

By: Representatives Kinkade, Criswell, Hale,
Shirley

To: Revenue and Expenditure
General Bills

HOUSE BILL NO. 341

1 AN ACT TO CREATE NEW SECTIONS 25-11-147, 25-11-321 AND
2 25-13-37, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IF A MEMBER OF
3 THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM, THE SUPPLEMENTAL
4 LEGISLATIVE RETIREMENT PLAN OR THE MISSISSIPPI HIGHWAY SAFETY
5 PATROL RETIREMENT SYSTEM IS CONVICTED OF OR ENTERS A PLEA OF
6 GUILTY OR NOLO CONTENDERE IN ANY COURT TO A FELONY IN WHICH PUBLIC
7 FUNDS WERE UNLAWFULLY TAKEN, OBTAINED OR MISAPPROPRIATED IN THE
8 ABUSE OR MISUSE OF THE PERSON'S OFFICE OR EMPLOYMENT THAT IS
9 COMMITTED ON OR AFTER JULY 1, 2016, THE COURT SHALL CONDUCT A
10 HEARING IN A SEPARATE CIVIL PROCEEDING TO DETERMINE IF ALL OF THE
11 CONDITIONS HAVE BEEN MET; TO PROVIDE THAT IF ALL OF THE CONDITIONS
12 HAVE BEEN MET, THE COURT SHALL ISSUE AN ORDER THAT THE MEMBER'S
13 RETIREMENT BENEFITS FROM THE SYSTEM OR PLAN BE SUSPENDED; TO
14 PROVIDE THAT A MEMBER WHO IS CONVICTED OF SUCH A FELONY SHALL NOT
15 HAVE HIS OR HER RETIREMENT BENEFITS FROM THE SYSTEM OR PLAN
16 SUSPENDED UNTIL ALL APPEALS OF THE CONVICTION HAVE BEEN FINALLY
17 CONCLUDED OR THE TIME FOR AN APPEAL FROM THE CONVICTION HAS
18 EXPIRED; TO PROVIDE THAT AFTER RECEIVING THE SUSPENSION ORDER FROM
19 THE COURT, THE SYSTEM SHALL REQUEST THE ATTORNEY GENERAL FOR A
20 DETERMINATION OF WHETHER ALL APPEALS OF THE CONVICTION HAVE BEEN
21 FINALLY CONCLUDED OR THE TIME FOR AN APPEAL FROM THE CONVICTION
22 HAS EXPIRED; TO PROVIDE THAT AFTER THE ATTORNEY GENERAL NOTIFIES
23 THE SYSTEM THAT ALL APPEALS OF THE CONVICTION HAVE BEEN FINALLY
24 CONCLUDED OR THE TIME FOR AN APPEAL FROM THE CONVICTION HAS
25 EXPIRED, THE MEMBER'S RETIREMENT BENEFITS FROM THE SYSTEM OR PLAN
26 SHALL BE SUSPENDED UNTIL THE MEMBER HAS MADE FULL RESTITUTION OF
27 THE PUBLIC FUNDS THAT WERE UNLAWFULLY TAKEN, OBTAINED OR
28 MISAPPROPRIATED IN THE ABUSE OR MISUSE OF THE MEMBER'S OFFICE OR
29 EMPLOYMENT, AS DETERMINED BY THE ATTORNEY GENERAL; TO PROVIDE THAT
30 IF A MEMBER OF THE SYSTEM OR PLAN IS ALSO A MEMBER OF ANOTHER
31 RETIREMENT SYSTEM ADMINISTERED BY THE BOARD OF TRUSTEES OF THE
32 SYSTEM, AND THE FELONY FOR WHICH THE MEMBER WAS CONVICTED OR
33 ENTERED A PLEA OF GUILTY OR NOLO CONTENDERE WAS IN CONNECTION WITH
34 EMPLOYMENT OF THE MEMBER THAT IS COVERED BY ONLY ONE OF THE



35 RETIREMENT SYSTEMS, THE MEMBER'S RETIREMENT BENEFITS WILL BE
36 SUSPENDED ONLY FROM THE RETIREMENT SYSTEM IN WHICH HIS OR HER
37 EMPLOYMENT WAS COVERED AT THE TIME THAT HE OR SHE COMMITTED THE
38 FELONY; TO PROVIDE THAT THE SYSTEM MAY CONCLUSIVELY RELY ON A
39 SUSPENSION ORDER FROM THE COURT AND THE NOTICE FROM THE ATTORNEY
40 GENERAL THAT THE REQUIREMENTS OF THIS ACT HAVE BEEN MET IN
41 SUSPENDING A MEMBER'S RETIREMENT BENEFITS FROM THE SYSTEM OR PLAN;
42 TO PROVIDE THAT THE SYSTEM IS NOT LIABLE FOR ANY MISTAKE IN THE
43 PAYMENT OF RETIREMENT BENEFITS TO A MEMBER IN GOOD FAITH RELIANCE
44 ON A SUSPENSION ORDER FROM THE COURT AND THE NOTICE FROM THE
45 ATTORNEY GENERAL; TO PROVIDE THAT ANY AMBIGUITY OR UNCERTAINTY
46 ABOUT WHETHER A MEMBER'S RETIREMENT BENEFITS FROM THE SYSTEM OR
47 PLAN SHOULD BE SUSPENDED SHALL BE RESOLVED IN FAVOR OF THE MEMBER;
48 TO AMEND SECTIONS 25-11-111, 25-11-120, 25-11-129, 25-11-309,
49 25-11-319, 25-13-11 AND 25-13-31, MISSISSIPPI CODE OF 1972, TO
50 CONFORM TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

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

52 **SECTION 1.** The following shall be codified as Section
53 25-11-147, Mississippi Code of 1972:

54 25-11-147. (1) "Felony involving public funds" means a
55 felony in which public funds were unlawfully taken, obtained or
56 misappropriated in the abuse or misuse of the person's office or
57 employment or money coming into the person's hands by virtue of
58 the person's office or employment.

