

By: Representative Haney

To: Appropriations

HOUSE BILL NO. 1009

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 THE RECEIPT OF
3 RETIREMENT BENEFITS FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM,
4 THE SUPPLEMENTAL LEGISLATIVE RETIREMENT SYSTEM AND THE MISSISSIPPI
5 HIGHWAY SAFETY PATROL RETIREMENT SYSTEM IS CONDITIONED ON THE
6 MEMBER'S HONEST AND FAITHFUL PERFORMANCE OF HIS OR HER PUBLIC
7 DUTIES FOR THE STATE; TO PROVIDE THAT A MEMBER'S CONVICTION OF OR
8 PLEA OF GUILTY OR NOLO CONTENDERE TO A FELONY INVOLVING PUBLIC
9 FUNDS OF \$50,000.00 OR MORE IS CONSIDERED TO BE A BREACH OF THE
10 PUBLIC TRUST AND A BREACH OF THE MEMBER'S CONTRACT WITH THE STATE;
11 TO PROVIDE THAT IF A MEMBER OF THE SYSTEM OR PLAN IS CONVICTED OF
12 OR ENTERS A PLEA OF GUILTY OR NOLO CONTENDERE IN ANY COURT TO A
13 FELONY INVOLVING PUBLIC FUNDS OF \$50,000.00 OR MORE THAT IS
14 COMMITTED ON OR AFTER JULY 1, 2018, THE COURT SHALL CONDUCT A
15 HEARING IN A SEPARATE CIVIL PROCEEDING TO DETERMINE IF ALL OF THE
16 CONDITIONS HAVE BEEN MET; TO PROVIDE THAT IF ALL OF THE CONDITIONS
17 HAVE BEEN MET, THE COURT SHALL ISSUE AN ORDER THAT THE MEMBER BE
18 TERMINATED FROM MEMBERSHIP IN THE SYSTEM OR PLAN AND FORFEIT HIS
19 OR HER RETIREMENT BENEFITS FROM THE SYSTEM OR PLAN; TO PROVIDE
20 THAT A MEMBER WHO IS CONVICTED OF SUCH A CRIME SHALL NOT BE
21 TERMINATED FROM MEMBERSHIP IN THE SYSTEM OR PLAN OR FORFEIT HIS OR
22 HER RETIREMENT BENEFITS FROM THE SYSTEM OR PLAN UNTIL ALL APPEALS
23 OF THE CONVICTION HAVE BEEN FINALLY CONCLUDED OR THE TIME FOR AN
24 APPEAL FROM THE CONVICTION HAS EXPIRED; TO PROVIDE THAT AFTER
25 RECEIVING THE TERMINATION AND FORFEITURE ORDER FROM THE COURT, THE
26 SYSTEM SHALL REQUEST THE ATTORNEY GENERAL FOR A DETERMINATION OF
27 WHETHER ALL APPEALS OF THE CONVICTION HAVE BEEN FINALLY CONCLUDED
28 OR THE TIME FOR AN APPEAL FROM THE CONVICTION HAS EXPIRED; TO
29 PROVIDE THAT AFTER THE ATTORNEY GENERAL NOTIFIES THE SYSTEM THAT
30 ALL APPEALS OF THE CONVICTION HAVE BEEN FINALLY CONCLUDED OR THE
31 TIME FOR AN APPEAL FROM THE CONVICTION HAS EXPIRED, THE SYSTEM
32 SHALL TERMINATE THE MEMBER FROM MEMBERSHIP IN THE SYSTEM OR PLAN
33 AND THE MEMBER SHALL FORFEIT HIS OR HER RETIREMENT BENEFITS FROM
34 THE SYSTEM OR PLAN; TO PROVIDE THAT A MEMBER WHO IS TERMINATED



35 FROM MEMBERSHIP IN THE SYSTEM OR PLAN SHALL HAVE HIS OR HER
36 CONTRIBUTIONS REFUNDED WITHOUT ANY INTEREST; TO PROVIDE THAT IF A
37 MEMBER OF THE SYSTEM OR PLAN IS ALSO A MEMBER OF ANOTHER
38 RETIREMENT SYSTEM ADMINISTERED BY THE BOARD OF TRUSTEES OF THE
39 SYSTEM, AND THE CRIME FOR WHICH THE MEMBER WAS CONVICTED OR
40 ENTERED A PLEA OF GUILTY OR NOLO CONTENDERE IS A FELONY INVOLVING
41 PUBLIC FUNDS OF \$50,000.00 OR MORE THAT IS COVERED BY ONLY ONE OF
42 THE RETIREMENT SYSTEMS, THE MEMBER WILL BE TERMINATED ONLY FROM
43 THE RETIREMENT SYSTEM IN WHICH HIS OR HER EMPLOYMENT WAS COVERED
44 AT THE TIME THAT HE OR SHE COMMITTED THE CRIME, AND WILL FORFEIT
45 RETIREMENT BENEFITS ONLY FROM THAT RETIREMENT SYSTEM; TO PROVIDE
46 THAT THE SYSTEM MAY CONCLUSIVELY RELY ON A TERMINATION AND
47 FORFEITURE ORDER FROM THE COURT AND THE NOTICE FROM THE ATTORNEY
48 GENERAL THAT THE REQUIREMENTS OF THIS ACT HAVE BEEN MET IN
49 TERMINATING A MEMBER FROM MEMBERSHIP IN THE SYSTEM OR PLAN; TO
50 PROVIDE THAT THE SYSTEM IS NOT LIABLE FOR ANY MISTAKE IN THE
51 PAYMENT OF RETIREMENT BENEFITS TO A MEMBER IN GOOD FAITH RELIANCE
52 ON A TERMINATION AND FORFEITURE ORDER FROM THE COURT AND THE
53 NOTICE FROM THE ATTORNEY GENERAL; TO PROVIDE THAT ANY AMBIGUITY OR
54 UNCERTAINTY ABOUT WHETHER A MEMBER SHOULD BE TERMINATED FROM
55 MEMBERSHIP IN THE SYSTEM OR PLAN OR FORFEIT HIS OR HER RETIREMENT
56 BENEFITS FROM THE SYSTEM OR PLAN SHALL BE RESOLVED IN FAVOR OF THE
57 MEMBER; TO AMEND SECTIONS 25-11-105, 25-11-111, 25-11-117,
58 25-11-120, 25-11-129, 25-11-305, 25-11-309, 25-11-311, 25-11-319,
59 25-13-3, 25-13-11, 25-13-21, 25-13-28 AND 25-13-31, MISSISSIPPI
60 CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS; AND FOR
61 RELATED PURPOSES.

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

63 **SECTION 1.** The following shall be codified as Section
64 25-11-147, Mississippi Code of 1972:

65 25-11-147. (1) As used in this section, the term "felony
66 involving public funds" means one or more felonies in which public
67 funds in an aggregate amount of Fifty Thousand Dollars
68 (\$50,000.00) or more were unlawfully taken, obtained or
69 misappropriated in the abuse or misuse of the person's office or
70 employment or money coming into the person's hands by virtue of
71 the person's office or employment.

72 (2) A member's receipt of retirement benefits from the
73 Public Employees' Retirement System is conditioned on the member's



74 honest and faithful performance of his or her public duties for
75 the state. A member's conviction of or plea of guilty or nolo
76 contendere to a felony involving public funds is considered to be
77 a breach of the public trust and a breach of the member's contract
78 with the state.

79 (3) (a) If an active member of the system is convicted of
80 or enters a plea of guilty or nolo contendere in any court of this
81 state to a felony involving public funds that is committed on or
82 after July 1, 2018; or

83 (b) If a retired member of the system who is employed
84 or elected under Section 25-11-127 is convicted of or enters a
85 plea of guilty or nolo contendere in any court of this state to a
86 felony involving public funds that is committed on or after July
87 1, 2018; or

88 (c) If a retired member of the system, or a member of
89 the system who has withdrawn from service but is not receiving a
90 retirement allowance from the system, is convicted of or enters a
91 plea of guilty or nolo contendere in any court of this state to a
92 felony involving public funds that was committed while the member
93 was an active employee on or after July 1, 2018, the court shall
94 conduct a hearing in a separate civil proceeding to determine if
95 all of the conditions in this subsection have been met. The court
96 shall provide notice of the hearing to the member and each person
97 who is named as a beneficiary of the member in the records of the
98 system. If, after the hearing, the court determines that all of



99 the conditions in this subsection have been met, the court shall
100 issue an order that the member be terminated from membership in
101 the system and forfeit his or her retirement benefits from the
102 system as provided in this section. The court shall send a copy
103 of its termination and forfeiture order to the system.

104 (4) (a) If an active member of the system is convicted of
105 or enters a plea of guilty or nolo contendere in a court of
106 another state or a federal court to a crime that would be a felony
107 under the laws of this state if the crime were committed in this
108 state, and that is a felony involving public funds that is
109 committed on or after July 1, 2018; or

110 (b) If a retired member of the system who is employed
111 or elected under Section 25-11-127 is convicted of or enters a
112 plea of guilty or nolo contendere in a court of another state or a
113 federal court to a crime that would be a felony under the laws of
114 this state if the crime were committed in this state, and that is
115 a felony involving public funds that is committed on or after July
116 1, 2018; or

117 (c) If a retired member of the system, or a member of
118 the system who has withdrawn from service but is not receiving a
119 retirement allowance from the system, is convicted of or enters a
120 plea of guilty or nolo contendere in a court of another state or a
121 federal court to a crime that would be a felony under the laws of
122 this state if the crime were committed in this state, and that is
123 a felony involving public funds that was committed while the



124 member was an active employee on or after July 1, 2018, the
125 Attorney General of Mississippi shall enter a motion in the
126 circuit court of the county of residence of the member, or in the
127 Circuit Court of the First Judicial District of Hinds County,
128 Mississippi, if the member does not reside in Mississippi for
129 termination from membership in the system and forfeiture of the
130 member's retirement benefits from the system. The court shall
131 conduct a civil hearing to determine if all of the conditions in
132 this subsection have been met. The court shall provide notice of
133 the hearing to the member and each person who is named as a
134 beneficiary of the member in the records of the system. If, after
135 the hearing, the court determines that all of the conditions in
136 this subsection have been met, the court shall issue an order that
137 the member be terminated from membership in the system and forfeit
138 his or her retirement benefits from the system as provided in this
139 section. The court shall send a copy of its termination and
140 forfeiture order to the system.

141 (5) A member who is convicted of a crime described in
142 subsection (3) or (4) of this section shall not be terminated from
143 membership in the system or forfeit his or her retirement benefits
144 from the system until all appeals of the conviction have been
145 finally concluded or the time for an appeal from the conviction
146 has expired. Upon receipt of the termination and forfeiture order
147 from the court, the system shall request the Attorney General for
148 a determination of whether all appeals of the conviction have been



149 finally concluded or the time for an appeal from the conviction
150 has expired. After the Attorney General notifies the system that
151 all appeals of the conviction have been finally concluded or the
152 time for an appeal from the conviction has expired, the system
153 shall terminate the member from membership in the system and the
154 member shall forfeit his or her retirement benefits from the
155 system as provided in this section.

