

By: Senator(s) Robertson

To: Finance

SENATE BILL NO. 2394

1 AN ACT TO AMEND SECTIONS 25-11-133, 25-11-309, 25-13-33 AND
 2 21-29-317, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE BOARD OF
 3 TRUSTEES OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO PROVIDE BY
 4 RULE OR REGULATION FOR THE PAYMENT OF BENEFITS UNDER THE PUBLIC
 5 EMPLOYEES' RETIREMENT SYSTEM, THE SUPPLEMENTAL LEGISLATIVE
 6 RETIREMENT SYSTEM, THE HIGHWAY SAFETY PATROL RETIREMENT SYSTEM AND
 7 CERTAIN MUNICIPAL RETIREMENT SYSTEMS, UNDER CIRCUMSTANCES NOT
 8 OTHERWISE PROVIDED FOR BY LAW TO THE EXTENT THAT THE PAYMENT IS
 9 REQUIRED TO MAINTAIN THE PLANS AS QUALIFIED RETIREMENT PLANS FOR
 10 PURPOSES OF FEDERAL INCOME TAX LAWS; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** Section 25-11-133, Mississippi Code of 1972, is
 13 amended as follows:

14 25-11-133. (1) The maintenance of actuarial reserves for
 15 the various allowances and benefits under Articles 1 and 3, and
 16 the payment of all annuities, retirement allowances, refunds and
 17 other benefits granted hereunder are hereby made obligations of
 18 the employer's accumulation accounts. All income, interest and
 19 dividends derived from deposits and investments authorized by
 20 those articles shall be used for the payment of the obligations of
 21 the system.

22 (2) In the event of the termination of the Public Employees'
 23 Retirement System established pursuant to the provisions of
 24 Section 25-11-101 et seq., all members of the system as of the
 25 date of termination of the system shall be deemed to have a vested
 26 right to benefits to the extent and in the same manner that rights
 27 would be vested under the statute existing as of the date of
 28 termination of the system, except that any member who, because of
 29 a termination of the system has not fulfilled the requirements for
 30 length of service, shall nonetheless be entitled to compensation
 31 as of the date that such member would otherwise be eligible, with

32 such compensation to be computed on the basis of time actually a
33 member of the service and compensation actually earned during the
34 time a member, in the manner now provided by statute.

35 In the event of a deficit in the availability of funds for
36 payment due under the provisions of the Public Employees'
37 Retirement System, an appropriation shall * * * be made sufficient
38 for the payment thereof as an obligation of the state.

39 (3) (a) Notwithstanding any provisions of this section or
40 this title to the contrary, the maximum annual retirement
41 allowance attributable to the employer contributions payable by
42 the system to a member shall be subject to the limitations set
43 forth in Section 415 of the Internal Revenue Code and any
44 regulations issued thereunder as applicable to governmental plans
45 as the term is defined under Section 414(d) of the Internal
46 Revenue Code.

47 (b) The board is authorized to provide by rule or
48 regulation for the payment of benefits as provided under this
49 chapter to members or beneficiaries of the retirement system at a
50 time and under circumstances not otherwise provided for in this
51 chapter to the extent that the payment is required to maintain the
52 system as a qualified retirement plan for purposes of federal
53 income tax laws.

54 (4) Notwithstanding any other provision of this plan, all
55 distributions from this plan shall conform to the regulations
56 issued under Section 401(a)(9) of the Internal Revenue Code,
57 applicable to governmental plans, as defined in Section 414(d) of
58 the Internal Revenue Code, including the incidental death benefit
59 provisions of Section 401(a)(9)(G) of the Internal Revenue Code.
60 Further, the regulations shall override any plan provision that is
61 inconsistent with Section 401(a)(9) of the Internal Revenue Code.

62 (5) The actuarial assumptions used to convert a retirement
63 allowance from the normal form of payment to an optional form of

64 payment shall be an appendix to Article 3 and subject to approval
65 by the board * * * based upon certification by the actuary.

