

By: Senator(s) Furniss

To: Finance

SENATE BILL NO. 2258

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, 25-11-312, 25-11-313, 25-11-315
3 AND 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, 2003,
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, 2003, unless they file with the board within thirty
58 (30) days after July 1, 2003, 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 2003.

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. (1) 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.

131 (2) The percentage of the retirement allowance as provided
132 in this section shall be transferred from the annuity savings
133 account of the member and the employer accumulation account in
134 the * * * plan to the retirement account of the member in the
135 Public Employees' Retirement System * * *.

136 (3) Notwithstanding any provisions of this section or this
137 title to the contrary, the maximum annual retirement allowance
138 attributable to the employer contributions payable under the * * *
139 plan to a member shall be subject to the limitations set forth in
140 Section 415 of the Internal Revenue Code and any regulations
141 issued thereunder applicable to governmental plans as such term is
142 defined under Section 414(d) of the Internal Revenue Code.

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 the
159 executive director 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 pursuant to Section 25-11-311.1(1). 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) Pursuant to the Unemployment Compensation Amendments of
172 1992 (Public Law 102-318 (UCA)), a member or eligible beneficiary
173 making application for a refund under this section may elect, on a
174 form prescribed by the board under rules and regulations
175 established by the board, to have an eligible rollover
176 distribution of accumulated contributions payable under this
177 section paid directly to an eligible retirement plan, as defined
178 under applicable federal law, or an individual retirement account.
179 If the member or eligible beneficiary makes such election and
180 specifies the eligible retirement plan or individual retirement
181 account to which such distribution is to be paid, the distribution
182 will be made in the form of a direct trustee-to-trustee transfer
183 to the specified eligible retirement plan. Flexible rollovers
184 under this subsection shall not be considered assignments under
185 Section 25-11-129.

186 (3) If any person who has received a refund is reelected to
187 the Legislature, or as President of the Senate, or to the state
188 judiciary and again becomes a member of the plan, the member may
189 repay all or part of the amounts previously received as a refund,
190 together with regular interest covering the period from the date
191 of refund to the date of repayment; however, the amounts that are
192 repaid by the member and the creditable service related thereto



193 shall not be used in any benefit calculation or determination
194 until the member has remained a contributor to the system for a
195 period of at least four (4) years subsequent to such member's
196 reentry into state service. Repayment for such time shall be made
197 in increments of not less than one-quarter (1/4) year of
198 creditable service beginning with the most recent service for
199 which refund has been made. Upon the repayment of all or part of
200 such refund and interest, the member shall again receive credit
201 for the period of creditable service for which full repayment has
202 been made to the system.

203 **SECTION 7.** Section 25-11-312, Mississippi Code of 1972, is
204 amended as follows:

205 25-11-312. From and after July 1, 2000, subject to the rules
206 adopted by the board, the * * * plan shall accept an eligible
207 rollover distribution or a direct transfer of funds from another
208 eligible retirement plan, as defined under applicable federal law,
209 or an individual retirement account, in payment of all or a
210 portion of the cost to reinstate previously withdrawn service
211 credit as permitted by the plan. The plan may only accept
212 rollover payments in an amount equal to or less than the balance
213 due for reinstatement of service credit. The rules adopted by the
214 board of trustees shall condition the acceptance of a rollover or
215 transfer from another eligible retirement plan or an individual
216 retirement account on the receipt of information necessary to
217 enable the plan to determine the eligibility of any transferred
218 funds for tax-free rollover treatment or other treatment under
219 federal income tax law.

220 **SECTION 8.** Section 25-11-313, Mississippi Code of 1972, is
221 amended as follows:

222 25-11-313. The employer shall pick up the member
223 contributions required by this article for all compensation earned
224 on and after July 1, 1989, by members of the State Legislature and
225 the President of the Senate, and on and after July 1, 2003, by



226 members of the state judiciary, and the contributions so picked up
227 shall be treated as employer contributions in determining tax
228 treatment under the United States Internal Revenue Code and the
229 Mississippi Income Tax Code. However, the employer shall continue
230 to withhold federal and state income taxes based upon such
231 contributions until the Internal Revenue Service or the federal
232 courts rule that, pursuant to Section 414(h) of the United States
233 Internal Revenue Code, these contributions shall not be included
234 as gross income of the member until such time as they are
235 distributed or made available. The employer shall pay these
236 member contributions from the same source of funds which is used
237 in paying earnings to the member. The employer may pick up these
238 contributions by a reduction in the cash salary of the member, or
239 by offset against future salary increase, or by a combination of a
240 reduction in salary and offset against future salary increase. If
241 member contributions are picked up they shall be treated for all
242 purposes of the * * * plan in the same manner and to the same
243 extent as member contributions made prior to the date picked up.

244 **SECTION 9.** Section 25-11-315, Mississippi Code of 1972, is
245 amended as follows:

246 25-11-315. Any member of the State Legislature or the
247 President of the Senate who becomes a member of the plan on July
248 1, 1989, and any member of the state judiciary who becomes a
249 member of the plan on July 1, 2003, shall be eligible for prior
250 service as a member of the State Legislature, as President of the
251 Senate or as a member of the state judiciary. Each member shall
252 submit to the board a verification of such prior service * * *.
253 Upon receipt of such prior service statement, the board shall
254 issue a prior service certificate certifying to each member the
255 length of prior service for which credit has been allowed on the
256 basis of the statement of service. Additional prior service
257 regulations in force shall be those found in Section 25-11-101 et
258 seq.



259 Any member of the State Legislature or the President of the
260 Senate who becomes a member of this plan after July 1, 1989, and
261 any member of the state judiciary who becomes a member of the plan
262 after July 1, 2003, shall not be allowed prior service unless the
263 member serves as a member of the State Legislature, as President
264 of the Senate or as a member of the state judiciary for a minimum
265 of four (4) years and contributes to the plan for a minimum period
266 of four (4) years.

267 **SECTION 10.** Section 25-11-319, Mississippi Code of 1972, is
268 amended as follows:

269 25-11-319. The right of a person to an annuity, a retirement
270 allowance or benefit, or to the return of contributions, or to any
271 optional benefit or any other right accrued or accruing to any
272 person under the provisions of the Supplemental Legislative and
273 State Judiciary Retirement Plan, and the monies in the plan
274 created by this article, are exempt from any state or municipal
275 tax, and exempt from levy and sale, garnishment, attachment or any
276 other process whatsoever, and shall be unassignable except as
277 specifically otherwise provided in this article.

278 **SECTION 11.** This act shall take effect and be in force from
279 and after July 1, 2003.