59 (2) (a) If an active member of the system is convicted of
60 or enters a plea of guilty or nolo contendere in any court of this
61 state to a felony involving public funds that is committed on or
62 after July 1, 2016; or

63 (b) If a retired member of the system who is employed
64 or elected under Section 25-11-127 is convicted of or enters a
65 plea of guilty or nolo contendere in any court of this state to a
66 felony involving public funds that is committed during the



67 member's employment under Section 25-11-127 and is committed on or
68 after July 1, 2016; or

69 (c) If a retired member of the system, or a member of
70 the system who has withdrawn from service but is not receiving a
71 retirement allowance from the system, is convicted of or enters a
72 plea of guilty or nolo contendere in any court of this state to a
73 felony involving public funds that was committed while the member
74 was an active employee on or after July 1, 2016, the court shall
75 conduct a hearing in a separate civil proceeding to determine if
76 all of the conditions in this subsection have been met. The court
77 shall provide notice of the hearing to the member and each person
78 who is named as a beneficiary of the member in the records of the
79 system. If, after the hearing, the court determines that all of
80 the conditions in this subsection have been met, the court shall
81 issue an order that the member's retirement benefits from the
82 system be suspended as provided in this section. The court shall
83 send a copy of its suspension order to the system.

84 (3) (a) If an active member of the system is convicted of
85 or enters a plea of guilty or nolo contendere in a court of
86 another state or a federal court to a crime that would be a felony
87 under the laws of this state if the crime were committed in this
88 state, and that is a felony involving public funds and is
89 committed on or after July 1, 2016; or

90 (b) If a retired member of the system who is employed
91 or elected under Section 25-11-127 is convicted of or enters a



92 plea of guilty or nolo contendere in a court of another state or a
93 federal court to a crime that would be a felony under the laws of
94 this state if the crime were committed in this state, and that is
95 a felony involving public funds that is committed during the
96 member's employment under Section 25-11-127 and is committed on or
97 after July 1, 2016; or

98 (c) If a retired member of the system, or a member of
99 the system who has withdrawn from service but is not receiving a
100 retirement allowance from the system, is convicted of or enters a
101 plea of guilty or nolo contendere in a court of another state or a
102 federal court to a crime that would be a felony under the laws of
103 this state if the crime were committed in this state, and that is
104 a felony involving public funds that was committed while the
105 member was an active employee on or after July 1, 2016,
106 the Attorney General of Mississippi shall enter a motion in the
107 circuit court of the county of residence of the member, or in the
108 Circuit Court of the First Judicial District of Hinds County,
109 Mississippi, if the member does not reside in Mississippi, for
110 suspension of the member's retirement benefits from the system as
111 provided in this section. The court shall conduct a civil hearing
112 to determine if all of the conditions in this subsection have been
113 met. The court shall provide notice of the hearing to the member
114 and each person who is named as a beneficiary of the member in the
115 records of the system. If, after the hearing, the court
116 determines that all of the conditions in this subsection have been



117 met, the court shall issue an order that the member's retirement
118 benefits from the system be suspended as provided in this section.
119 The court shall send a copy of its suspension order to the system.

120 (4) A member who is convicted of a felony involving public
121 funds shall not have his or her retirement benefits from the
122 system suspended until all appeals of the conviction have been
123 finally concluded or the time for an appeal from the conviction
124 has expired. Upon receipt of the suspension order from the court,
125 the system shall request the Attorney General for a determination
126 of whether all appeals of the conviction have been finally
127 concluded or the time for an appeal from the conviction has
128 expired. After the Attorney General notifies the system that all
129 appeals of the conviction have been finally concluded or the time
130 for an appeal from the conviction has expired, the member's
131 retirement benefits from the system shall be suspended as provided
132 in this section.

133 (5) (a) An active member, or a member of the system who has
134 withdrawn from service but is not receiving a retirement allowance
135 from the system, whose retirement benefits from the system have
136 been suspended shall not receive a retirement allowance or other
137 retirement benefits from the system following the date that the
138 system receives the notice from the Attorney General until the
139 member has made full restitution of the public funds that were
140 unlawfully taken, obtained or misappropriated in the abuse or



141 misuse of the member's office or employment, as determined by the
142 Attorney General.

143 (b) A retired member whose retirement benefits from the
144 system have been suspended shall have his or her retirement
145 allowance suspended beginning on the first day of the month
146 following the date that the system receives the notice from the
147 Attorney General, and the member shall not receive any additional
148 retirement benefits from the system after that date until the
149 member has made full restitution of the public funds that were
150 unlawfully taken, obtained or misappropriated in the abuse or
151 misuse of the member's office or employment, as determined by the
152 Attorney General.

153 (c) When a member's retirement benefits in the system
154 have been suspended, the member shall forfeit all of the
155 retirement benefits that the member otherwise would have been
156 entitled to receive during the period that the benefits are
157 suspended.

158 (6) If a member of the system is also a member of another
159 retirement system administered by the Board of Trustees of the
160 Public Employees' Retirement System, and the felony involving
161 public funds for which the member was convicted or entered a plea
162 of guilty or nolo contendere was in connection with employment of
163 the member that is covered by only one (1) of the retirement
164 systems, the member's retirement benefits will be suspended only
165 from the retirement system in which his or her employment was



166 covered at the time that he or she committed the felony. In the
167 case of a retired member who is employed or elected under Section
168 25-11-127, the member's retirement benefits will be suspended only
169 from the retirement system in which his or her employment would
170 have been covered if the member had been an active member in the
171 same employment at the time that he or she committed the felony.

172 (7) The system may conclusively rely on a suspension order
173 from the court and the notice from the Attorney General that the
174 requirements of this section have been met in suspending a
175 member's retirement benefits from the system. The system is not
176 liable for any mistake in the payment of retirement benefits to a
177 member in good faith reliance on a suspension order from the court
178 and the notice from the Attorney General, and a member who
179 receives any such mistaken payments shall not be liable to repay
180 those benefits to the system.