66 (6) Notwithstanding any other provision of this plan, the
67 maximum compensation that can be considered for all plan purposes
68 shall not be greater than that allowed under Section 401(a)(17) of
69 the Internal Revenue Code.

70 **SECTION 2.** Section 25-11-309, Mississippi Code of 1972, is
71 amended as follows:

72 25-11-309. (1) The retirement allowance from the
73 Supplemental Legislative Retirement Plan shall consist of fifty
74 percent (50%) of an amount equal to the retirement allowance
75 determined by creditable service as an elected Senator or
76 Representative of the State Legislature or as President of the
77 Senate payable by the Public Employees' Retirement System in
78 accordance with Section 25-11-101 et seq.

79 (2) The percentage of the retirement allowance as provided
80 in this section shall be transferred from the annuity savings
81 account of the member and the employer accumulation account in the
82 Supplemental Legislative Retirement Plan to the retirement account
83 of the member in the Public Employees' Retirement System as
84 provided.

85 (3) (a) Notwithstanding any provisions of this section or
86 this title to the contrary, the maximum annual retirement
87 allowance attributable to the employer contributions payable under
88 the Supplemental Legislative Retirement Plan to a member shall be
89 subject to the limitations set forth in Section 415 of the
90 Internal Revenue Code and any regulations issued thereunder
91 applicable to governmental plans as the term is defined under
92 Section 414(d) of the Internal Revenue Code.

93 (b) The board is authorized to provide by rule or
94 regulation for the payment of benefits as provided under this
95 chapter to members or beneficiaries of the Supplemental
96 Legislative Retirement System at a time and under circumstances

97 not otherwise provided for in this chapter to the extent that the
98 payment is required to maintain the Supplemental Legislative
99 Retirement System as a qualified retirement plan for purposes of
100 federal income tax laws.

101 **SECTION 3.** Section 25-13-33, Mississippi Code of 1972, is
102 amended as follows:

103 25-13-33. (1) The maintenance of actuarial reserves for the
104 various allowances and benefits under this chapter, and the
105 payment of all annuities, retirement allowances, refunds and other
106 benefits granted under this chapter are hereby made obligation of
107 the disability and relief fund. All income, interest and
108 dividends derived from deposits and investments authorized by this
109 chapter shall be used for the payment of the obligations of the
110 system.

111 (2) In the event of the termination of the Mississippi
112 Highway Safety Patrol Retirement System, established pursuant to
113 the provisions of Section 25-13-1 et seq., Mississippi Code of
114 1972, all members of the system as of the date of termination of
115 the system shall be deemed to have a vested right to benefits to
116 the extent and in the same manner that rights would be vested
117 under the statute existing as of the date of termination of the
118 system; except that any member who, because of a termination of
119 the system has not fulfilled the requirements for length of
120 service, shall be entitled to compensation as of the date that
121 such member would otherwise be eligible, with such compensation to
122 be computed on the basis of time actually a member of the service
123 and compensation actually earned during the time as a member, in
124 the manner now provided by statute.

125 In the event of a deficit in the availability of funds for
126 payment due under the provisions of the Mississippi Highway Safety
127 Patrol Retirement System, an appropriation shall * * * be made
128 sufficient for the payment thereof as an obligation of the State
129 of Mississippi.

130 (3) (a) Notwithstanding any provisions of this section or
131 chapter to the contrary, the maximum annual retirement allowance
132 attributable to the employer contributions payable by the system
133 to a member shall be subject to the limitations set forth in
134 Section 415 of the Internal Revenue Code and any regulations
135 issued thereunder as applicable to governmental plans as the term
136 is defined under Section 414(d) of the Internal Revenue Code.

137 (b) The Board of Trustees of the Public Employees'
138 Retirement System is authorized to provide by rule or regulation
139 for the payment of benefits as provided under this chapter to
140 members or beneficiaries of the Highway Safety Patrol Retirement
141 System at a time and under circumstances not otherwise provided
142 for in this chapter to the extent that the payment is required to
143 maintain the Highway Safety Patrol Retirement System as a
144 qualified retirement plan for purposes of federal income tax laws.