156 (6) (a) An active member, or a member of the system who has
157 withdrawn from service but is not receiving a retirement allowance
158 from the system, who has been terminated from membership in the
159 system shall not receive a retirement allowance or other
160 retirement benefits from the system following the date that the
161 system receives the notice from the Attorney General. The member
162 shall have his or her contributions, without any interest,
163 refunded in accordance with Section 25-11-117.

164 (b) A retired member who has been terminated from
165 membership in the system shall have his or her retirement
166 allowance terminated beginning on the first day of the month
167 following the date that the system receives the notice from the
168 Attorney General, and the member shall not receive any additional
169 retirement benefits from the system after that date. If a
170 member's retirement allowance is terminated under the provisions
171 of this paragraph and the total amount that the member received
172 from the retirement allowance is less than the amount of the
173 member's accumulated contributions, the member shall be refunded



174 the difference between the amount received from the retirement
175 allowance and the amount of his or her contributions, without any
176 interest, in accordance with Section 25-11-117. Termination of
177 the member's retirement allowance shall not affect any retirement
178 benefits that the member received before the date of the
179 termination.

180 (c) When a member has been terminated from membership
181 in the system, the member shall forfeit all current and future
182 retirement benefits from all service that was or should have been
183 credited to the system before the date that the member was
184 terminated from the system, and the member shall not be allowed to
185 receive creditable service for that service by repaying the amount
186 of the contributions that were refunded under Section 25-11-117,
187 or to otherwise purchase creditable service for that service.
188 However, if a person is later employed in the state service after
189 having been terminated from the system under this section, the
190 person shall become a member of the system again and receive
191 creditable service for his or her new employment in the state
192 service.

193 (7) If a member of the system is also a member of another
194 retirement system administered by the Board of Trustees of the
195 Public Employees' Retirement System, and the crime for which the
196 member was convicted or entered a plea of guilty or nolo
197 contendere is a felony involving public funds that is covered by
198 only one (1) of the retirement systems, the member will be



199 terminated only from the retirement system in which his or her
200 employment was covered at the time that he or she committed the
201 crime, and will forfeit retirement benefits only from that
202 retirement system. In the case of a retired member who is
203 employed or elected under Section 25-11-127, the member will be
204 terminated only from the retirement system in which his or her
205 employment would have been covered if the member had been an
206 active member in the same employment at the time that he or she
207 committed the crime, and will forfeit retirement benefits only
208 from that retirement system.

209 (8) The system may conclusively rely on a termination and
210 forfeiture order from the court and the notice from the Attorney
211 General that the requirements of this section have been met in
212 terminating a member from membership in the system. The system is
213 not liable for any mistake in the payment of retirement benefits
214 to a member in good faith reliance on a termination and forfeiture
215 order from the court and the notice from the Attorney General, and
216 a member who receives any such mistaken payments shall not be
217 liable to repay those benefits to the system.

218 (9) A member shall not be terminated from membership in the
219 system or forfeit his or her retirement benefits from the system
220 unless there is a specific provision in this section applicable to
221 the member's situation that requires the termination of membership
222 in the system and forfeiture of retirement benefits from the
223 system. Any ambiguity or uncertainty about whether a member



224 should be terminated from membership in the system or forfeit his
225 or her retirement benefits from the system shall be resolved in
226 favor of the member.

227 **SECTION 2.** The following shall be codified as Section
228 25-11-321, Mississippi Code of 1972:

229 25-11-321. (1) As used in this section, the term "felony
230 involving public funds" means one or more felonies in which public
231 funds in an aggregate amount of Fifty Thousand Dollars
232 (\$50,000.00) or more were unlawfully taken, obtained or
233 misappropriated in the abuse or misuse of the person's office or
234 money coming into the person's hands by virtue of the person's
235 office.

236 (2) A member's receipt of retirement benefits from the
237 Supplemental Legislative Retirement Plan is conditioned on the
238 member's honest and faithful performance of his or her public
239 duties for the State Legislature or as President of the Senate. A
240 member's conviction of or plea of guilty or nolo contendere to a
241 felony involving public funds is considered to be a breach of the
242 public trust and a breach of the member's contract with the state.

243 (3) (a) If an active member of the plan is convicted of or
244 enters a plea of guilty or nolo contendere in any court of this
245 state to a felony involving public funds that is committed on or
246 after July 1, 2018; or

247 (b) If a retired member of the plan, or a member of the
248 plan who is not serving in the State Legislature or as President



249 of the Senate but is not receiving a retirement allowance from the
250 plan, is convicted of or enters a plea of guilty or nolo
251 contendere in any court of this state to a felony involving public
252 funds that was committed while the member was serving in the State
253 Legislature or as President of the Senate on or after July 1,
254 2018, the court shall conduct a hearing in a separate civil
255 proceeding to determine if all of the conditions in this
256 subsection have been met. The court shall provide notice of the
257 hearing to the member and each person who is named as a
258 beneficiary of the member in the records of the system. If, after
259 the hearing, the court determines that all of the conditions in
260 this subsection have been met, the court shall issue an order that
261 the member be terminated from membership in the plan and forfeit
262 his or her retirement benefits from the plan as provided in this
263 section. The court shall send a copy of its termination and
264 forfeiture order to the system.

265 (4) (a) If an active member of the plan is convicted of or
266 enters a plea of guilty or nolo contendere in a court of another
267 state or a federal court to a crime that would be a felony under
268 the laws of this state if the crime were committed in this state,
269 and that is a felony involving public funds that is committed on
270 or after July 1, 2018; or

271 (b) If a retired member of the plan, or a member of the
272 plan who is not serving in the State Legislature or as President
273 of the Senate but is not receiving a retirement allowance from the



274 plan, is convicted of or enters a plea of guilty or nolo
275 contendere in a court of another state or a federal court to a
276 crime that would be a felony under the laws of this state if the
277 crime were committed in this state, and that is a felony involving
278 public funds that was committed while the member was serving in
279 the State Legislature or as President of the Senate on or after
280 July 1, 2018, the Attorney General of Mississippi shall enter a
281 motion in the circuit court of the county of residence of the
282 member, or in the Circuit Court of the first Judicial District of
283 Hinds County, Mississippi, if the member does not reside in
284 Mississippi, for termination from membership in the plan and
285 forfeiture of the member's retirement benefits from the plan. The
286 court shall conduct a civil hearing to determine if all of the
287 conditions in this subsection have been met. The court shall
288 provide notice of the hearing to the member and each person who is
289 named as a beneficiary of the member in the records of the system.
290 If, after the hearing, the court determines that all of the
291 conditions in this subsection have been met, the court shall issue
292 an order that the member be terminated from membership in the plan
293 and forfeit his or her retirement benefits from the plan as
294 provided in this section. The court shall send a copy of its
295 termination and forfeiture order to the system.

296 (5) A member who is convicted of a crime described in
297 subsection (3) or (4) of this section shall not be terminated from
298 membership in the plan or forfeit his or her retirement benefits



299 from the plan until all appeals of the conviction have been
300 finally concluded or the time for an appeal from the conviction
301 has expired. Upon receipt of the termination and forfeiture order
302 from the court, the system shall request the Attorney General for
303 a determination of whether all appeals of the conviction have been
304 finally concluded or the time for an appeal from the conviction
305 has expired. After the Attorney General notifies the system that
306 all appeals of the conviction have been finally concluded or the
307 time for an appeal from the conviction has expired, the system
308 shall terminate the member from membership in the plan and the
309 member shall forfeit his or her retirement benefits from the plan
310 as provided in this section.

311 (6) (a) A member of the plan who is serving in the State
312 Legislature or as President of the Senate, or a member of the plan
313 who is not serving in the State Legislature or as President of the
314 Senate but is not receiving a retirement allowance from the plan,
315 who has been terminated from membership in the plan shall not
316 receive a retirement allowance or other retirement benefits from
317 the plan following the date that the system receives the notice
318 from the Attorney General. The member shall have his or her
319 contributions, without any interest, refunded in accordance with
320 Section 25-11-311.

321 (b) A retired member of the plan who has been
322 terminated from membership in the plan shall have his or her
323 retirement allowance terminated beginning on the first day of the



324 month following the date that the system receives the notice from
325 the Attorney General, and the member shall not receive any
326 additional retirement benefits from the plan after that date. If
327 a member's retirement allowance is terminated under the provisions
328 of this paragraph and the total amount that the member received
329 from the retirement allowance is less than the amount of the
330 member's accumulated contributions, the member shall be refunded
331 the difference between the amount received from the retirement
332 allowance and the amount of his or her contributions, without any
333 interest, in accordance with Section 25-11-311. Termination of
334 the member's retirement allowance shall not affect any retirement
335 benefits that the member received before the date of the
336 termination.

337 (c) When a member has been terminated from membership
338 in the plan, the member shall forfeit all current and future
339 retirement benefits from all service that was or should have been
340 credited to the plan before the date that the member was
341 terminated from the plan, and the member shall not be allowed to
342 receive creditable service for that service by repaying the amount
343 of the contributions that were refunded under Section 25-11-311,
344 or to otherwise purchase creditable service for that service.
345 However, if a person later serves in the State Legislature or as
346 President of the Senate after having been terminated from the plan
347 under this section, the person shall become a member of the plan



348 again and receive creditable service for his or her new service in
349 the State Legislature or as President of the Senate.

350 (7) If an active member of the plan, or a member of the plan
351 who is not serving in the State Legislature or as President of the
352 Senate but is not receiving a retirement allowance from the plan,
353 is terminated from membership in the plan under this section, the
354 member also will be terminated from membership in the Public
355 Employees' Retirement System and will forfeit his or her
356 retirement benefits from the system. If a retired member of the
357 plan is an active or retired member of the Public Employees'
358 Retirement System, or a member of the system who has withdrawn
359 from service but is not receiving a retirement allowance from the
360 system, who is terminated from membership in the system under
361 Section 25-11-147, the member will not be terminated from
362 membership in the plan if the crime for which the member was
363 convicted or entered a plea of guilty or nolo contendere is not a
364 felony involving public funds.

365 (8) The Public Employees' Retirement System may conclusively
366 rely on a termination and forfeiture order from the court and the
367 notice from the Attorney General that the requirements of this
368 section have been met in terminating a member from membership in
369 the plan. The system is not liable for any mistake in the payment
370 of retirement benefits under the plan to a member in good faith
371 reliance on a termination and forfeiture order from the court and
372 the notice from the Attorney General, and a member who receives



373 any such mistaken payments shall not be liable to repay those
374 benefits to the plan.