181 (8) A member's retirement benefits from the system shall not
182 be suspended unless there is a specific provision in this section
183 applicable to the member's situation that requires the suspension
184 of the member's retirement benefits from the system. Any
185 ambiguity or uncertainty about whether a member's retirement
186 benefits from the system should be suspended shall be resolved in
187 favor of the member.

188 **SECTION 2.** The following shall be codified as Section
189 25-11-321, Mississippi Code of 1972:



190 25-11-321. (1) "Felony involving public funds" means a
191 felony in which public funds were unlawfully taken, obtained or
192 misappropriated in the abuse or misuse of the person's office or
193 employment or money coming into the person's hands by virtue of
194 the person's office or employment.

195 (2) (a) If an active member of the plan is convicted of or
196 enters a plea of guilty or nolo contendere in any court of this
197 state to a felony involving public funds that is committed on or
198 after July 1, 2016; or

199 (b) If a retired member of the plan, or a member of the
200 plan who is not serving in the State Legislature or as President
201 of the Senate but is not receiving a retirement allowance from the
202 plan, is convicted of or enters a plea of guilty or nolo
203 contendere in any court of this state to a felony involving public
204 funds that was committed while the member was serving in the State
205 Legislature or as President of the Senate on or after July 1,
206 2016, the court shall conduct a hearing in a separate civil
207 proceeding to determine if all of the conditions in this
208 subsection have been met. The court shall provide notice of the
209 hearing to the member and each person who is named as a
210 beneficiary of the member in the records of the system. If, after
211 the hearing, the court determines that all of the conditions in
212 this subsection have been met, the court shall issue an order that
213 the member's retirement benefits from the plan be suspended as



214 provided in this section. The court shall send a copy of its
215 suspension order to the system.

216 (3) (a) If an active member of the plan is convicted of or
217 enters a plea of guilty or nolo contendere in a court of another
218 state or a federal court to a crime that would be a felony under
219 the laws of this state if the crime were committed in this state,
220 and that is a felony involving public funds and is committed on or
221 after July 1, 2016; or

222 (b) If a retired member of the plan, or a member of the
223 plan who is not serving in the State Legislature or as President
224 of the Senate but is not receiving a retirement allowance from the
225 plan, is convicted of or enters a plea of guilty or nolo
226 contendere in a court of another state or a federal court to a
227 crime that would be a felony under the laws of this state if the
228 crime were committed in this state, and that is a felony involving
229 public funds that was committed while the member was serving in
230 the State Legislature or as President of the Senate on or after
231 July 1, 2016, the Attorney General of Mississippi shall enter a
232 motion in the circuit court of the county of residence of the
233 member, or in the Circuit Court of the First Judicial District of
234 Hinds County, Mississippi, if the member does not reside in
235 Mississippi, for suspension of the member's retirement benefits
236 from the plan as provided in this section. The court shall
237 conduct a civil hearing to determine if all of the conditions in
238 this subsection have been met. The court shall provide notice of



239 the hearing to the member and each person who is named as a
240 beneficiary of the member in the records of the system. If, after
241 the hearing, the court determines that all of the conditions in
242 this subsection have been met, the court shall issue an order that
243 the member's retirement benefits from the plan be suspended as
244 provided in this section. The court shall send a copy of its
245 suspension order to the system.

246 (4) A member who is convicted of a felony involving public
247 funds shall not have his or her retirement benefits from the plan
248 suspended until all appeals of the conviction have been finally
249 concluded or the time for an appeal from the conviction has
250 expired. Upon receipt of the suspension order from the court, the
251 system shall request the Attorney General for a determination of
252 whether all appeals of the conviction have been finally concluded
253 or the time for an appeal from the conviction has expired. After
254 the Attorney General notifies the system that all appeals of the
255 conviction have been finally concluded or the time for an appeal
256 from the conviction has expired, the member's retirement benefits
257 from the plan shall be suspended as provided in this section.

258 (5) (a) A member of the plan who is serving in the State
259 Legislature or as President of the Senate, or a member of the plan
260 who is not serving in the State Legislature or as President of the
261 Senate but is not receiving a retirement allowance from the plan,
262 whose retirement benefits from the plan have been suspended shall
263 not receive a retirement allowance or other retirement benefits



264 from the plan following the date that the system receives the
265 notice from the Attorney General until the member has made full
266 restitution of the public funds that were unlawfully taken,
267 obtained or misappropriated in the abuse or misuse of the member's
268 office or employment, as determined by the Attorney General.

269 (b) A retired member of the plan whose retirement
270 benefits from the plan have been suspended shall have his or her
271 retirement allowance suspended beginning on the first day of the
272 month following the date that the system receives the notice from
273 the Attorney General, and the member shall not receive any
274 additional retirement benefits from the plan after that date until
275 the member has made full restitution of the public funds that were
276 unlawfully taken, obtained or misappropriated in the abuse or
277 misuse of the member's office or employment, as determined by the
278 Attorney General.

279 (c) When a member's retirement benefits in the plan
280 have been suspended, the member shall forfeit all of the
281 retirement benefits that the member otherwise would have been
282 entitled to receive during the period that the benefits are
283 suspended.

284 (6) If an active member of the plan, or a member of the plan
285 who is not serving in the State Legislature or as President of the
286 Senate but is not receiving a retirement allowance from the plan,
287 has his or her retirement benefits from the plan suspended under
288 this section, the member also will have his or her retirement



289 benefits from the Public Employees' Retirement System suspended.
290 If a retired member of the plan is an active or retired member of
291 the Public Employees' Retirement System, or a member of the system
292 who has withdrawn from service but is not receiving a retirement
293 allowance from the system, whose retirement benefits from the
294 system are suspended under Section 25-11-147, the member's
295 retirement benefits from the plan will not be suspended if the
296 felony involving public funds for which the member was convicted
297 or entered a plea of guilty or nolo contendere was not in
298 connection with the member's service with the State Legislature or
299 as President of the Senate.

