunded to the estate of the deceased member. The payment of  
166 the refund shall discharge all obligations of the retirement  
167 system to the member on account of any creditable service rendered  
168 by the member prior to the receipt of the refund. By the  
169 acceptance of the refund, the member shall waive and relinquish  
170 all accrued rights in the plan.

171 (2) If any person who has received a refund is reelected to  
172 the Legislature or as President of the Senate or to the state  
173 judiciary and again becomes a member of the plan and remains a  
174 contributor for four (4) years, the member may repay all amounts  
175 previously received as a refund, together with regular interest  
176 covering the period from the date of refund to the date of  
177 repayment. Upon such repayment, the member shall again receive  
178 credit for the entire period of creditable service which was  
179 forfeited upon the receipt of the refund.

180 SECTION 7. Section 25-11-313, Mississippi Code of 1972, is  
181 amended as follows:

182 25-11-313. The employer shall pick up the member  
183 contributions required by this article for all compensation earned  
184 on and after July 1, 1989, by members of the state Legislature and  
185 the President of the Senate, and on and after July 1, 1999, by  
186 members of the state judiciary, and the contributions so picked up  
187 shall be treated as employer contributions in determining tax  
188 treatment under the United States Internal Revenue Code and the  
189 Mississippi Income Tax Code. However, the employer shall continue  
190 to withhold federal and state income taxes based upon such  
191 contributions until the Internal Revenue Service or the federal  
192 courts rule that, pursuant to Section 414(h) of the United States  
193 Internal Revenue Code, these contributions shall not be included  
194 as gross income of the member until such time as they are  
195 distributed or made available. The employer shall pay these  
196 member contributions from the same source of funds which is used  
197 in paying earnings to the member. The employer may pick up these

198 contributions by a reduction in the cash salary of the member, or  
199 by offset against future salary increase, or by a combination of a  
200 reduction in salary and offset against future salary increase. If  
201 member contributions are picked up they shall be treated for all  
202 purposes of the \* \* \* plan in the same manner and to the same  
203 extent as member contributions made prior to the date picked up.

204 SECTION 8. Section 25-11-315, Mississippi Code of 1972, is  
205 amended as follows:

206 25-11-315. Any member of the state Legislature or the  
207 President of the Senate who becomes a member of the plan on July  
208 1, 1989, and any member of the state judiciary who becomes a  
209 member of the plan on July 1, 1999, shall be eligible for prior  
210 service as a member of the state Legislature or as President of  
211 the Senate or member of the state judiciary. Each member shall  
212 submit to the board a verification of such prior service \* \* \*.  
213 Upon receipt of such prior service statement, the board shall  
214 issue a prior service certificate certifying to each member the  
215 length of prior service for which credit has been allowed on the  
216 basis of the statement of service. Additional prior service  
217 regulations in force shall be those found in Section 25-11-101 et  
218 seq.

219 Any member of the state Legislature or the President of the  
220 Senate who becomes a member of this plan after July 1, 1989, and  
221 any member of the state judiciary who becomes a member of the plan  
222 after July 1, 1999, shall not be allowed prior service unless the  
223 member serves as a member of the state Legislature or as President  
224 of the Senate or a member of the state judiciary for a minimum of  
225 four (4) years and contributes to the plan for a minimum period of  
226 four (4) years.

227 SECTION 9. Section 25-11-319, Mississippi Code of 1972, is  
228 amended as follows:

229 25-11-319. The right of a person to an annuity, a retirement  
230 allowance or benefit, or to the return of contributions, or to any

231 optional benefit or any other right accrued or accruing to any  
232 person under the provisions of the Supplemental Legislative and  
233 State Judiciary Retirement Plan, and the monies in the plan  
234 created by this article, are exempt from any state or municipal  
235 tax, and exempt from levy and sale, garnishment, attachment or any  
236 other process whatsoever, and shall be unassignable except as  
237 specifically otherwise provided in this article.

238 SECTION 10. This act shall take effect and be in force from  
239 and after July 1, 1999.