375 (9) A member shall not be terminated from membership in the
376 plan or forfeit his or her retirement benefits from the plan
377 unless there is a specific provision in this section applicable to
378 the member's situation that requires the termination of membership
379 in the plan and forfeiture of retirement benefits from the plan.
380 Any ambiguity or uncertainty about whether a member should be
381 terminated from membership in the plan or forfeit his or her
382 retirement benefits from the plan shall be resolved in favor of
383 the member.

384 **SECTION 3.** The following shall be codified as Section
385 25-13-37, Mississippi Code of 1972:

386 25-13-37. (1) As used in this section, the term "felony
387 involving public funds" means one or more felonies in which public
388 funds in an aggregate amount of Fifty Thousand Dollars
389 (\$50,000.00) or more were unlawfully taken, obtained or
390 misappropriated in the abuse or misuse of the person's employment
391 or money coming into the person's hands by virtue of the person's
392 employment.

393 (2) A member's receipt of retirement benefits from the
394 Mississippi Highway Safety Patrol Retirement System is conditioned
395 on the member's honest and faithful performance of his or her
396 public duties for the State of Mississippi. A member's conviction
397 of or plea of guilty or nolo contendere to a felony involving



398 public funds is considered to be a breach of the public trust and
399 a breach of the member's contract with the State of Mississippi.

400 (3) (a) If a member of the system is convicted of or enters
401 a plea of guilty or nolo contendere in any court of this state to
402 a felony involving public funds that is committed on or after July
403 1, 2018; or

404 (b) If a retired member of the system, or a member of
405 the system who has withdrawn from service but is not receiving a
406 retirement allowance from the system, is convicted of or enters a
407 plea of guilty or nolo contendere in any court of this state to a
408 felony involving public funds that was committed while the member
409 was an active employee on or after July 1, 2018, the court shall
410 conduct a hearing in a separate civil proceeding to determine if
411 all of the conditions in this subsection have been met. The court
412 shall provide notice of the hearing to the member and each person
413 who is named as a beneficiary of the member in the records of the
414 system. If, after the hearing, the court determines that all of
415 the conditions in this subsection have been met, the court shall
416 issue an order that the member be terminated from membership in
417 the system and forfeit his or her retirement benefits from the
418 system as provided in this section. The court shall send a copy
419 of its termination and forfeiture order to the system.

420 (4) (a) If a member of the system is convicted of or enters
421 a plea of guilty or nolo contendere in a court of another state or
422 a federal court to a crime that would be a felony under the laws



423 of this state if the crime were committed in this state, and that
424 is a felony involving public funds that is committed on or after
425 July 1, 2018; or

426 (b) If a retired member of the system, or a member of
427 the system who has withdrawn from service but is not receiving a
428 retirement allowance from the system, is convicted of or enters a
429 plea of guilty or nolo contendere in a court of another state or a
430 federal court to a crime that would be a felony under the laws of
431 this state if the crime were committed in this state, and that is
432 a felony involving public funds that was committed while the
433 member was an active employee on or after July 1, 2018, the
434 Attorney General of Mississippi shall enter a motion in the
435 circuit court of the county of residence of the member, or in the
436 Circuit court of the First Judicial District of Hinds county,
437 Mississippi, if the member does not reside in Mississippi, for
438 termination from membership in the system and forfeiture of the
439 member's retirement benefits from the system. The court shall
440 conduct a civil hearing to determine if all of the conditions in
441 this subsection have been met. The court shall provide notice of
442 the hearing to the member and each person who is named as a
443 beneficiary of the member in the records of the system. If, after
444 the hearing, the court determines that all of the conditions in
445 this subsection have been met, the court shall issue an order that
446 the member be terminated from membership in the system and forfeit
447 his or her retirement benefits from the system as provided in this



448 section. The court shall send a copy of its termination and
449 forfeiture order to the system.

450 (5) A member who is convicted of a crime described in
451 subsection (3) or (4) of this section shall not be terminated from
452 membership in the system or forfeit his or her retirement benefits
453 from the system until all appeals of the conviction have been
454 finally concluded or the time for an appeal from the conviction
455 has expired. Upon receipt of the termination and forfeiture order
456 from the court, the system shall request the Attorney General for
457 a determination of whether all appeals of the conviction have been
458 finally concluded or the time for an appeal from the conviction
459 has expired. After the Attorney General notifies the system that
460 all appeals of the conviction have been finally concluded or the
461 time for an appeal from the conviction has expired, the system
462 shall terminate the member from membership in the system and the
463 member shall forfeit his or her retirement benefits from the
464 system as provided in this section.

465 (6) (a) An active member, or a member of the system who has
466 withdrawn from service but is not receiving a retirement allowance
467 from the system, who has been terminated from membership in the
468 system shall not receive a retirement allowance or other
469 retirement benefits from the system following the date that the
470 system receives the notice from the Attorney General. The member
471 shall have his or her contributions, without any interest,
472 refunded in accordance with Section 25-13-21.



473 (b) A retired member who has been terminated from
474 membership in the system shall have his or her retirement
475 allowance terminated beginning on the first day of the month
476 following the date that the system receives the notice from the
477 Attorney General, and the member shall not receive any additional
478 retirement benefits from the system after that date. If a
479 member's retirement allowance is terminated under the provisions
480 of this paragraph and the total amount that the member received
481 from the retirement allowance is less than the amount of the
482 member's accumulated contributions, the member shall be refunded
483 the difference between the amount received from the retirement
484 allowance and the amount of his or her contributions, without any
485 interest, in accordance with Section 25-13-21. Termination of the
486 member's retirement allowance shall not affect any retirement
487 benefits that the member received before the date of the
488 termination.

489 (c) When a member has been terminated from membership
490 in the system, the member shall forfeit all current and future
491 retirement benefits from all service that was or should have been
492 credited to the system before the date that the member was
493 terminated from the system, and the member shall not be allowed to
494 receive creditable service for that service by repaying the amount
495 of the contributions that were refunded under Section 25-13-21, or
496 to otherwise purchase creditable service for that service.
497 However, if a person is later employed in service covered by the



498 system after having been terminated from the system under this
499 section, the person shall become a member of the system again and
500 receive creditable service for his or her new employment in
501 service covered by the system.

502 (7) If a member of the system is also a member of another
503 retirement system administered by the Board of Trustees of the
504 Public Employees' Retirement System, and the crime for which the
505 member was convicted or entered a plea of guilty or nolo
506 contendere is a felony involving public funds that is covered by
507 only one (1) of the retirement systems, the member will be
508 terminated only from the retirement system in which his or her
509 employment was covered at the time that he or she committed the
510 crime, and will forfeit retirement benefits only from that
511 retirement system.

512 (8) The Public Employees' Retirement System may conclusively
513 rely on a termination and forfeiture order from the court and the
514 notice from the Attorney General that the requirements of this
515 section have been met in terminating a member from membership in
516 the Mississippi Highway Safety Patrol Retirement System. The
517 Public Employees' Retirement System is not liable for any mistake
518 in the payment of retirement benefits to a member in good faith
519 reliance on a termination and forfeiture order from the court and
520 the notice from the Attorney General, and a member who receives
521 any such mistaken payments shall not be liable to repay those
522 benefits to the system.



523 (9) A member shall not be terminated from membership in the
524 system or forfeit his or her retirement benefits from the system
525 unless there is a specific provision in this section applicable to
526 the member's situation that requires the termination of membership
527 in the system and forfeiture of retirement benefits from the
528 system. Any ambiguity or uncertainty about whether a member
529 should be terminated from membership in the system or forfeit his
530 or her retirement benefits from the system shall be resolved in
531 favor of the member.

532 **SECTION 4.** Section 25-11-105, Mississippi Code of 1972,
533 is amended as follows:

534 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

535 The membership of this retirement system shall be composed as
536 follows:

537 (a) (i) All persons who become employees in the state
538 service after January 31, 1953, and whose wages are subject to
539 payroll taxes and are lawfully reported on IRS Form W-2, except
540 those specifically excluded, or as to whom election is provided in
541 Articles 1 and 3, shall become members of the retirement system as
542 a condition of their employment.

543 (ii) From and after July 1, 2002, any individual
544 who is employed by a governmental entity to perform professional
545 services shall become a member of the system if the individual is
546 paid regular periodic compensation for those services that is
547 subject to payroll taxes, is provided all other employee benefits



548 and meets the membership criteria established by the regulations
549 adopted by the board of trustees that apply to all other members
550 of the system; however, any active member employed in such a
551 position on July 1, 2002, will continue to be an active member for
552 as long as they are employed in any such position.

553 (b) All persons who become employees in the state
554 service after January 31, 1953, except those specifically excluded
555 or as to whom election is provided in Articles 1 and 3, unless
556 they file with the board before the lapse of sixty (60) days of
557 employment or sixty (60) days after the effective date of the
558 cited articles, whichever is later, on a form prescribed by the
559 board, a notice of election not to be covered by the membership of
560 the retirement system and a duly executed waiver of all present
561 and prospective benefits that would otherwise inure to them on
562 account of their participation in the system, shall become members
563 of the retirement system; however, no credit for prior service
564 will be granted to members who became members of the system before
565 July 1, 2007, until they have contributed to Article 3 of the
566 retirement system for a minimum period of at least four (4) years,
567 or to members who became members of the system on or after July 1,
568 2007, until they have contributed to Article 3 of the retirement
569 system for a minimum period of at least eight (8) years. Those
570 members shall receive credit for services performed before January
571 1, 1953, in employment now covered by Article 3, but no credit
572 shall be granted for retroactive services between January 1, 1953,



573 and the date of their entry into the retirement system, unless the
574 employee pays into the retirement system both the employer's and
575 the employee's contributions on wages paid him during the period
576 from January 31, 1953, to the date of his becoming a contributing
577 member, together with interest at the rate determined by the board
578 of trustees. Members reentering after withdrawal from service
579 shall qualify for prior service under the provisions of Section
580 25-11-117. From and after July 1, 1998, upon eligibility as noted
581 above, the member may receive credit for such retroactive service
582 provided:

583 (i) The member shall furnish proof satisfactory to
584 the board of trustees of certification of that service from the
585 covered employer where the services were performed; and

586 (ii) The member shall pay to the retirement system
587 on the date he or she is eligible for that credit or at any time
588 thereafter before the date of retirement the actuarial cost for
589 each year of that creditable service. The provisions of this
590 subparagraph (ii) shall be subject to the limitations of Section
591 415 of the Internal Revenue Code and regulations promulgated under
592 Section 415.

593 Nothing contained in this paragraph (b) shall be construed to
594 limit the authority of the board to allow the correction of
595 reporting errors or omissions based on the payment of the employee
596 and employer contributions plus applicable interest.



597 (c) All persons who become employees in the state
598 service after January 31, 1953, and who are eligible for
599 membership in any other retirement system shall become members of
600 this retirement system as a condition of their employment, unless
601 they elect at the time of their employment to become a member of
602 that other system.

603 (d) All persons who are employees in the state service
604 on January 31, 1953, and who are members of any nonfunded
605 retirement system operated by the State of Mississippi, or any of
606 its departments or agencies, shall become members of this system
607 with prior service credit unless, before February 1, 1953, they
608 file a written notice with the board of trustees that they do not
609 elect to become members.