300 (7) The Public Employees' Retirement System may conclusively
301 rely on a suspension order from the court and the notice from the
302 Attorney General that the requirements of this section have been
303 met in suspending a member's retirement benefits from the plan.
304 The system is not liable for any mistake in the payment of
305 retirement benefits under the plan to a member in good faith
306 reliance on a suspension order from the court and the notice from
307 the Attorney General, and a member who receives any such mistaken
308 payments shall not be liable to repay those benefits to the plan.

309 (8) A member's retirement benefits from the plan shall not
310 be suspended unless there is a specific provision in this section
311 applicable to the member's situation that requires the suspension
312 of the member's retirement benefits from the plan. Any ambiguity
313 or uncertainty about whether a member's retirement benefits from



314 the plan should be suspended shall be resolved in favor of the
315 member.

316 **SECTION 3.** The following shall be codified as Section
317 25-13-37, Mississippi Code of 1972:

318 25-13-37. (1) "Felony involving public funds" means a
319 felony in which public funds were unlawfully taken, obtained or
320 misappropriated in the abuse or misuse of the person's office or
321 employment or money coming into the person's hands by virtue of
322 the person's office or employment.

323 (2) (a) If a member of the system is convicted of or enters
324 a plea of guilty or nolo contendere in any court of this state to
325 a felony involving public funds that is committed on or after July
326 1, 2016; or

327 (b) If a retired member of the system, or a member of
328 the system who has withdrawn from service but is not receiving a
329 retirement allowance from the system, is convicted of or enters a
330 plea of guilty or nolo contendere in any court of this state to a
331 felony involving public funds that was committed while the member
332 was an active employee on or after July 1, 2016, the court shall
333 conduct a hearing in a separate civil proceeding to determine if
334 all of the conditions in this subsection have been met. The court
335 shall provide notice of the hearing to the member and each person
336 who is named as a beneficiary of the member in the records of the
337 system. If, after the hearing, the court determines that all of
338 the conditions in this subsection have been met, the court shall



339 issue an order that the member's retirement benefits from the
340 system be suspended as provided in this section. The court shall
341 send a copy of its suspension order to the system.

342 (3) (a) If a member of the system is convicted of or enters
343 a plea of guilty or nolo contendere in a court of another state or
344 a federal court to a crime that would be a felony under the laws
345 of this state if the crime were committed in this state, and that
346 is a felony involving public funds and is committed on or after
347 July 1, 2016; or

348 (b) If a retired member of the system, or a member of
349 the system who has withdrawn from service but is not receiving a
350 retirement allowance from the system, is convicted of or enters a
351 plea of guilty or nolo contendere in a court of another state or a
352 federal court to a crime that would be a felony under the laws of
353 this state if the crime were committed in this state, and that is
354 a felony involving public funds that was committed while the
355 member was an active employee on or after July 1, 2016, the
356 Attorney General of Mississippi shall enter a motion in the
357 circuit court of the county of residence of the member, or in the
358 Circuit Court of the First Judicial District of Hinds County,
359 Mississippi, if the member does not reside in Mississippi, for
360 suspension of the member's retirement benefits from the system as
361 provided in this section. The court shall conduct a civil hearing
362 to determine if all of the conditions in this subsection have been
363 met. The court shall provide notice of the hearing to the member



364 and each person who is named as a beneficiary of the member in the
365 records of the system. If, after the hearing, the court
366 determines that all of the conditions in this subsection have been
367 met, the court shall issue an order that the member's retirement
368 benefits from the system be suspended as provided in this section.
369 The court shall send a copy of its suspension order to the system.

370 (4) A member who is convicted of a felony involving public
371 funds shall not have his or her retirement benefits from the
372 system suspended until all appeals of the conviction have been
373 finally concluded or the time for an appeal from the conviction
374 has expired. Upon receipt of the suspension order from the court,
375 the system shall request the Attorney General for a determination
376 of whether all appeals of the conviction have been finally
377 concluded or the time for an appeal from the conviction has
378 expired. After the Attorney General notifies the system that all
379 appeals of the conviction have been finally concluded or the time
380 for an appeal from the conviction has expired, the member's
381 retirement benefits from the system shall be suspended as provided
382 in this section.

383 (5) (a) An active member, or a member of the system who has
384 withdrawn from service but is not receiving a retirement allowance
385 from the system, whose retirement benefits from the system have
386 been suspended shall not receive a retirement allowance or other
387 retirement benefits from the system following the date that the
388 system receives the notice from the Attorney General until the



389 member has made full restitution of the public funds that were
390 unlawfully taken, obtained or misappropriated in the abuse or
391 misuse of the member's office or employment, as determined by the
392 Attorney General.

393 (b) A retired member whose retirement benefits from the
394 system have been suspended shall have his or her retirement
395 allowance suspended beginning on the first day of the month
396 following the date that the system receives the notice from the
397 Attorney General, and the member shall not receive any additional
398 retirement benefits from the system after that date until the
399 member has made full restitution of the public funds that were
400 unlawfully taken, obtained or misappropriated in the abuse or
401 misuse of the member's office or employment, as determined by the
402 Attorney General.

403 (c) When a member's retirement benefits in the system
404 have been suspended, the member shall forfeit all of the
405 retirement benefits that the member otherwise would have been
406 entitled to receive during the period that the benefits are
407 suspended.

408 (6) If a member of the system is also a member of another
409 retirement system administered by the Board of Trustees of the
410 Public Employees' Retirement System, and the felony involving
411 public funds for which the member was convicted or entered a plea
412 of guilty or nolo contendere was in connection with employment of
413 the member that is covered by only one (1) of the retirement



414 systems, the member's retirement benefits will be suspended only
415 from the retirement system in which his or her employment was
416 covered at the time that he or she committed the felony.

