

By: Senator(s) Furniss

To: Finance

SENATE BILL NO. 2132

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.

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

7 **SECTION 1.** Section 25-11-301, Mississippi Code of 1972, is  
8 amended as follows:

9 25-11-301. There is hereby established and placed under the  
10 management of the Board of Trustees of the Public Employees'  
11 Retirement System of Mississippi the Supplemental Legislative and  
12 State Judiciary Retirement plan for the purpose of providing  
13 supplemental retirement allowances and other benefits under the  
14 provisions of this article for elected members of the State  
15 Legislature, the President of the Senate, the state judiciary and  
16 their beneficiaries. The retirement plan provided by this article  
17 shall go into operation on July 1, 1989, for members of the State  
18 Legislature and the President of the Senate, and on July 1, 2002,  
19 for members of the state judiciary, when contributions by members  
20 shall begin and benefits shall become payable. This retirement  
21 plan is designed to supplement and is in addition to the  
22 provisions of Section 25-11-1 et seq. Under the terms of this  
23 article, the members of the State Legislature, the President of  
24 the Senate and the state judiciary shall retain all social  
25 security benefits under Article 1 and additional state retirement  
26 and disability benefits under Article 3 of the Public Employees'  
27 Retirement Law of 1952, as amended. This article is a supplement  
28 to those sections, and is designed to provide more benefits for



29 members of the State Legislature, the President of the Senate and  
30 the state judiciary by reason of their service to the state.

31 **SECTION 2.** Section 25-11-303, Mississippi Code of 1972, is  
32 amended as follows:

33 25-11-303. For the purposes of this article, the definitions  
34 in Section 25-11-5 and Section 25-11-103 shall apply unless a  
35 different meaning is plainly expressed by the context. The term  
36 "state judiciary" means justices of the Mississippi Supreme Court,  
37 judges of the Court of Appeals, and judges of the circuit,  
38 chancery, county and family courts of this state, and the term  
39 "plan" means the Supplemental Legislative and State Judiciary  
40 Retirement Plan established by Section 25-11-301.

41 **SECTION 3.** Section 25-11-305, Mississippi Code of 1972, is  
42 amended as follows:

43 25-11-305. (1) The membership of the Supplemental  
44 Legislative and State Judiciary Retirement Plan shall be composed  
45 as follows:

46 (a) All members of the State Legislature who are  
47 currently serving in the capacity of an elected official of the  
48 State Legislature and the person currently serving as President of  
49 the Senate shall become members of this system on July 1, 1989,  
50 unless they file with the board within thirty (30) days after July  
51 1, 1989, on a form prescribed by the board, a notice of election  
52 not to be covered in the membership of the \* \* \* plan and a duly  
53 executed waiver of all present and prospective benefits which  
54 would otherwise inure to them on account of their participation in  
55 the plan. All persons who are currently serving as an elected  
56 member of the state judiciary shall become members of the system  
57 on July 1, 2002, unless they file with the board within thirty  
58 (30) days after July 1, 2002, on a form prescribed by the board, a  
59 notice of election not to be covered in the membership of the plan  
60 and a duly executed waiver of all present and prospective benefits



61 that would otherwise inure to them on account of their  
62 participation in the plan.

63 (b) All members of the State Legislature and the  
64 President of the Senate who are elected after July 1, 1989, and  
65 all members of the state judiciary who are elected after July 1,  
66 2002.

