

By: Representatives Currie, Ford (73rd)

To: Appropriations

HOUSE BILL NO. 319

1 AN ACT TO CREATE NEW SECTIONS 25-11-147 AND 25-11-321,
2 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IF A MEMBER OF THE
3 PUBLIC EMPLOYEES' RETIREMENT SYSTEM OR A MEMBER OF THE
4 SUPPLEMENTAL LEGISLATIVE RETIREMENT PLAN IS CONVICTED OF OR ENTERS
5 A PLEA OF GUILTY OR NOLO CONTENDERE IN ANY COURT TO A FELONY IN
6 WHICH PUBLIC FUNDS WERE UNLAWFULLY TAKEN, OBTAINED OR
7 MISAPPROPRIATED IN THE ABUSE OR MISUSE OF THE PERSON'S OFFICE OR
8 EMPLOYMENT THAT IS COMMITTED ON OR AFTER JULY 1, 2023, THE COURT
9 SHALL CONDUCT A HEARING IN A SEPARATE CIVIL PROCEEDING TO
10 DETERMINE IF ALL OF THE CONDITIONS HAVE BEEN MET; TO PROVIDE THAT
11 IF ALL OF THE CONDITIONS HAVE BEEN MET, THE COURT SHALL ISSUE AN
12 ORDER THAT THE MEMBER'S RETIREMENT BENEFITS FROM THE SYSTEM OR
13 PLAN BE SUSPENDED; TO PROVIDE THAT A MEMBER WHO IS CONVICTED OF
14 SUCH A FELONY SHALL NOT HAVE HIS OR HER RETIREMENT BENEFITS FROM
15 THE SYSTEM OR PLAN SUSPENDED UNTIL ALL APPEALS OF THE CONVICTION
16 HAVE BEEN FINALLY CONCLUDED OR THE TIME FOR AN APPEAL FROM THE
17 CONVICTION HAS EXPIRED; TO PROVIDE THAT AFTER RECEIVING THE
18 SUSPENSION ORDER FROM THE COURT, THE SYSTEM SHALL REQUEST THE
19 ATTORNEY GENERAL FOR A DETERMINATION OF WHETHER ALL APPEALS OF THE
20 CONVICTION HAVE BEEN FINALLY CONCLUDED OR THE TIME FOR AN APPEAL
21 FROM THE CONVICTION HAS EXPIRED; TO PROVIDE THAT AFTER THE
22 ATTORNEY GENERAL NOTIFIES THE SYSTEM THAT ALL APPEALS OF THE
23 CONVICTION HAVE BEEN FINALLY CONCLUDED OR THE TIME FOR AN APPEAL
24 FROM THE CONVICTION HAS EXPIRED, THE MEMBER'S RETIREMENT BENEFITS
25 FROM THE SYSTEM OR PLAN SHALL BE SUSPENDED UNTIL THE MEMBER HAS
26 MADE FULL RESTITUTION OF THE PUBLIC FUNDS THAT WERE UNLAWFULLY
27 TAKEN, OBTAINED OR MISAPPROPRIATED IN THE ABUSE OR MISUSE OF THE
28 MEMBER'S OFFICE OR EMPLOYMENT, AS DETERMINED BY THE ATTORNEY
29 GENERAL; TO PROVIDE THAT IF A MEMBER OF THE SYSTEM OR PLAN IS ALSO
30 A MEMBER OF ANOTHER RETIREMENT SYSTEM ADMINISTERED BY THE BOARD OF
31 TRUSTEES OF THE SYSTEM, AND THE FELONY FOR WHICH THE MEMBER WAS
32 CONVICTED OR ENTERED A PLEA OF GUILTY OR NOLO CONTENDERE WAS IN
33 CONNECTION WITH THE MEMBER'S SERVICE THAT IS COVERED BY ONLY ONE
34 OF THE RETIREMENT SYSTEMS, THE MEMBER'S RETIREMENT BENEFITS WILL



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

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

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

53 25-11-147. (1) "Felony involving public funds" means a
54 felony in which public funds were unlawfully taken, obtained or
55 misappropriated in the abuse or misuse of the person's office or
56 employment or money coming into the person's hands by virtue of
57 the person's office or employment.

58 (2) A member's receipt of retirement benefits from the
59 Public Employees' Retirement System is conditioned on the member's
60 honest and faithful performance of his or her public duties for
61 the state. A member's conviction of or plea of guilty or nolo
62 contendere to a felony involving public funds is considered to be
63 a breach of the public trust and a breach of the member's contract
64 with the state.