417 (7) The Public Employees' Retirement System may conclusively
418 rely on a suspension order from the court and the notice from the
419 Attorney General that the requirements of this section have been
420 met in suspending a member's retirement benefits from the
421 Mississippi Highway Safety Patrol Retirement System. The Public
422 Employees' Retirement System is not liable for any mistake in the
423 payment of retirement benefits to a member in good faith reliance
424 on a suspension order from the court and the notice from the
425 Attorney General, and a member who receives any such mistaken
426 payments shall not be liable to repay those benefits to the
427 system.

428 (8) A member's retirement benefits from the system shall not
429 be suspended unless there is a specific provision in this section
430 applicable to the member's situation that requires the suspension
431 of the member's retirement benefits from the system. Any
432 ambiguity or uncertainty about whether a member's retirement
433 benefits from the system should be suspended shall be resolved in
434 favor of the member.

435 **SECTION 4.** Section 25-11-111, Mississippi Code of 1972, is
436 amended as follows:

437 25-11-111. (a) (1) Any member who became a member of the
438 system before July 1, 2007, upon withdrawal from service upon or



439 after attainment of the age of sixty (60) years who has completed
440 at least four (4) years of membership service, or any member who
441 became a member of the system before July 1, 2011, upon withdrawal
442 from service regardless of age who has completed at least
443 twenty-five (25) years of creditable service, shall be entitled to
444 receive a retirement allowance, which shall begin on the first of
445 the month following the date the member's application for the
446 allowance is received by the board, but in no event before
447 withdrawal from service.

448 (2) Any member who became a member of the system on or
449 after July 1, 2007, upon withdrawal from service upon or after
450 attainment of the age of sixty (60) years who has completed at
451 least eight (8) years of membership service, or any member who
452 became a member of the system on or after July 1, 2011, upon
453 withdrawal from service regardless of age who has completed at
454 least thirty (30) years of creditable service, shall be entitled
455 to receive a retirement allowance, which shall begin on the first
456 of the month following the date the member's application for the
457 allowance is received by the board, but in no event before
458 withdrawal from service.

459 (b) (1) Any member who became a member of the system before
460 July 1, 2007, whose withdrawal from service occurs before
461 attaining the age of sixty (60) years who has completed four (4)
462 or more years of membership service and has not received a refund
463 of his accumulated contributions, shall be entitled to receive a



464 retirement allowance, beginning upon his attaining the age of
465 sixty (60) years, of the amount earned and accrued at the date of
466 withdrawal from service.

467 (2) Any member who became a member of the system on or
468 after July 1, 2007, whose withdrawal from service occurs before
469 attaining the age of sixty (60) years who has completed eight (8)
470 or more years of membership service and has not received a refund
471 of his accumulated contributions, shall be entitled to receive a
472 retirement allowance, beginning upon his attaining the age of
473 sixty (60) years, of the amount earned and accrued at the date of
474 withdrawal from service.

475 (c) Any member in service who has qualified for retirement
476 benefits may select any optional method of settlement of
477 retirement benefits by notifying the Executive Director of the
478 Board of Trustees of the Public Employees' Retirement System in
479 writing, on a form prescribed by the board, of the option he has
480 selected and by naming the beneficiary of the option and
481 furnishing necessary proof of age. The option, once selected, may
482 be changed at any time before actual retirement or death, but upon
483 the death or retirement of the member, the optional settlement
484 shall be placed in effect upon proper notification to the
485 executive director.

486 (d) Any member who became a member of the system before July
487 1, 2011, shall be entitled to an annual retirement allowance which
488 shall consist of:



489 (1) A member's annuity, which shall be the actuarial
490 equivalent of the accumulated contributions of the member at the
491 time of retirement computed according to the actuarial table in
492 use by the system; and

493 (2) An employer's annuity, which, together with the
494 member's annuity provided above, shall be equal to two percent
495 (2%) of the average compensation for each year of service up to
496 and including twenty-five (25) years of creditable service, and
497 two and one-half percent (2-1/2%) of the average compensation for
498 each year of service exceeding twenty-five (25) years of
499 creditable service.

500 (3) Any retired member or beneficiary thereof who was
501 eligible to receive a retirement allowance before July 1, 1991,
502 and who is still receiving a retirement allowance on July 1, 1992,
503 shall receive an increase in the annual retirement allowance of
504 the retired member equal to one-eighth of one percent (1/8 of 1%)
505 of the average compensation for each year of state service in
506 excess of twenty-five (25) years of membership service up to and
507 including thirty (30) years. The maximum increase shall be
508 five-eighths of one percent (5/8 of 1%). In no case shall a
509 member who has been retired before July 1, 1987, receive less than
510 Ten Dollars (\$10.00) per month for each year of creditable service
511 and proportionately for each quarter year thereof. Persons
512 retired on or after July 1, 1987, shall receive at least Ten
513 Dollars (\$10.00) per month for each year of service and



514 proportionately for each quarter year thereof reduced for the
515 option selected. However, such Ten Dollars (\$10.00) minimum per
516 month for each year of creditable service shall not apply to a
517 retirement allowance computed under Section 25-11-114 based on a
518 percentage of the member's average compensation.

519 (e) Any member who became a member of the system on or after
520 July 1, 2011, shall be entitled to an annual retirement allowance
521 which shall consist of:

522 (1) A member's annuity, which shall be the actuarial
523 equivalent of the accumulated contributions of the member at the
524 time of retirement computed according to the actuarial table in
525 use by the system; and

526 (2) An employer's annuity, which, together with the
527 member's annuity provided above, shall be equal to two percent
528 (2%) of the average compensation for each year of service up to
529 and including thirty (30) years of creditable service, and two and
530 one-half percent (2-1/2%) of average compensation for each year of
531 service exceeding thirty (30) years of creditable service.