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

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

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

82 **SECTION 4.** Section 25-11-307, Mississippi Code of 1972, is  
83 amended as follows:

84 25-11-307. (1) The Board of Trustees of the Public  
85 Employees' Retirement System of Mississippi shall act as custodian  
86 of the funds for members \* \* \*, and shall receive to the credit of  
87 such fund all donations, bequests, appropriations, and all funds  
88 available as an employer's contribution thereto from any source  
89 whatsoever. The State Legislature and the state judiciary shall  
90 each month deduct from the compensation of each member three  
91 percent (3%) thereof, and shall pay the amount so deducted to the  
92 board of trustees to be credited to the fund for the members. The  
93 compensation of each member shall include all remuneration or



94 amounts paid, except mileage allowance. From the funds credited  
95 to this account, the board of trustees shall pay retirement  
96 allowances, disability benefits, survivors' benefits and expenses,  
97 and shall refund contributions as provided. The fund for  
98 the \* \* \* plan shall be maintained as a separate fund, separate  
99 from all other funds held by the board of trustees and shall be  
100 used only for the payment of benefits provided for by the plan, or  
101 amendments thereto.

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

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

122 **SECTION 5.** Section 25-11-309, Mississippi Code of 1972, is  
123 amended as follows:

124 25-11-309. The retirement allowance from the \* \* \* plan  
125 shall consist of fifty percent (50%) of an amount equal to the  
126 retirement allowance determined by creditable service as an



127 elected Senator or Representative of the State Legislature, or as  
128 President of the Senate, or as a member of the state judiciary  
129 payable by the Public Employees' Retirement System in accordance  
130 with Section 25-11-101 et seq. However, in no case shall the  
131 aggregate amount of the retirement allowance from the \* \* \* plan  
132 and the Public Employees' Retirement System on legislative  
133 service, service as President of the Senate or state judiciary  
134 service exceed one hundred percent (100%) of the average  
135 compensation.

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

141 **SECTION 6.** Section 25-11-311, Mississippi Code of 1972, is  
142 amended as follows:

143 25-11-311. (1) A member may be paid a refund of the amount  
144 of accumulated contributions to the credit of the member in the  
145 annuity savings account, provided the member has withdrawn from  
146 state service and further provided the member has not returned to  
147 state service on the date the refund of the accumulated  
148 contributions would be paid. Such refund of the contributions to  
149 the credit of the member in the annuity savings account shall be  
150 paid within ninety (90) days from receipt in the office of the  
151 retirement system of the properly completed form requesting such  
152 payment. In the event of death prior to retirement of any member  
153 whose spouse and/or children are not entitled to a retirement  
154 allowance, the accumulated contributions to the credit of the  
155 deceased member in the annuity savings account shall be paid to  
156 the designated beneficiary on file in writing in the office of the  
157 executive director of the board of trustees within ninety (90)  
158 days from receipt of a properly completed form requesting such  
159 payment. If there is no such designated beneficiary on file for



160 such deceased member in the office of the system, upon the filing  
161 of a proper request with the board, the contributions to the  
162 credit of the deceased member in the annuity savings account shall  
163 be refunded pursuant to Section 25-11-311.1(1). The payment of  
164 the refund shall discharge all obligations of the retirement  
165 system to the member on account of any creditable service rendered  
166 by the member prior to the receipt of the refund. By the  
167 acceptance of the refund, the member shall waive and relinquish  
168 all accrued rights in the plan.

169 (2) Pursuant to the Unemployment Compensation Amendments of  
170 1992 (Public Law 102-318 (UCA)), a member or eligible beneficiary  
171 making application for a refund under this section may elect, on a  
172 form prescribed by the board under rules and regulations  
173 established by the board, to have an eligible rollover  
174 distribution of accumulated contributions payable under this  
175 section paid directly to an eligible retirement plan or individual  
176 retirement account. If the member or eligible beneficiary makes  
177 such election and specifies the eligible retirement plan or  
178 individual retirement account to which such distribution is to be  
179 paid, the distribution will be made in the form of a direct  
180 trustee-to-trustee transfer to the specified eligible retirement  
181 plan. Flexible rollovers under this subsection shall not be  
182 considered assignments under Section 25-11-129.