610 (e) All persons who are employees in the state service
611 on January 31, 1953, and who under existing laws are members of
612 any fund operated for the retirement of employees by the State of
613 Mississippi, or any of its departments or agencies, shall not be
614 entitled to membership in this retirement system unless, before
615 February 1, 1953, any such person indicates by a notice filed with
616 the board, on a form prescribed by the board, his individual
617 election and choice to participate in this system, but no such
618 person shall receive prior service credit unless he becomes a
619 member on or before February 1, 1953.

620 (f) Each political subdivision of the state and each
621 instrumentality of the state or a political subdivision, or both,



622 is authorized to submit, for approval by the board of trustees, a
623 plan for extending the benefits of this article to employees of
624 any such political subdivision or instrumentality. Each such plan
625 or any amendment to the plan for extending benefits thereof shall
626 be approved by the board of trustees if it finds that the plan, or
627 the plan as amended, is in conformity with such requirements as
628 are provided in Articles 1 and 3; however, upon approval of the
629 plan or any such plan previously approved by the board of
630 trustees, the approved plan shall not be subject to cancellation
631 or termination by the political subdivision or instrumentality.
632 No such plan shall be approved unless:

633 (i) It provides that all services that constitute
634 employment as defined in Section 25-11-5 and are performed in the
635 employ of the political subdivision or instrumentality, by any
636 employees thereof, shall be covered by the plan, with the
637 exception of municipal employees who are already covered by
638 existing retirement plans; however, those employees in this class
639 may elect to come under the provisions of this article;

640 (ii) It specifies the source or sources from which
641 the funds necessary to make the payments required by paragraph (d)
642 of Section 25-11-123 and of paragraph (f) (v) 2 and 3 of this
643 section are expected to be derived and contains reasonable
644 assurance that those sources will be adequate for that purpose;

645 (iii) It provides for such methods of
646 administration of the plan by the political subdivision or



647 instrumentality as are found by the board of trustees to be
648 necessary for the proper and efficient administration thereof;

649 (iv) It provides that the political subdivision or
650 instrumentality will make such reports, in such form and
651 containing such information, as the board of trustees may from
652 time to time require;

653 (v) It authorizes the board of trustees to
654 terminate the plan in its entirety in the discretion of the board
655 if it finds that there has been a failure to comply substantially
656 with any provision contained in the plan, the termination to take
657 effect at the expiration of such notice and on such conditions as
658 may be provided by regulations of the board and as may be
659 consistent with applicable federal law.

660 1. The board of trustees shall not finally
661 refuse to approve a plan submitted under paragraph (f), and shall
662 not terminate an approved plan without reasonable notice and
663 opportunity for hearing to each political subdivision or
664 instrumentality affected by the board's decision. The board's
665 decision in any such case shall be final, conclusive and binding
666 unless an appeal is taken by the political subdivision or
667 instrumentality aggrieved by the decision to the Circuit Court of
668 the First Judicial District of Hinds County, Mississippi, in
669 accordance with the provisions of law with respect to civil causes
670 by certiorari.



671 2. Each political subdivision or
672 instrumentality as to which a plan has been approved under this
673 section shall pay into the contribution fund, with respect to
674 wages (as defined in Section 25-11-5), at such time or times as
675 the board of trustees may by regulation prescribe, contributions
676 in the amounts and at the rates specified in the applicable
677 agreement entered into by the board.

678 3. Every political subdivision or
679 instrumentality required to make payments under paragraph (f)(v)2
680 of this section is authorized, in consideration of the employees'
681 retention in or entry upon employment after enactment of Articles
682 1 and 3, to impose upon its employees, as to services that are
683 covered by an approved plan, a contribution with respect to wages
684 (as defined in Section 25-11-5) not exceeding the amount provided
685 in Section 25-11-123(d) if those services constituted employment
686 within the meaning of Articles 1 and 3, and to deduct the amount
687 of the contribution from the wages as and when paid.

688 Contributions so collected shall be paid into the contribution
689 fund as partial discharge of the liability of the political
690 subdivisions or instrumentalities under paragraph (f)(v)2 of this
691 section. Failure to deduct the contribution shall not relieve the
692 employee or employer of liability for the contribution.

693 4. Any state agency, school, political
694 subdivision, instrumentality or any employer that is required to
695 submit contribution payments or wage reports under any section of



696 this chapter shall be assessed interest on delinquent payments or
697 wage reports as determined by the board of trustees in accordance
698 with rules and regulations adopted by the board and delinquent
699 payments, assessed interest and any other amount certified by the
700 board as owed by an employer, may be recovered by action in a
701 court of competent jurisdiction against the reporting agency
702 liable therefor or may, upon due certification of delinquency and
703 at the request of the board of trustees, be deducted from any
704 other monies payable to the reporting agency by any department or
705 agency of the state.

706 5. Each political subdivision of the state
707 and each instrumentality of the state or a political subdivision
708 or subdivisions that submit a plan for approval of the board, as
709 provided in this section, shall reimburse the board for coverage
710 into the expense account, its pro rata share of the total expense
711 of administering Articles 1 and 3 as provided by regulations of
712 the board.

713 (g) The board may, in its discretion, deny the right of
714 membership in this system to any class of employees whose
715 compensation is only partly paid by the state or who are occupying
716 positions on a part-time or intermittent basis. The board may, in
717 its discretion, make optional with employees in any such classes
718 their individual entrance into this system.

719 (h) An employee whose membership in this system is
720 contingent on his own election, and who elects not to become a



721 member, may thereafter apply for and be admitted to membership;
722 but no such employee shall receive prior service credit unless he
723 becomes a member before July 1, 1953, except as provided in
724 paragraph (b).

725 (i) If any member of this system changes his employment
726 to any agency of the state having an actuarially funded retirement
727 system, the board of trustees may authorize the transfer of the
728 member's creditable service and of the present value of the
729 member's employer's accumulation account and of the present value
730 of the member's accumulated membership contributions to that other
731 system, provided that the employee agrees to the transfer of his
732 accumulated membership contributions and provided that the other
733 system is authorized to receive and agrees to make the transfer.

734 If any member of any other actuarially funded system
735 maintained by an agency of the state changes his employment to an
736 agency covered by this system, the board of trustees may authorize
737 the receipt of the transfer of the member's creditable service and
738 of the present value of the member's employer's accumulation
739 account and of the present value of the member's accumulated
740 membership contributions from the other system, provided that the
741 employee agrees to the transfer of his accumulated membership
742 contributions to this system and provided that the other system is
743 authorized and agrees to make the transfer.



744 (j) Wherever state employment is referred to in this
745 section, it includes joint employment by state and federal
746 agencies of all kinds.

747 (k) Employees of a political subdivision or
748 instrumentality who were employed by the political subdivision or
749 instrumentality before an agreement between the entity and the
750 Public Employees' Retirement System to extend the benefits of this
751 article to its employees, and which agreement provides for the
752 establishment of retroactive service credit, and who became
753 members of the retirement system before July 1, 2007, and have
754 remained contributors to the retirement system for four (4) years,
755 or who became members of the retirement system on or after July 1,
756 2007, and have remained contributors to the retirement system for
757 eight (8) years, may receive credit for that retroactive service
758 with the political subdivision or instrumentality, provided that
759 the employee and/or employer, as provided under the terms of the
760 modification of the joinder agreement in allowing that coverage,
761 pay into the retirement system the employer's and employee's
762 contributions on wages paid the member during the previous
763 employment, together with interest or actuarial cost as determined
764 by the board covering the period from the date the service was
765 rendered until the payment for the credit for the service was
766 made. Those wages shall be verified by the Social Security
767 Administration or employer payroll records. Effective July 1,
768 1998, upon eligibility as noted above, a member may receive credit



769 for that retroactive service with the political subdivision or
770 instrumentality provided:

771 (i) The member shall furnish proof satisfactory to
772 the board of trustees of certification of those services from the
773 political subdivision or instrumentality where the services were
774 rendered or verification by the Social Security Administration;
775 and

776 (ii) The member shall pay to the retirement system
777 on the date he or she is eligible for that credit or at any time
778 thereafter before the date of retirement the actuarial cost for
779 each year of that creditable service. The provisions of this
780 subparagraph (ii) shall be subject to the limitations of Section
781 415 of the Internal Revenue Code and regulations promulgated under
782 Section 415.

783 Nothing contained in this paragraph (k) shall be construed to
784 limit the authority of the board to allow the correction of
785 reporting errors or omissions based on the payment of employee and
786 employer contributions plus applicable interest. Payment for that
787 time shall be made beginning with the most recent service. Upon
788 the payment of all or part of the required contributions, plus
789 interest or the actuarial cost as provided above, the member shall
790 receive credit for the period of creditable service for which full
791 payment has been made to the retirement system.

792 (l) Through June 30, 1998, any state service eligible
793 for retroactive service credit, no part of which has ever been



794 reported, and requiring the payment of employee and employer
795 contributions plus interest, or, from and after July 1, 1998, any
796 state service eligible for retroactive service credit, no part of
797 which has ever been reported to the retirement system, and
798 requiring the payment of the actuarial cost for that creditable
799 service, may, at the member's option, be purchased in quarterly
800 increments as provided above at the time that its purchase is
801 otherwise allowed.

802 (m) All rights to purchase retroactive service credit
803 or repay a refund as provided in Section 25-11-101 et seq. shall
804 terminate upon retirement.

805 **II. THOSE WHO ARE NOT ELIGIBLE FOR MEMBERSHIP**

806 The following classes of employees and officers shall not
807 become members of this retirement system, any other provisions of
808 Articles 1 and 3 to the contrary notwithstanding:

809 (a) Patient or inmate help in state charitable, penal
810 or correctional institutions;

811 (b) Students of any state educational institution
812 employed by any agency of the state for temporary, part-time or
813 intermittent work;

814 (c) Participants of Comprehensive Employment and
815 Training Act of 1973 (CETA) being Public Law 93-203, who enroll on
816 or after July 1, 1979;

817 (d) From and after July 1, 2002, individuals who are
818 employed by a governmental entity to perform professional service



819 on less than a full-time basis who do not meet the criteria
820 established in I(a)(ii) of this section.

821 **III. TERMINATION OF MEMBERSHIP**

822 Membership in this system shall cease by:

823 (a) A member withdrawing his or her accumulated
824 contributions;

825 (b) A member withdrawing from active service with a
826 retirement allowance * * *;

827 (c) A member's death * * *; or

828 (d) A member being terminated from the membership in
829 the system under Section 25-11-147.