532 (f) Any member who became a member of the system on or after
533 July 1, 2011, upon withdrawal from service upon or after attaining
534 the age of sixty (60) years who has completed at least eight (8)
535 years of membership service, or any such member upon withdrawal
536 from service regardless of age who has completed at least thirty
537 (30) years of creditable service, shall be entitled to receive a
538 retirement allowance computed in accordance with the formula set



539 forth in subsection (e) of this section. In the case of the
540 retirement of any member who has attained age sixty (60) but who
541 has not completed at least thirty (30) years of creditable
542 service, the retirement allowance shall be computed in accordance
543 with the formula set forth in subsection (e) of this section
544 except that the total annual retirement allowance shall be reduced
545 by an actuarial equivalent factor for each year of creditable
546 service below thirty (30) years or the number of years in age that
547 the member is below age sixty-five (65), whichever is less.

548 (g) No member, except members excluded by the Age
549 Discrimination in Employment Act Amendments of 1986 (Public Law
550 99-592), under either Article 1 or Article 3 in state service
551 shall be required to retire because of age.

552 (h) No payment on account of any benefit granted under the
553 provisions of this section shall become effective or begin to
554 accrue until January 1, 1953.

555 (i) (1) A retiree or beneficiary may, on a form prescribed
556 by and filed with the retirement system, irrevocably waive all or
557 a portion of any benefits from the retirement system to which the
558 retiree or beneficiary is entitled. The waiver shall be binding
559 on the heirs and assigns of any retiree or beneficiary and the
560 same must agree to forever hold harmless the Public Employees'
561 Retirement System of Mississippi from any claim to the waived
562 retirement benefits.



563 (2) Any waiver under this subsection shall apply only
564 to the person executing the waiver. A beneficiary shall be
565 entitled to benefits according to the option selected by the
566 member at the time of retirement. However, a beneficiary may, at
567 the option of the beneficiary, execute a waiver of benefits under
568 this subsection.

569 (3) The retirement system shall retain in the annuity
570 reserve account amounts that are not used to pay benefits because
571 of a waiver executed under this subsection.

572 (4) The board of trustees may provide rules and
573 regulations for the administration of waivers under this
574 subsection.

575 (j) A member whose retirement benefits from the system have
576 been suspended under Section 25-11-147 shall not be eligible to
577 receive a retirement allowance under this section during the
578 entire period of the suspension of the benefits.

579 **SECTION 5.** Section 25-11-120, Mississippi Code of 1972, is
580 amended as follows:

581 25-11-120. (1) Any individual aggrieved by an
582 administrative determination, including a determination of the
583 medical board, relating to the eligibility for or payment of
584 benefits, or the calculation of creditable service or other
585 similar matters relating to the Public Employees' Retirement
586 System or any other retirement system or program administered by
587 the board, may request a hearing before a hearing officer



588 designated by the board. Such hearings shall be conducted in
589 accordance with rules and regulations adopted by the board and
590 formal rules of evidence shall not apply. The hearing officer is
591 authorized to administer oaths, hear testimony of witnesses and
592 receive documentary and other evidence. In case of disability
593 appeals, the hearing officer shall have the authority to defer a
594 decision in order to request a medical evaluation or test or
595 additional existing medical records not previously furnished by
596 the claimant. After the hearing and the receipt of any additional
597 medical evidence requested by the hearing officer, the hearing
598 officer shall certify the record to the board, which shall include
599 the hearing officer's proposed statement of facts, conclusions of
600 law and recommendation. The record may include a taped recording
601 of the proceedings of the hearing in lieu of a transcribed copy of
602 the proceedings. The board shall receive the record and make its
603 determination based solely on matters contained therein.

604 (2) Any individual aggrieved by the determination of the
605 board may appeal to the Circuit Court of the First Judicial
606 District of Hinds County, Mississippi, in accordance with the
607 Uniform Circuit Court Rules governing appeals to the circuit court
608 in civil cases. Such appeal shall be made solely on the record
609 before the board and this procedure shall be the exclusive method
610 of appealing determinations of the board.

611 (3) The board is authorized to appoint a committee of the
612 board to serve as hearing officer or to employ or contract with



613 qualified personnel to perform the duties of hearing officer and
614 court reporter as may be necessary for conducting, recording and
615 transcribing such hearings. The board may assess and collect fees
616 to offset costs related to such hearings. Those fees shall be
617 deposited to the credit of the Public Employees' Retirement
618 System.

619 (4) Interest shall not be paid on any benefits, including,
620 but not limited to, benefits that are delayed as a result of an
621 administrative determination or an appeal from an administrative
622 determination.

623 (5) The suspension of a member's retirement benefits from
624 the Public Employees' Retirement System, the Supplemental
625 Legislative Retirement Plan or the Mississippi Highway Safety
626 Patrol Retirement System under Section 25-11-147, 25-11-321 or
627 25-13-37 shall not be considered an administrative determination
628 for which a hearing may be requested or held under this section.

629 **SECTION 6.** Section 25-11-129, Mississippi Code of 1972, is
630 amended as follows:

631 25-11-129. (1) The right of a person to an annuity, a
632 retirement allowance or benefit, or to the return of
633 contributions, or to any optional benefit or any other right
634 accrued or accruing to any person under the provisions of Articles
635 1 and 3, the system and the monies in the system created by * * *
636 those articles, are * * * exempt from any state, county or
637 municipal ad valorem taxes, income taxes, premium taxes, privilege



638 taxes, property taxes, sales and use taxes or other taxes not so
639 named, notwithstanding any other provision of law to the contrary,
640 and exempt from levy and sale, garnishment, attachment or any
641 other process whatsoever, and shall be unassignable except as
642 specifically otherwise provided in this article and except as
643 otherwise provided in subsection (2) of this section. The
644 suspension of a member's retirement benefits from the system under
645 Section 25-11-147 is not an attachment or assignment of the
646 member's retirement benefits for the purposes of this section.