183 (3) If any person who has received a refund is reelected to  
184 the Legislature, or as President of the Senate, or to the state  
185 judiciary and again becomes a member of the plan, the member may  
186 repay all or part of the amounts previously received as a refund,  
187 together with regular interest covering the period from the date  
188 of refund to the date of repayment; however, the amounts that are  
189 repaid by the member and the creditable service related thereto  
190 shall not be used in any benefit calculation or determination  
191 until the member has remained a contributor to the system for a  
192 period of at least four (4) years subsequent to such member's



193 reentry into state service. Repayment for such time shall be made  
194 in increments of not less than one-quarter (1/4) year of  
195 creditable service beginning with the most recent service for  
196 which refund has been made. Upon the repayment of all or part of  
197 such refund and interest, the member shall again receive credit  
198 for the period of creditable service for which full repayment has  
199 been made to the system.

200       **SECTION 7.** Section 25-11-313, Mississippi Code of 1972, is  
201 amended as follows:

202       25-11-313. The employer shall pick up the member  
203 contributions required by this article for all compensation earned  
204 on and after July 1, 1989, by members of the State Legislature and  
205 the President of the Senate, and on and after July 1, 2002, by  
206 members of the state judiciary, and the contributions so picked up  
207 shall be treated as employer contributions in determining tax  
208 treatment under the United States Internal Revenue Code and the  
209 Mississippi Income Tax Code. However, the employer shall continue  
210 to withhold federal and state income taxes based upon such  
211 contributions until the Internal Revenue Service or the federal  
212 courts rule that, pursuant to Section 414(h) of the United States  
213 Internal Revenue Code, these contributions shall not be included  
214 as gross income of the member until such time as they are  
215 distributed or made available. The employer shall pay these  
216 member contributions from the same source of funds which is used  
217 in paying earnings to the member. The employer may pick up these  
218 contributions by a reduction in the cash salary of the member, or  
219 by offset against future salary increase, or by a combination of a  
220 reduction in salary and offset against future salary increase. If  
221 member contributions are picked up they shall be treated for all  
222 purposes of the \* \* \* plan in the same manner and to the same  
223 extent as member contributions made prior to the date picked up.

224       **SECTION 8.** Section 25-11-315, Mississippi Code of 1972, is  
225 amended as follows:



226           25-11-315. Any member of the State Legislature or the  
227 President of the Senate who becomes a member of the plan on July  
228 1, 1989, and any member of the state judiciary who becomes a  
229 member of the plan on July 1, 2002, shall be eligible for prior  
230 service as a member of the State Legislature, President of the  
231 Senate or member of the state judiciary. Each member shall submit  
232 to the board a verification of such prior service \* \* \*. Upon  
233 receipt of such prior service statement, the board shall issue a  
234 prior service certificate certifying to each member the length of  
235 prior service for which credit has been allowed on the basis of  
236 the statement of service. Additional prior service regulations in  
237 force shall be those found in Section 25-11-101 et seq.

238           Any member of the State Legislature or the President of the  
239 Senate who becomes a member of this plan after July 1, 1989, and  
240 any member of the state judiciary who becomes a member of the plan  
241 after July 1, 2002, shall not be allowed prior service unless the  
242 member serves as a member of the State Legislature, as President  
243 of the Senate or a member of the state judiciary for a minimum of  
244 four (4) years and contributes to the plan for a minimum period of  
245 four (4) years.

246           **SECTION 9.** Section 25-11-319, Mississippi Code of 1972, is  
247 amended as follows:

248           25-11-319. The right of a person to an annuity, a retirement  
249 allowance or benefit, or to the return of contributions, or to any  
250 optional benefit or any other right accrued or accruing to any  
251 person under the provisions of the Supplemental Legislative and  
252 State Judiciary Retirement Plan, and the monies in the plan  
253 created by this article, are exempt from any state or municipal  
254 tax, and exempt from levy and sale, garnishment, attachment or any  
255 other process whatsoever, and shall be unassignable except as  
256 specifically otherwise provided in this article.

257           **SECTION 10.** This act shall take effect and be in force from  
258 and after July 1, 2002.