830 **SECTION 5.** Section 25-11-111, Mississippi Code of 1972, is
831 amended as follows:

832 25-11-111. (a) (1) Any member who became a member of the
833 system before July 1, 2007, upon withdrawal from service upon or
834 after attainment of the age of sixty (60) years who has completed
835 at least four (4) years of membership service, or any member who
836 became a member of the system before July 1, 2011, upon withdrawal
837 from service regardless of age who has completed at least
838 twenty-five (25) years of creditable service, shall be entitled to
839 receive a retirement allowance, which shall begin on the first of
840 the month following the date the member's application for the
841 allowance is received by the board, but in no event before
842 withdrawal from service.



843 (2) Any member who became a member of the system on or
844 after July 1, 2007, upon withdrawal from service upon or after
845 attainment of the age of sixty (60) years who has completed at
846 least eight (8) years of membership service, or any member who
847 became a member of the system on or after July 1, 2011, upon
848 withdrawal from service regardless of age who has completed at
849 least thirty (30) years of creditable service, shall be entitled
850 to receive a retirement allowance, which shall begin on the first
851 of the month following the date the member's application for the
852 allowance is received by the board, but in no event before
853 withdrawal from service.

854 (b) (1) Any member who became a member of the system before
855 July 1, 2007, whose withdrawal from service occurs before
856 attaining the age of sixty (60) years who has completed four (4)
857 or more years of membership service and has not received a refund
858 of his accumulated contributions, shall be entitled to receive a
859 retirement allowance, beginning upon his attaining the age of
860 sixty (60) years, of the amount earned and accrued at the date of
861 withdrawal from service. The retirement allowance shall begin on
862 the first of the month following the date the member's application
863 for the allowance is received by the board, but in no event before
864 withdrawal from service.

865 (2) Any member who became a member of the system on or
866 after July 1, 2007, whose withdrawal from service occurs before
867 attaining the age of sixty (60) years who has completed eight (8)



868 or more years of membership service and has not received a refund
869 of his accumulated contributions, shall be entitled to receive a
870 retirement allowance, beginning upon his attaining the age of
871 sixty (60) years, of the amount earned and accrued at the date of
872 withdrawal from service. The retirement allowance shall begin on
873 the first of the month following the date the member's application
874 for the allowance is received by the board, but in no event before
875 withdrawal from service.

876 (c) Any member in service who has qualified for retirement
877 benefits may select any optional method of settlement of
878 retirement benefits by notifying the Executive Director of the
879 Board of Trustees of the Public Employees' Retirement System in
880 writing, on a form prescribed by the board, of the option he has
881 selected and by naming the beneficiary of the option and
882 furnishing necessary proof of age. The option, once selected, may
883 be changed at any time before actual retirement or death, but upon
884 the death or retirement of the member, the optional settlement
885 shall be placed in effect upon proper notification to the
886 executive director.

887 (d) Any member who became a member of the system before July
888 1, 2011, shall be entitled to an annual retirement allowance which
889 shall consist of:

890 (1) A member's annuity, which shall be the actuarial
891 equivalent of the accumulated contributions of the member at the



892 time of retirement computed according to the actuarial table in
893 use by the system; and

894 (2) An employer's annuity, which, together with the
895 member's annuity provided above, shall be equal to two percent
896 (2%) of the average compensation for each year of service up to
897 and including twenty-five (25) years of creditable service, and
898 two and one-half percent (2-1/2%) of the average compensation for
899 each year of service exceeding twenty-five (25) years of
900 creditable service.

901 (3) Any retired member or beneficiary thereof who was
902 eligible to receive a retirement allowance before July 1, 1991,
903 and who is still receiving a retirement allowance on July 1, 1992,
904 shall receive an increase in the annual retirement allowance of
905 the retired member equal to one-eighth of one percent (1/8 of 1%)
906 of the average compensation for each year of state service in
907 excess of twenty-five (25) years of membership service up to and
908 including thirty (30) years. The maximum increase shall be
909 five-eighths of one percent (5/8 of 1%). In no case shall a
910 member who has been retired before July 1, 1987, receive less than
911 Ten Dollars (\$10.00) per month for each year of creditable service
912 and proportionately for each quarter year thereof. Persons
913 retired on or after July 1, 1987, shall receive at least Ten
914 Dollars (\$10.00) per month for each year of service and
915 proportionately for each quarter year thereof reduced for the
916 option selected. However, such Ten Dollars (\$10.00) minimum per



917 month for each year of creditable service shall not apply to a
918 retirement allowance computed under Section 25-11-114 based on a
919 percentage of the member's average compensation.

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

923 (1) A member's annuity, which shall be the actuarial
924 equivalent of the accumulated contributions of the member at the
925 time of retirement computed according to the actuarial table in
926 use by the system; and

927 (2) An employer's annuity, which, together with the
928 member's annuity provided above, shall be equal to two percent
929 (2%) of the average compensation for each year of service up to
930 and including thirty (30) years of creditable service, and two and
931 one-half percent (2-1/2%) of average compensation for each year of
932 service exceeding thirty (30) years of creditable service.

933 (f) Any member who became a member of the system on or after
934 July 1, 2011, upon withdrawal from service upon or after attaining
935 the age of sixty (60) years who has completed at least eight (8)
936 years of membership service, or any such member upon withdrawal
937 from service regardless of age who has completed at least thirty
938 (30) years of creditable service, shall be entitled to receive a
939 retirement allowance computed in accordance with the formula set
940 forth in subsection (e) of this section. In the case of the
941 retirement of any member who has attained age sixty (60) but who



942 has not completed at least thirty (30) years of creditable
943 service, the retirement allowance shall be computed in accordance
944 with the formula set forth in subsection (e) of this section
945 except that the total annual retirement allowance shall be reduced
946 by an actuarial equivalent factor for each year of creditable
947 service below thirty (30) years or the number of years in age that
948 the member is below age sixty-five (65), whichever is less.

949 (g) No member, except members excluded by the Age
950 Discrimination in Employment Act Amendments of 1986 (Public Law
951 99-592), under either Article 1 or Article 3 in state service
952 shall be required to retire because of age.

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

956 (i) (1) A retiree or beneficiary may, on a form prescribed
957 by and filed with the retirement system, irrevocably waive all or
958 a portion of any benefits from the retirement system to which the
959 retiree or beneficiary is entitled. The waiver shall be binding
960 on the heirs and assigns of any retiree or beneficiary and the
961 same must agree to forever hold harmless the Public Employees'
962 Retirement System of Mississippi from any claim to the waived
963 retirement benefits.

964 (2) Any waiver under this subsection shall apply only
965 to the person executing the waiver. A beneficiary shall be
966 entitled to benefits according to the option selected by the



967 member at the time of retirement. However, a beneficiary may, at
968 the option of the beneficiary, execute a waiver of benefits under
969 this subsection.

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

973 (4) The board of trustees may provide rules and
974 regulations for the administration of waivers under this
975 subsection.

976 (j) A member who is terminated from membership in the system
977 under Section 25-11-147 shall not be eligible to receive a
978 retirement allowance under this section.

979 **SECTION 6.** Section 25-11-117, Mississippi Code of 1972, is
980 amended as follows:

981 25-11-117. (1) A member may be paid a refund of the amount
982 of accumulated contributions to the credit of the member in the
983 annuity savings account, provided that the member has withdrawn
984 from state service and has not returned to state service on the
985 date the refund of the accumulated contributions would be paid.
986 That refund of the contributions to the credit of the member in
987 the annuity savings account shall be paid within ninety (90) days
988 from receipt in the office of the retirement system of the
989 properly completed form requesting the payment. The full amount
990 of the accumulated contributions of any member who is terminated
991 from membership in the system under Section 25-11-147 before



992 receiving a retirement allowance, or the amount of the member's
993 accumulated contributions that the member has not received from a
994 retirement allowance if the member is terminated from membership
995 in the system under Section 25-11-147 after receiving a retirement
996 allowance, shall be refunded to the member, without any interest,
997 within ninety (90) days after the member has been terminated from
998 membership in the system. In the event of death before retirement
999 of any member whose spouse and/or children are not entitled to a
1000 retirement allowance, the accumulated contributions to the credit
1001 of the deceased member in the annuity savings account shall be
1002 paid to the designated beneficiary on file in writing in the
1003 office of the executive director of the board of trustees within
1004 ninety (90) days from receipt of a properly completed form
1005 requesting the payment. If there is no such designated
1006 beneficiary on file for the deceased member in the office of the
1007 system, upon the filing of a proper request with the board, the
1008 contributions to the credit of the deceased member in the annuity
1009 savings account shall be refunded under Section 25-11-117.1(1).
1010 The payment of the refund shall discharge all obligations of the
1011 retirement system to the member on account of any creditable
1012 service rendered by the member before the receipt of the refund.
1013 By the acceptance of the refund, the member shall waive and
1014 relinquish all accrued rights in the system.

1015 (2) Under the Unemployment Compensation Amendments of 1992
1016 (Public Law 102-318 (UCA)), a member or the spouse of a member who



1017 is an eligible beneficiary entitled to a refund under this section
1018 may elect, on a form prescribed by the board under rules and
1019 regulations established by the board, to have an eligible rollover
1020 distribution of accumulated contributions payable under this
1021 section paid directly to an eligible retirement plan, as defined
1022 under applicable federal law, or an individual retirement account.
1023 If the member or the spouse of a member who is an eligible
1024 beneficiary makes that election and specifies the eligible
1025 retirement plan or individual retirement account to which the
1026 distribution is to be paid, the distribution will be made in the
1027 form of a direct trustee-to-trustee transfer to the specified
1028 eligible retirement plan. A nonspouse beneficiary may elect to
1029 have an eligible rollover distribution paid in the form of a
1030 direct trustee-to-trustee transfer to an individual retirement
1031 account established to receive the distribution on behalf of the
1032 nonspouse beneficiary. Flexible rollovers under this subsection
1033 shall not be considered assignments under Section 25-11-129.

1034 (3) (a) If any person who has received a refund, reenters
1035 the state service and again becomes a member of the system before
1036 July 1, 2007, the member may repay all or part of the amounts
1037 previously received as a refund, together with regular interest
1038 covering the period from the date of refund to the date of
1039 repayment; however, the amounts that are repaid by the member and
1040 the creditable service related thereto shall not be used in any
1041 benefit calculation or determination until the member has remained



1042 a contributor to the system for a period of at least four (4)
1043 years after the member's reentry into state service. Repayment
1044 for that time shall be made beginning with the most recent service
1045 for which refund has been made. Upon the repayment of all or part
1046 of that refund and interest, the member shall again receive credit
1047 for the period of creditable service for which full repayment has
1048 been made to the system.

1049 (b) If any person who has received a refund, reenters
1050 the state service and again becomes a member of the system on or
1051 after July 1, 2007, the member may repay all or part of the
1052 amounts previously received as a refund, together with regular
1053 interest covering the period from the date of refund to the date
1054 of repayment; however, the amounts that are repaid by the member
1055 and the creditable service related thereto shall not be used in
1056 any benefit calculation or determination until the member has
1057 remained a contributor to the system for a period of at least
1058 eight (8) years after the member's reentry into state service.
1059 Repayment for that time shall be made beginning with the most
1060 recent service for which refund has been made. Upon the repayment
1061 of all or part of that refund and interest, the member shall again
1062 receive credit for the period of creditable service for which full
1063 repayment has been made to the system.