647 (2) Any retired member or beneficiary receiving a retirement
648 allowance or benefit under this article may authorize the system
649 to make deductions from the retirement allowance or benefit for
650 the payment of employer or system sponsored group life or health
651 insurance. The deductions authorized under this subsection shall
652 be subject to rules and regulations adopted by the board.

653 **SECTION 7.** Section 25-11-309, Mississippi Code of 1972, is
654 amended as follows:

655 25-11-309. (1) The retirement allowance from the
656 Supplemental Legislative Retirement Plan shall consist of fifty
657 percent (50%) of an amount equal to the retirement allowance
658 determined by creditable service as an elected Senator or
659 Representative of the State Legislature or as President of the
660 Senate payable by the Public Employees' Retirement System in
661 accordance with Section 25-11-101 et seq.



662 (2) The percentage of the retirement allowance as provided
663 in this section shall be transferred from the annuity savings
664 account of the member and the employer accumulation account in the
665 Supplemental Legislative Retirement Plan to the retirement account
666 of the member in the Public Employees' Retirement System as
667 provided.

668 (3) (a) Notwithstanding any provisions of this section or
669 this title to the contrary, the maximum annual retirement
670 allowance attributable to the employer contributions payable under
671 the Supplemental Legislative Retirement Plan to a member shall be
672 subject to the limitations set forth in Section 415 of the
673 Internal Revenue Code and any regulations issued thereunder
674 applicable to governmental plans as the term is defined under
675 Section 414(d) of the Internal Revenue Code.

676 (b) The board is authorized to provide by rule or
677 regulation for the payment of benefits as provided under this
678 chapter to members or beneficiaries of the Supplemental
679 Legislative Retirement System at a time and under circumstances
680 not otherwise provided for in this chapter to the extent that the
681 payment is required to maintain the Supplemental Legislative
682 Retirement System as a qualified retirement plan for purposes of
683 federal income tax laws.

684 (4) (a) A retiree or beneficiary may, on a form prescribed
685 by and filed with the Executive Director of the Public Employees'
686 Retirement System, irrevocably waive all or a portion of any



687 benefits from the plan to which the retiree or beneficiary is
688 entitled under this article. The waiver shall be binding on the
689 heirs and assigns of any retiree or beneficiary and the same must
690 agree to forever hold harmless the plan and the Public Employees'
691 Retirement System from any claim to the waived retirement
692 benefits.

693 (b) Any waiver under this subsection shall apply only
694 to the person executing the waiver. A beneficiary shall be
695 entitled to benefits according to the option selected by the
696 member at the time of retirement; however, a beneficiary may
697 execute a waiver of benefits under this subsection.

698 (c) The plan shall retain all amounts that are not used
699 to pay benefits because of a waiver executed under this
700 subsection.

701 (d) The board of trustees of the Public Employees'
702 Retirement System may provide rules and regulations for the
703 administration of waivers under the subsection.

704 (5) A member whose retirement benefits from the plan have
705 been suspended under Section 25-11-321 shall not be eligible to
706 receive a retirement allowance under this section during the
707 entire period of the suspension of the benefits.

708 **SECTION 8.** Section 25-11-319, Mississippi Code of 1972, is
709 amended as follows:

710 25-11-319. (1) The right of a person to an annuity, a
711 retirement allowance or benefit, or to the return of



712 contributions, or to any optional benefit or any other right
713 accrued or accruing to any person under the provisions of the
714 Supplemental Legislative Retirement Plan, and the monies in the
715 plan created by this article, are exempt from any state or
716 municipal tax, and exempt from levy and sale, garnishment,
717 attachment or any other process whatsoever, and shall be
718 unassignable except as specifically otherwise provided in this
719 article. The suspension of a member's retirement benefits from
720 the plan under Section 25-11-321 is not an attachment or
721 assignment of the member's retirement benefits for the purposes of
722 this section.

723 (2) Any retired member or beneficiary receiving a retirement
724 allowance or benefit under this article may authorize the system
725 to make deductions from the retirement allowance or benefit for
726 the payment of employer or system sponsored group life or health
727 insurance. The deductions authorized under this subsection shall
728 be subject to rules and regulations adopted by the board.

729 **SECTION 9.** Section 25-13-11, Mississippi Code of 1972, is
730 amended as follows:

731 25-13-11. (1) Any member upon withdrawal from service, upon
732 or after attainment of the age of fifty-five (55) years, who has
733 completed at least five (5) years of creditable service, or any
734 member upon withdrawal from service upon or after attainment of
735 the age of forty-five (45) years, who has completed at least
736 twenty (20) years of creditable service, or any member upon



737 withdrawal from service, regardless of age, who has completed at
738 least twenty-five (25) years of creditable service, shall be
739 entitled to receive a retirement allowance, which shall be payable
740 the first of the month following receipt of the member's
741 application in the Office of the Executive Director of the Public
742 Employees' Retirement System, but in no event before withdrawal
743 from service.

744 Any member whose withdrawal from service occurs before
745 attaining the age of fifty-five (55) years, who has completed more
746 than five (5) years of creditable service and has not received a
747 refund of the member's accumulated contributions, shall be
748 entitled to receive a retirement allowance beginning upon his
749 attaining the age of fifty-five (55) years of the amount earned
750 and accrued at the date of withdrawal from service.

751 The annual amount of the retirement allowance shall consist
752 of:

753 (a) A member's annuity, which shall be the actuarial
754 equivalent of the accumulated contributions of the member at the
755 time of retirement, computed according to the actuarial table in
756 use by the system.

757 (b) An employer's annuity which, together with the
758 member's annuity provided above, shall be equal to two and
759 one-half percent (2-1/2%) of the average compensation, based on
760 the four (4) highest consecutive years, for each year of
761 membership service.



762 (c) A prior service annuity equal to two and one-half
763 percent (2-1/2%) of the average compensation, based on the four
764 (4) highest consecutive years, for each year of prior service for
765 which the member is allowed credit.