145 (4) Notwithstanding any other provision of this plan, all
146 distributions from this plan shall conform to the regulations
147 issued under Section 401(a)(9) of the Internal Revenue Code,
148 applicable to governmental plans, as defined in Section 414(d) of
149 the Internal Revenue Code, including the incidental death benefit
150 provisions of Section 401(a)(9)(G) of the Internal Revenue Code.
151 Further, such regulations shall override any plan provision that
152 is inconsistent with Section 401(a)(9) of the Internal Revenue
153 Code.

154 (5) The actuarial assumptions used to convert a retirement
155 allowance from the normal form of payment to an optional form of
156 payment shall be an appendix to this chapter and subject to
157 approval by the board of trustees based upon certification by the
158 actuary.

159 (6) Notwithstanding any other provision of this plan, the
160 maximum compensation that can be considered for all plan purposes
161 shall not be greater than that allowed under Section 401(a)(17) of
162 the Internal Revenue Code.

163 **SECTION 4.** Section 21-29-317, Mississippi Code of 1972, is
164 amended as follows:

165 21-29-317. (1) (a) Notwithstanding any provisions of
166 Articles 1, 3 and 5 of this chapter to the contrary, the maximum
167 annual retirement allowance attributable to the employer
168 contributions payable by the system to a member under Article 1, 3
169 or 5 of this chapter shall be subject to the limitations set forth
170 in Section 415 of the Internal Revenue Code and any regulations
171 issued thereunder as applicable to governmental plans as the term
172 is defined under Section 414(d) of the Internal Revenue Code.

173 (b) The Board of Trustees of the Public Employees'
174 Retirement System is authorized to provide by rule or regulation
175 for the payment of benefits as provided under Articles 1, 3 and 5
176 of this chapter to members or beneficiaries of a city employees
177 retirement fund or disability and relief fund at a time and under
178 circumstances not otherwise provided for in this chapter to the
179 extent that the payment is required to maintain the city employees
180 retirement fund or disability and relief fund as a qualified
181 retirement plan for purposes of federal income tax laws.

182 (2) Notwithstanding any other provision of this plan, all
183 distributions from this plan shall conform to the regulations
184 issued under Section 401(a)(9) of the Internal Revenue Code,
185 applicable to governmental plans, as defined in Section 414(d) of
186 the Internal Revenue Code, including the incidental death benefit
187 provisions of Section 401(a)(9)(G) of the Internal Revenue Code.
188 Further, such regulations shall override any plan provision that
189 is inconsistent with Section 401(a)(9) of the Internal Revenue
190 Code.

191 (3) The actuarial assumptions used to convert a retirement
192 allowance from the normal form of payment to an optional form of
193 payment shall be an appendix to Article 7 of this chapter and
194 subject to approval by the board of directors based upon
195 certification by the actuary.

196 (4) Notwithstanding any other provision of this plan, the
197 maximum compensation that can be considered for all plan purposes
198 shall not be greater than that allowed under Section 401(a)(17) of
199 the Internal Revenue Code.

200 (5) In the event of the termination of one or more of the
201 retirement plans established pursuant to Article 1, 3 or 5 of this
202 chapter, all members of the plan or system as of the date of
203 termination of the system shall be deemed to have a vested right
204 to benefits to the extent and in the same manner that rights would
205 be vested under the laws existing as of the date of termination of
206 the system; however, any member, who because of a termination of
207 the system has not fulfilled the requirements for length of
208 service, shall be entitled to compensation as of the date that
209 such member would otherwise be eligible, with such compensation to
210 be computed on the basis of time actually a member of the service
211 and compensation actually earned during the time a member, in the
212 manner now provided by law.

213 **SECTION 5.** This act shall take effect and be in force from
214 and after July 1, 2007.