1064 (c) A member who has been terminated from membership in
1065 the system under Section 25-11-147 and received a refund of his or
1066 her accumulated contributions under this section is not authorized



1067 to repay any of the amount received as a refund in order to
1068 receive creditable service for the period of service for which the
1069 contributions were made to the system.

1070 (4) (a) In order to provide a source of income to members
1071 who have applied for disability benefits under Section 25-11-113
1072 or 25-11-114, the board may provide, at the employee's election, a
1073 temporary benefit to be paid from the member's accumulated
1074 contributions, if any, without forfeiting the right to pursue
1075 disability benefits, provided that the member has exhausted all
1076 personal and medical leave and has terminated his or her
1077 employment. The board may prescribe rules and regulations for
1078 carrying out the provisions of this subsection (4).

1079 (b) If a member who has elected to receive temporary
1080 benefits under this subsection later applies for a refund of his
1081 or her accumulated contributions, all amounts paid under this
1082 subsection shall be deducted from the accumulated contributions
1083 and the balance will be paid to the member. If a member who has
1084 elected to receive temporary benefits under this subsection is
1085 later approved for a disability retirement allowance, and a
1086 service retirement allowance or survivor benefits are paid on the
1087 account, the board shall adjust the benefits in such a manner that
1088 no more than the actuarial equivalent of the benefits to which the
1089 member or beneficiary was or is entitled shall be paid.

1090 (c) The board may study, develop and propose a
1091 disability benefit structure, including short- and long-term



1092 disability benefits, provided that it is the actuarial equivalent
1093 of the benefits currently provided in Section 25-11-113 or
1094 25-11-114.

1095 **SECTION 7.** Section 25-11-120, Mississippi Code of 1972, is
1096 amended as follows:

1097 25-11-120. (1) Any individual aggrieved by an
1098 administrative determination, including a determination of the
1099 medical board, relating to the eligibility for or payment of
1100 benefits, or the calculation of creditable service or other
1101 similar matters relating to the Public Employees' Retirement
1102 System or any other retirement system or program administered by
1103 the board, may request a hearing before a hearing officer
1104 designated by the board. Such hearings shall be conducted in
1105 accordance with rules and regulations adopted by the board and
1106 formal rules of evidence shall not apply. The hearing officer is
1107 authorized to administer oaths, hear testimony of witnesses and
1108 receive documentary and other evidence. In case of disability
1109 appeals, the hearing officer shall have the authority to defer a
1110 decision in order to request a medical evaluation or test or
1111 additional existing medical records not previously furnished by
1112 the claimant. After the hearing and the receipt of any additional
1113 medical evidence requested by the hearing officer, the hearing
1114 officer shall certify the record to the board, which shall include
1115 the hearing officer's proposed statement of facts, conclusions of
1116 law and recommendation. The record may include a taped recording



1117 of the proceedings of the hearing in lieu of a transcribed copy of
1118 the proceedings. The board shall receive the record and make its
1119 determination based solely on matters contained therein.

1120 (2) Any individual aggrieved by the determination of the
1121 board may appeal to the Circuit Court of the First Judicial
1122 District of Hinds County, Mississippi, in accordance with the
1123 Uniform Circuit Court Rules governing appeals to the circuit court
1124 in civil cases. Such appeal shall be made solely on the record
1125 before the board and this procedure shall be the exclusive method
1126 of appealing determinations of the board.

1127 (3) The board is authorized to appoint a committee of the
1128 board to serve as hearing officer or to employ or contract with
1129 qualified personnel to perform the duties of hearing officer and
1130 court reporter as may be necessary for conducting, recording and
1131 transcribing such hearings. The board may assess and collect fees
1132 to offset costs related to such hearings. Those fees shall be
1133 deposited to the credit of the Public Employees' Retirement
1134 System.

1135 (4) Interest shall not be paid on any benefits, including,
1136 but not limited to, benefits that are delayed as a result of an
1137 administrative determination or an appeal from an administrative
1138 determination.

1139 (5) Termination from membership in the Public Employees'
1140 Retirement System, the Supplemental Legislative Retirement Plan or
1141 the Mississippi Highway Safety Patrol Retirement System and



1142 forfeiture of retirement benefits from either of those systems or
1143 the plan under Section 25-11-147, 25-11-321 or 25-13-37 shall not
1144 be considered an administrative determination for which a hearing
1145 may be requested or held under this section.

1146 **SECTION 8.** Section 25-11-129, Mississippi Code of 1972, is
1147 amended as follows:

1148 25-11-129. (1) The right of a person to an annuity, a
1149 retirement allowance or benefit, or to the return of
1150 contributions, or to any optional benefit or any other right
1151 accrued or accruing to any person under the provisions of Articles
1152 1 and 3, the system and the monies in the system created by * * *
1153 those articles, are * * * exempt from any state, county or
1154 municipal ad valorem taxes, income taxes, premium taxes, privilege
1155 taxes, property taxes, sales and use taxes or other taxes not so
1156 named, notwithstanding any other provision of law to the contrary,
1157 and exempt from levy and sale, garnishment, attachment or any
1158 other process whatsoever, and shall be unassignable except as
1159 specifically otherwise provided in this article and except as
1160 otherwise provided in subsection (2) of this section. The
1161 forfeiture of a member's retirement benefits from the system under
1162 Section 25-11-147 is not an attachment or assignment of the
1163 member's retirement benefits for the purposes of this section.

1164 (2) Any retired member or beneficiary receiving a retirement
1165 allowance or benefit under this article may authorize the system
1166 to make deductions from the retirement allowance or benefit for



1167 the payment of employer or system sponsored group life or health
1168 insurance. The deductions authorized under this subsection shall
1169 be subject to rules and regulations adopted by the board.

1170 **SECTION 9.** Section 25-11-305, Mississippi Code of 1972, is
1171 amended as follows:

1172 25-11-305. (1) The membership of the Supplemental
1173 Legislative Retirement Plan shall be composed as follows:

1174 (a) All members of the State Legislature who are
1175 currently serving in the capacity of an elected official of the
1176 State Legislature and the person currently serving as President of
1177 the Senate shall become members of this system on July 1, 1989,
1178 unless they file with the board within thirty (30) days after July
1179 1, 1989, on a form prescribed by the board, a notice of election
1180 not to be covered in the membership of the Supplemental
1181 Legislative Retirement Plan and a duly executed waiver of all
1182 present and prospective benefits which would otherwise inure to
1183 them on account of their participation in the plan.

1184 (b) All members of the State Legislature and the
1185 President of the Senate who are elected after July 1, 1989.

1186 (2) Any state legislators who would have otherwise qualified
1187 for membership in the plan under subsection (1) of this section
1188 but who were excluded from membership by other provisions of this
1189 section as it read before March 26, 1991, shall become members of
1190 the plan upon March 26, 1991, and shall receive creditable service
1191 in the plan for the period from July 1, 1989, to March 26, 1991,



1192 upon payment of the proper employee and employer contributions for
1193 that period.

1194 (3) Membership in the plan shall cease by:

1195 (a) A member withdrawing his or her accumulated
1196 contributions * * *;

1197 (b) A member withdrawing from active service with a
1198 retirement allowance * * *;

1199 (c) Death of the member * * *; or

1200 (d) A member being terminated from the membership in
1201 the system under Section 25-11-321.

1202 (4) No benefits under the plan shall accrue or otherwise be
1203 payable to any person who does not qualify for membership in the
1204 plan under subsection (1) of this section.

1205 **SECTION 10.** Section 25-11-309, Mississippi Code of 1972, is
1206 amended as follows:

1207 25-11-309. (1) The retirement allowance from the
1208 Supplemental Legislative Retirement Plan shall consist of fifty
1209 percent (50%) of an amount equal to the retirement allowance
1210 determined by creditable service as an elected Senator or
1211 Representative of the State Legislature or as President of the
1212 Senate payable by the Public Employees' Retirement System in
1213 accordance with Section 25-11-101 et seq.

1214 (2) The percentage of the retirement allowance as provided
1215 in this section shall be transferred from the annuity savings
1216 account of the member and the employer accumulation account in the



1217 Supplemental Legislative Retirement Plan to the retirement account
1218 of the member in the Public Employees' Retirement System as
1219 provided.

1220 (3) (a) Notwithstanding any provisions of this section or
1221 this title to the contrary, the maximum annual retirement
1222 allowance attributable to the employer contributions payable under
1223 the Supplemental Legislative Retirement Plan to a member shall be
1224 subject to the limitations set forth in Section 415 of the
1225 Internal Revenue Code and any regulations issued thereunder
1226 applicable to governmental plans as the term is defined under
1227 Section 414(d) of the Internal Revenue Code.

1228 (b) The board is authorized to provide by rule or
1229 regulation for the payment of benefits as provided under this
1230 chapter to members or beneficiaries of the Supplemental
1231 Legislative Retirement System at a time and under circumstances
1232 not otherwise provided for in this chapter to the extent that the
1233 payment is required to maintain the Supplemental Legislative
1234 Retirement System as a qualified retirement plan for purposes of
1235 federal income tax laws.

1236 (4) (a) A retiree or beneficiary may, on a form prescribed
1237 by and filed with the Executive Director of the Public Employees'
1238 Retirement System, irrevocably waive all or a portion of any
1239 benefits from the plan to which the retiree or beneficiary is
1240 entitled under this article. The waiver shall be binding on the
1241 heirs and assigns of any retiree or beneficiary and the same must



1242 agree to forever hold harmless the plan and the Public Employees'
1243 Retirement System from any claim to the waived retirement
1244 benefits.

1245 (b) Any waiver under this subsection shall apply only
1246 to the person executing the waiver. A beneficiary shall be
1247 entitled to benefits according to the option selected by the
1248 member at the time of retirement; however, a beneficiary may
1249 execute a waiver of benefits under this subsection.

1250 (c) The plan shall retain all amounts that are not used
1251 to pay benefits because of a waiver executed under this
1252 subsection.

1253 (d) The Board of Trustees of the Public Employees'
1254 Retirement System may provide rules and regulations for the
1255 administration of waivers under * * * this subsection.

1256 (5) A member who is terminated from membership in the plan
1257 under Section 25-11-321 shall not be eligible to receive a
1258 retirement allowance under this section.