766 (d) In the case of retirement of any member prior to
767 attaining the age of fifty-five (55) years, the retirement
768 allowance shall be computed in accordance with the formula
769 hereinabove set forth in this section, except that the employer's
770 annuity and prior service annuity above described shall be reduced
771 three percent (3%) for each year of age below fifty-five (55)
772 years, or three percent (3%) for each year of service below
773 twenty-five (25) years of creditable service, whichever is lesser.

774 (e) Upon retiring from service, a member shall be
775 eligible to obtain retirement benefits, as computed above, for
776 life, except that the aggregate amount of the employer's annuity
777 and prior service annuity above described shall not exceed more
778 than one hundred percent (100%) of the average compensation
779 regardless of the years of service.

780 (f) Any member in the service who has attained the age
781 of sixty-three (63) years shall be retired immediately. However,
782 any member who has attained age sixty-three (63) may ask the
783 Commissioner of Public Safety to allow him to continue in service
784 with the Mississippi Highway Safety Patrol beyond age sixty-three
785 (63). If the commissioner determines that the member's
786 continuance in service would be advantageous to the Highway Safety



787 Patrol because of his expert knowledge, experience or
788 qualifications, the member shall be allowed to continue in service
789 beyond age sixty-three (63) for a period of one (1) year. After
790 the initial one-year continuance, the commissioner may authorize
791 the member to continue in service for another period of one (1)
792 year until the member attains age sixty-five (65), at which time
793 retirement shall be mandatory.

794 (g) Notwithstanding any provision of this chapter
795 pertaining to the Mississippi Highway Safety Patrol Retirement
796 System, no payments may be made for a retirement allowance on a
797 monthly basis for a period of time in excess of that allowed by
798 any applicable federal law.

799 (h) In no case shall any retired member who has
800 completed at least fifteen (15) years of creditable service
801 receive less than Five Hundred Dollars (\$500.00) per month; in no
802 case shall any retired member who has completed ten (10) or more
803 years of creditable service, but less than fifteen (15) years of
804 creditable service, receive less than Three Hundred Dollars
805 (\$300.00) per month; and in no case shall any retired member who
806 has completed less than ten (10) years of creditable service
807 receive less than Two Hundred Fifty Dollars (\$250.00) per month.
808 In no case shall a beneficiary who is receiving a retirement
809 allowance receive less than Two Hundred Fifty Dollars (\$250.00)
810 per month or Three Thousand Dollars (\$3,000.00) per year.



811 (i) Any retired member who is receiving a retirement
812 allowance on July 1, 1999, shall receive an ad hoc increase in the
813 annual retirement allowance equal to Three Dollars and Fifty Cents
814 (\$3.50) per month for each full fiscal year through June 30, 1999,
815 that the member has actually drawn retirement payments from the
816 date of retirement, or the date of last retirement if there is
817 more than one (1) retirement date, plus an amount equal to One
818 Dollar (\$1.00) per month for each full year of creditable service
819 and proportionately for each quarter year of creditable service,
820 as documented by the system and on which benefits are being paid.
821 If there are multiple beneficiaries receiving a retirement
822 allowance from a deceased member's account, the ad hoc increase
823 shall be divided proportionately.

824 (2) (a) A retiree or beneficiary may, on a form prescribed
825 by and filed with the Executive Director of the Public Employees'
826 Retirement System, irrevocably waive all or a portion of any
827 benefits from the plan to which the retiree or beneficiary is
828 entitled. The waiver shall be binding on the heirs and assigns of
829 any retiree or beneficiary and the same must agree to forever hold
830 harmless the Highway Safety Patrol Retirement System and the
831 Public Employees' Retirement System from any claim to the waived
832 retirement benefits.

833 (b) Any waiver under this subsection shall apply only
834 to the person executing the waiver. A beneficiary shall be
835 entitled to benefits according to the option selected by the



836 member at the time of retirement; however, a beneficiary may
837 execute a waiver of benefits under this subsection.

838 (c) The Highway Safety Patrol Retirement System shall
839 retain all amounts that are not used to pay benefits because of a
840 waiver executed under this subsection.

841 (d) The Board of Trustees of the Public Employees'
842 Retirement System may provide rules and regulations for the
843 administration of waivers under this subsection.

844 (3) A member whose retirement benefits from the system have
845 been suspended under Section 25-13-37 shall not be eligible to
846 receive a retirement allowance under this section during the
847 entire period of the suspension of the benefits.

848 **SECTION 10.** Section 25-13-31, Mississippi Code of 1972, is
849 amended as follows:

850 25-13-31. (1) The right of a person to an annuity, a
851 retirement allowance or benefit, or to the return of
852 contributions, or to any optional benefits or any other right
853 accrued or accruing to any person under the provisions of the
854 Highway Patrol Retirement Law, the system and the monies in the
855 system created by * * * that law, are * * * exempt from any state,
856 county or municipal ad valorem taxes, income taxes, premium taxes,
857 privilege taxes, property taxes, sales and use taxes or other
858 taxes not so named, notwithstanding any other provision of law to
859 the contrary, and exempt from levy and sale, garnishment,
860 attachment, or any other process whatsoever, and shall be



861 unassignable except as specifically otherwise provided in this
862 article. The suspension of a member's retirement benefits from
863 the system under Section 25-13-37 is not an attachment or
864 assignment of the member's retirement benefits for the purposes of
865 this section.

866 (2) Any retired member or beneficiary receiving a retirement
867 allowance or benefit under this article may authorize the Public
868 Employees' Retirement System to make deductions from the
869 retirement allowance or benefit for the payment of employer or
870 system sponsored group life or health insurance. The deductions
871 authorized under this subsection shall be subject to rules and
872 regulations adopted by the Board of Trustees of the Public
873 Employees' Retirement System.

874 **SECTION 11.** This act shall take effect and be in force from
875 and after July 1, 2016.