1259 **SECTION 11.** Section 25-11-311, Mississippi Code of 1972, is
1260 amended as follows:

1261 25-11-311. (1) A member may be paid a refund of the amount
1262 of accumulated contributions to the credit of the member in the
1263 annuity savings account, provided the member has withdrawn from
1264 state service and further provided the member has not returned to
1265 state service on the date the refund of the accumulated
1266 contributions would be paid. The refund of the contributions to



1267 the credit of the member in the annuity savings account shall be
1268 paid within ninety (90) days from receipt in the office of the
1269 retirement system of the properly completed form requesting that
1270 payment. The full amount of the accumulated contributions of any
1271 member who is terminated from membership in the plan under Section
1272 25-11-321 before receiving a retirement allowance, or the amount
1273 of the member's accumulated contributions that the member has not
1274 received from a retirement allowance if the member is terminated
1275 from membership in the plan under Section 25-11-321 after
1276 receiving a retirement allowance, shall be refunded to the member,
1277 without any interest, within ninety (90) days after the member has
1278 been terminated from membership in the plan. In the event of
1279 death before retirement of any member whose spouse and/or children
1280 are not entitled to a retirement allowance, the accumulated
1281 contributions to the credit of the deceased member in the annuity
1282 savings account shall be paid to the designated beneficiary on
1283 file in writing in the office of the executive director of the
1284 board of trustees within ninety (90) days from receipt of a
1285 properly completed form requesting that payment. If there is no
1286 such designated beneficiary on file for the deceased member in
1287 the office of the system, upon the filing of a proper request with
1288 the board, the contributions to the credit of the deceased member
1289 in the annuity savings account shall be refunded under Section
1290 25-11-311.1(1). The payment of the refund shall discharge all
1291 obligations of the retirement system to the member on account of



1292 any creditable service rendered by the member before the receipt
1293 of the refund. By the acceptance of the refund, the member shall
1294 waive and relinquish all accrued rights in the plan.

1295 (2) Pursuant to the Unemployment Compensation Amendments of
1296 1992 (Public Law 102-318 (USCS)), a member or the spouse of a
1297 member who is an eligible beneficiary making application for a
1298 refund under this section may elect, on a form prescribed by the
1299 board under rules and regulations established by the board, to
1300 have an eligible rollover distribution of accumulated
1301 contributions payable under this section paid directly to an
1302 eligible retirement plan, as defined under applicable federal law,
1303 or an individual retirement account. If the member or the spouse
1304 of a member who is an eligible beneficiary makes that election and
1305 specifies the eligible retirement plan or individual retirement
1306 account to which the distribution is to be paid, the distribution
1307 will be made in the form of a direct trustee-to-trustee transfer
1308 to the specified eligible retirement plan. A nonspouse
1309 beneficiary may elect to have an eligible rollover distribution of
1310 accumulated contributions paid in the form of a direct
1311 trustee-to-trustee transfer to an individual retirement account
1312 established to receive the distribution on behalf of the nonspouse
1313 beneficiary. Flexible rollovers under this subsection shall not
1314 be considered assignments under Section 25-11-129.

1315 (3) (a) If any person who has received a refund, is
1316 reelected to the Legislature or as President of the Senate and



1317 again becomes a member of the plan before July 1, 2007, the member
1318 may repay all or part of the amounts previously received as a
1319 refund, together with regular interest covering the period from
1320 the date of refund to the date of repayment; however, the amounts
1321 that are repaid by the member and the creditable service related
1322 thereto shall not be used in any benefit calculation or
1323 determination until the member has remained a contributor to the
1324 system for a period of at least four (4) years after the member's
1325 reentry into state service. Repayment for that time shall be made
1326 beginning with the most recent service for which refund has been
1327 made. Upon the repayment of all or part of that refund and
1328 interest, the member shall again receive credit for the period of
1329 creditable service for which full repayment has been made to the
1330 system.

1331 (b) If any person who has received a refund, reenters
1332 the state service and again becomes a member of the system on or
1333 after July 1, 2007, the member may repay all or part of the amount
1334 previously received as a refund, together with regular interest
1335 covering the period from the date of refund to the date of
1336 repayment; however, the amounts that are repaid by the member and
1337 the creditable service related thereto shall not be used in any
1338 benefit calculation or determination until the member has remained
1339 a contributor to the system for a period of at least eight (8)
1340 years after the member's reentry into state service. Repayment
1341 for that time shall be made beginning with the most recent service



1342 for which refund has been made. Upon the repayment of all or part
1343 of that refund and interest, the member shall again receive credit
1344 for the period of creditable service for which full repayment has
1345 been made to the system.

1346 (c) A member who has been terminated from membership in
1347 the plan under Section 25-11-321 and received a refund of his or
1348 her accumulated contributions under this section is not authorized
1349 to repay any of the amount received as a refund in order to
1350 receive creditable service for the period of service for which the
1351 contributions were made to the plan.

1352 **SECTION 12.** Section 25-11-319, Mississippi Code of 1972, is
1353 amended as follows:

1354 25-11-319. (1) The right of a person to an annuity, a
1355 retirement allowance or benefit, or to the return of
1356 contributions, or to any optional benefit or any other right
1357 accrued or accruing to any person under the provisions of the
1358 Supplemental Legislative Retirement Plan, and the monies in the
1359 plan created by this article, are exempt from any state or
1360 municipal tax, and exempt from levy and sale, garnishment,
1361 attachment or any other process whatsoever, and shall be
1362 unassignable except as specifically otherwise provided in this
1363 article. The forfeiture of a member's retirement benefits from
1364 the plan under Section 25-11-321 is not an attachment or
1365 assignment of the member's retirement benefits for the purposes of
1366 this section.



1367 (2) Any retired member or beneficiary receiving a retirement
1368 allowance or benefit under this article may authorize the system
1369 to make deductions from the retirement allowance or benefit for
1370 the payment of employer or system sponsored group life or health
1371 insurance. The deductions authorized under this subsection shall
1372 be subject to rules and regulations adopted by the board.

1373 **SECTION 13.** Section 25-13-3, Mississippi Code of 1972, is
1374 amended as follows:

1375 25-13-3. (1) As used in this chapter, unless the context
1376 clearly indicates otherwise, the term "Highway Patrol or Highway
1377 Safety Patrol" for the purpose of establishing membership in this
1378 system for persons presently employed by the Highway Safety Patrol
1379 shall mean and include all the officers of the Mississippi Highway
1380 Safety Patrol who have completed a course of instruction in an
1381 authorized highway patrol training school on general law
1382 enforcement, and who have served for a period of at least five (5)
1383 years prior to July 1, 1958, as a uniformed officer of the Highway
1384 Safety Patrol in the enforcement of the traffic laws of the State
1385 of Mississippi, or in the driver's license division, or who are
1386 now engaged in such service. New members shall include all the
1387 officers of the Mississippi Highway Safety Patrol who have
1388 completed a course of instruction in an authorized highway patrol
1389 training school on general law enforcement, and who serve as sworn
1390 officers of the Highway Patrol in the enforcement of the laws of
1391 the State of Mississippi.



1392 (2) Any former sworn officer of the Highway Safety Patrol
1393 who returns to service with the Highway Safety Patrol in any
1394 capacity, and who has had not less than two (2) years of prior
1395 service as a sworn officer of the Highway Safety Patrol, and who
1396 was disabled by wounds or accident in line of duty, may become a
1397 member of the Highway Safety Patrol Retirement System even though
1398 his or her present duties would not otherwise qualify him or her
1399 for membership, and he or she may continue membership so long as
1400 he or she remains in the employ of the Highway Safety Patrol.

1401 (3) Membership in the Highway Safety Patrol Retirement
1402 System shall be retroactive to the date of such patrolman's return
1403 to employment with the Highway Safety Patrol, and any funds
1404 contributed by him or her, previous to July 1, 1958, to the Public
1405 Employees' Retirement System shall be transferred to his or her
1406 credit in the Highway Safety Patrol Retirement System, and the
1407 employer's contributions made to the Public Employees' Retirement
1408 System for the patrolman shall also be transferred to the
1409 employee's credit in the Highway Safety Patrol Retirement System;
1410 and the difference between the contributions for both the employer
1411 and the employee made to the Public Employees' Retirement System,
1412 and those which should have been made to the Highway Safety Patrol
1413 Retirement System by both employer and employee for the patrolman
1414 since the date of his or her return to the Highway Safety Patrol
1415 shall be paid into the Highway Safety Patrol Retirement System.



1416 (4) In order to be eligible for service retirement benefits
1417 under this retirement system, any member must have served at least
1418 five (5) years as a sworn officer of the Highway Patrol engaged in
1419 the enforcement of the laws of the State of Mississippi, or at
1420 least five (5) years as a sworn agent of the Mississippi Bureau of
1421 Narcotics, or a combination of at least five (5) years as a sworn
1422 agent of the Mississippi Bureau of Narcotics and as a sworn
1423 officer of the Highway Patrol. If the officer is transferred from
1424 duty making him or her eligible for membership in this retirement
1425 system to other duties for which credit is not allowed by this
1426 system, and he or she has not been credited with a minimum of five
1427 (5) years in this system as a sworn officer of the Highway Patrol
1428 engaged in the enforcement of the laws of this state, then an
1429 amount as determined by the Public Employees' Retirement System
1430 shall be transferred from this system to his or her account in the
1431 Public Employees' Retirement System of Mississippi to make him or
1432 her a member of that system with full credit for his or her years
1433 of service with the Mississippi Highway Safety Patrol, and he or
1434 she shall become a member of the Public Employees' Retirement
1435 System of Mississippi with prior service credits. The amount that
1436 is determined to be necessary to be transferred shall be paid
1437 first from the member's total contributions in the Highway Safety
1438 Patrol System, plus interest, so that all of those funds are
1439 transferred, and any remainder shall be paid from the employer's
1440 accumulation account.



1441 (5) Membership in the system shall cease after a member is
1442 terminated from the membership in the system under Section
1443 25-13-37.

1444 **SECTION 14.** Section 25-13-11, Mississippi Code of 1972, is
1445 amended as follows:

1446 25-13-11. (1) Any member upon withdrawal from service, upon
1447 or after attainment of the age of fifty-five (55) years, who has
1448 completed at least five (5) years of creditable service, or any
1449 member upon withdrawal from service upon or after attainment of
1450 the age of forty-five (45) years, who has completed at least
1451 twenty (20) years of creditable service, or any member upon
1452 withdrawal from service, regardless of age, who has completed at
1453 least twenty-five (25) years of creditable service, shall be
1454 entitled to receive a retirement allowance, which shall be payable
1455 the first of the month following receipt of the member's
1456 application in the Office of the Executive Director of the Public
1457 Employees' Retirement System, but in no event before withdrawal
1458 from service.

1459 Any member whose withdrawal from service occurs before
1460 attaining the age of fifty-five (55) years, who has completed more
1461 than five (5) years of creditable service and has not received a
1462 refund of the member's accumulated contributions, shall be
1463 entitled to receive a retirement allowance beginning upon his or
1464 her attaining the age of fifty-five (55) years of the amount
1465 earned and accrued at the date of withdrawal from service.



1466 The annual amount of the retirement allowance shall consist
1467 of:

1468 (a) A member's annuity, which shall be the actuarial
1469 equivalent of the accumulated contributions of the member at the
1470 time of retirement, computed according to the actuarial table in
1471 use by the system.

1472 (b) An employer's annuity which, together with the
1473 member's annuity provided above, shall be equal to two and
1474 one-half percent (2-1/2%) of the average compensation, based on
1475 the four (4) highest consecutive years, for each year of
1476 membership service.

1477 (c) A prior service annuity equal to two and one-half
1478 percent (2-1/2%) of the average compensation, based on the four
1479 (4) highest consecutive years, for each year of prior service for
1480 which the member is allowed credit.

1481 (d) In the case of retirement of any member prior to
1482 attaining the age of fifty-five (55) years, the retirement
1483 allowance shall be computed in accordance with the formula
1484 hereinabove set forth in this section, except that the employer's
1485 annuity and prior service annuity above described shall be reduced
1486 by an actuarially determined percentage factor for each year of
1487 age below fifty-five (55) years, or for each year of service below
1488 twenty-five (25) years of creditable service, whichever is lesser.

1489 (e) Upon retiring from service, a member shall be
1490 eligible to obtain retirement benefits, as computed above, for



1491 life, except that the aggregate amount of the employer's annuity
1492 and prior service annuity above described shall not exceed more
1493 than one hundred percent (100%) of the average compensation
1494 regardless of the years of service.

1495 (f) Any member in the service who has attained the age
1496 of sixty-three (63) years shall be retired immediately. However,
1497 any member who has attained age sixty-three (63) may ask the
1498 Commissioner of Public Safety to allow him or her to continue in
1499 service with the Mississippi Highway Safety Patrol beyond age
1500 sixty-three (63). If the commissioner determines that the
1501 member's continuance in service would be advantageous to the
1502 Highway Safety Patrol because of his expert knowledge, experience
1503 or qualifications, the member shall be allowed to continue in
1504 service beyond age sixty-three (63) for a period of one (1) year.
1505 After the initial one-year continuance, the commissioner may
1506 authorize the member to continue in service for another period of
1507 one (1) year until the member attains age sixty-five (65), at
1508 which time retirement shall be mandatory.

1509 (g) Notwithstanding any provision of this chapter
1510 pertaining to the Mississippi Highway Safety Patrol Retirement
1511 System, no payments may be made for a retirement allowance on a
1512 monthly basis for a period of time in excess of that allowed by
1513 any applicable federal law.

1514 (h) In no case shall any retired member who has
1515 completed at least fifteen (15) years of creditable service



1516 receive less than Five Hundred Dollars (\$500.00) per month; in no
1517 case shall any retired member who has completed ten (10) or more
1518 years of creditable service, but less than fifteen (15) years of
1519 creditable service, receive less than Three Hundred Dollars
1520 (\$300.00) per month; and in no case shall any retired member who
1521 has completed less than ten (10) years of creditable service
1522 receive less than Two Hundred Fifty Dollars (\$250.00) per month.
1523 In no case shall a beneficiary who is receiving a retirement
1524 allowance receive less than Two Hundred Fifty Dollars (\$250.00)
1525 per month or Three Thousand Dollars (\$3,000.00) per year.

1526 (i) Any retired member who is receiving a retirement
1527 allowance on July 1, 1999, shall receive an ad hoc increase in the
1528 annual retirement allowance equal to Three Dollars and Fifty Cents
1529 (\$3.50) per month for each full fiscal year through June 30, 1999,
1530 that the member has actually drawn retirement payments from the
1531 date of retirement, or the date of last retirement if there is
1532 more than one (1) retirement date, plus an amount equal to One
1533 Dollar (\$1.00) per month for each full year of creditable service
1534 and proportionately for each quarter year of creditable service,
1535 as documented by the system and on which benefits are being paid.
1536 If there are multiple beneficiaries receiving a retirement
1537 allowance from a deceased member's account, the ad hoc increase
1538 shall be divided proportionately.

1539 (2) (a) A retiree or beneficiary may, on a form prescribed
1540 by and filed with the Executive Director of the Public Employees'



1541 Retirement System, irrevocably waive all or a portion of any
1542 benefits from the plan to which the retiree or beneficiary is
1543 entitled. The waiver shall be binding on the heirs and assigns of
1544 any retiree or beneficiary and the same must agree to forever hold
1545 harmless the Highway Safety Patrol Retirement System and the
1546 Public Employees' Retirement System from any claim to the waived
1547 retirement benefits.

1548 (b) Any waiver under this subsection shall apply only
1549 to the person executing the waiver. A beneficiary shall be
1550 entitled to benefits according to the option selected by the
1551 member at the time of retirement; however, a beneficiary may
1552 execute a waiver of benefits under this subsection.

1553 (c) The Highway Safety Patrol Retirement System shall
1554 retain all amounts that are not used to pay benefits because of a
1555 waiver executed under this subsection.

1556 (d) The Board of Trustees of the Public Employees'
1557 Retirement System may provide rules and regulations for the
1558 administration of waivers under this subsection.

1559 (3) A member who is terminated from membership in the system
1560 under Section 25-13-37 shall not be eligible to receive a
1561 retirement allowance under this section.

1562 **SECTION 15.** Section 25-13-21, Mississippi Code of 1972, is
1563 amended as follows:

1564 25-13-21. (1) * * * If a highway patrolman ceases to work
1565 for the Highway Safety Patrol for any reason other than



1566 occupational disease contracted or for any accident sustained by
1567 the patrolman by reason of his or her service or discharge of his
1568 or her duty in the Highway Patrol, and if the highway patrolman is
1569 not eligible for retirement either for service or disability, he
1570 or she shall be refunded the amount of his total contribution
1571 under the provisions of this chapter, including any credit
1572 transferred to his or her account in this system from any other
1573 system, at his or her request; and * * * if he or she dies before
1574 retirement, his or her total contribution is to be refunded to any
1575 beneficiary that he or she may name. If there is no surviving
1576 designated beneficiary, the contributions to the credit of the
1577 deceased member shall be refunded * * * under Section
1578 25-13-21.1(1). The full amount of the accumulated contributions
1579 of any member who is terminated from membership in the system
1580 under Section 25-13-37 before receiving a retirement allowance, or
1581 the amount of the member's accumulated contributions that the
1582 member has not received from a retirement allowance if the member
1583 is terminated from membership in the system under Section 25-13-37
1584 after receiving a retirement allowance, shall be refunded to the
1585 member, without any interest, within ninety (90) days after the
1586 member has been terminated from membership in the system.

1587 (2) Pursuant to the Unemployment Compensation Amendments of
1588 1992 (Public Law 102-318 (UCA)), a member or the spouse of a
1589 member who is an eligible beneficiary entitled to a refund under
1590 this section may elect, on a form prescribed by the board under



1591 rules and regulations established by the board, to have an
1592 eligible rollover distribution of accumulated contributions
1593 payable under this section paid directly to an eligible retirement
1594 plan, as defined under applicable federal law, or an individual
1595 retirement account. If the member or the spouse of a member who
1596 is an eligible beneficiary makes that election and specifies the
1597 eligible retirement plan or individual retirement account to which
1598 the distribution is to be paid, the distribution will be made in
1599 the form of a direct trustee-to-trustee transfer to the specified
1600 eligible retirement plan. A nonspouse beneficiary may elect to
1601 have an eligible rollover distribution paid in the form of a
1602 direct trustee-to-trustee transfer to an individual retirement
1603 account established to receive the distribution on behalf of the
1604 nonspouse beneficiary. Flexible rollovers under this subsection
1605 shall not be considered assignments under Section 25-13-31.

1606 (3) (a) If any highway patrolman who receives a refund
1607 reenters the service of the Highway Safety Patrol and again
1608 becomes a member of the system, he or she may repay all amounts
1609 previously received by him or her as a refund, together with
1610 regular interest covering the period from the date of refund to
1611 the date of repayment; however, the amounts that are repaid by the
1612 member and the creditable service related thereto shall not be
1613 used in any benefit calculation or determination until the member
1614 has remained a contributor to the system for a period of at least
1615 five (5) years after the member's reentry into state service.



1616 Repayment for such time shall be made beginning with the most
1617 recent service for which refund has been made. Upon the repayment
1618 of all or part of the refund and interest, the highway patrolman
1619 shall again receive credit for the period of creditable service
1620 for which full repayment has been made to the system.

1621 (b) A member who has been terminated from membership in
1622 the system under Section 25-13-37 and received a refund of his or
1623 her accumulated contributions under this section is not authorized
1624 to repay any of the amount received as a refund in order to
1625 receive creditable service for the period of service for which the
1626 contributions were made to the system.

1627 **SECTION 16.** Section 25-13-28, Mississippi Code of 1972, is
1628 amended as follows:

1629 25-13-28. Regular interest shall be credited annually to the
1630 mean amount of the employee reserve account for the preceding
1631 year. This credit shall be made annually from interest and other
1632 earnings on the invested assets of this system. Any additional
1633 amount required to meet the regular interest on the funds of this
1634 system shall be charged to the employer's accumulation account,
1635 and any excess of earnings over such regular interest required
1636 shall be credited to the employer's accumulation account. Regular
1637 interest shall mean the percentage rate of interest compounded
1638 annually as determined by the Board of Trustees of the Public
1639 Employees' Retirement System.



1640 Once interest is credited, it shall be added to the sum of
1641 all amounts deducted from the compensation of a member and shall
1642 be included in determining his or her total contributions.
1643 However, interest shall not be included in determining a member's
1644 contributions when refunding the contributions of a member who is
1645 terminated from membership in the system under Section 25-13-37.

1646 **SECTION 17.** Section 25-13-31, Mississippi Code of 1972, is
1647 amended as follows:

1648 25-13-31. (1) The right of a person to an annuity, a
1649 retirement allowance or benefit, or to the return of
1650 contributions, or to any optional benefits or any other right
1651 accrued or accruing to any person under the provisions of the
1652 Highway Patrol Retirement Law, the system and the monies in the
1653 system created by * * * that law, are * * * exempt from any state,
1654 county or municipal ad valorem taxes, income taxes, premium taxes,
1655 privilege taxes, property taxes, sales and use taxes or other
1656 taxes not so named, notwithstanding any other provision of law to
1657 the contrary, and exempt from levy and sale, garnishment,
1658 attachment, or any other process whatsoever, and shall be
1659 unassignable except as specifically otherwise provided in this
1660 article. The forfeiture of a member's retirement benefits from
1661 the system under Section 25-13-37 is not an attachment or
1662 assignment of the member's retirement benefits for the purposes of
1663 this section.



1664 (2) Any retired member or beneficiary receiving a retirement
1665 allowance or benefit under this article may authorize the Public
1666 Employees' Retirement System to make deductions from the
1667 retirement allowance or benefit for the payment of employer or
1668 system sponsored group life or health insurance. The deductions
1669 authorized under this subsection shall be subject to rules and
1670 regulations adopted by the Board of Trustees of the Public
1671 Employees' Retirement System.

1672 **SECTION 18.** This act shall take effect and be in force from
1673 and after July 1, 2018.