65 (3) (a) If an active member of the system is convicted of
66 or enters a plea of guilty or nolo contendere in any court of this



67 state to a felony involving public funds that is committed on or
68 after July 1, 2023; or

69 (b) If a retired member of the system who is employed
70 or elected under Section 25-11-127 is convicted of or enters a
71 plea of guilty or nolo contendere in any court of this state to a
72 felony involving public funds that is committed during the
73 member's employment or election under Section 25-11-127 and is
74 committed on or after July 1, 2023; or

75 (c) If a retired member of the system, or a member of
76 the system who has withdrawn from service but is not receiving a
77 retirement allowance from the system, is convicted of or enters a
78 plea of guilty or nolo contendere in any court of this state to a
79 felony involving public funds that was committed while the member
80 was an active employee on or after July 1, 2023, the court shall
81 conduct a hearing in a separate civil proceeding to determine if
82 all of the conditions in this subsection have been met. The court
83 shall provide notice of the hearing to the member and each person
84 who is named as a beneficiary of the member in the records of the
85 system. If, after the hearing, the court determines that all of
86 the conditions in this subsection have been met, the court shall
87 issue an order that the member's retirement benefits from the
88 system be suspended as provided in this section. The court shall
89 send a copy of its suspension order to the system.

90 (4) (a) If an active member of the system is convicted of
91 or enters a plea of guilty or nolo contendere in a court of



92 another state or a federal court to a crime that would be a felony
93 under the laws of this state if the crime were committed in this
94 state, and that is a felony involving public funds and is
95 committed on or after July 1, 2023; or

96 (b) If a retired member of the system who is employed
97 or elected under Section 25-11-127 is convicted of or enters a
98 plea of guilty or nolo contendere in a court of another state or a
99 federal court to a crime that would be a felony under the laws of
100 this state if the crime were committed in this state, and that is
101 a felony involving public funds that is committed during the
102 member's employment or election under Section 25-11-127 and is
103 committed on or after July 1, 2023; or

104 (c) If a retired member of the system, or a member of
105 the system who has withdrawn from service but is not receiving a
106 retirement allowance from the system, is convicted of or enters a
107 plea of guilty or nolo contendere in a court of another state or a
108 federal court to a crime that would be a felony under the laws of
109 this state if the crime were committed in this state, and that is
110 a felony involving public funds that was committed while the
111 member was an active employee on or after July 1, 2023, the
112 Attorney General of Mississippi shall enter a motion in the
113 circuit court of the county of residence of the member, or in the
114 Circuit Court of the First Judicial District of Hinds County,
115 Mississippi, if the member does not reside in Mississippi, for
116 suspension of the member's retirement benefits from the system as



117 provided in this section. The court shall conduct a civil hearing
118 to determine if all of the conditions in this subsection have been
119 met. The court shall provide notice of the hearing to the member
120 and each person who is named as a beneficiary of the member in the
121 records of the system. If, after the hearing, the court
122 determines that all of the conditions in this subsection have been
123 met, the court shall issue an order that the member's retirement
124 benefits from the system be suspended as provided in this section.
125 The court shall send a copy of its suspension order to the system.

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

139 (6) (a) An active member, or a member of the system who has
140 withdrawn from service but is not receiving a retirement allowance
141 from the system, whose retirement benefits from the system have



142 been suspended shall not receive a retirement allowance or other
143 retirement benefits from the system following the date that the
144 system receives the notice from the Attorney General until the
145 member has made full restitution of the public funds that were
146 unlawfully taken, obtained or misappropriated in the abuse or
147 misuse of the member's office or employment, as determined by the
148 Attorney General.

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

159 (c) When a member's retirement benefits in the system
160 have been suspended under this section, the member shall forfeit
161 all of the retirement benefits that the member otherwise would
162 have been entitled to receive during the period that the benefits
163 are suspended.

164 (7) If a member of the system is also a member of another
165 retirement system administered by the Board of Trustees of the
166 Public Employees' Retirement System, and the felony involving



167 public funds for which the member was convicted or entered a plea
168 of guilty or nolo contendere was in connection with the member's
169 employment or election that is covered by only one (1) of the
170 retirement systems, the member's retirement benefits will be
171 suspended only from the retirement system in which his or her
172 employment or election was covered at the time that he or she
173 committed the felony. In the case of a retired member who is
174 employed or elected under Section 25-11-127, the member's
175 retirement benefits will be suspended only from the retirement
176 system in which his or her employment or election would have been
177 covered if the member had been an active member in the same
178 employment or office at the time that he or she committed the
179 felony.

180 (8) The system may conclusively rely on a suspension order
181 from the court and the notice from the Attorney General that the
182 requirements of this section have been met in suspending a
183 member's retirement benefits from the system under this section.
184 The system is not liable for any mistake in the payment of
185 retirement benefits to a member in good faith reliance on a
186 suspension order from the court and the notice from the Attorney
187 General, and a member who receives any such mistaken payments
188 shall not be liable to repay those benefits to the system.

189 (9) A member's retirement benefits from the system shall not
190 be suspended unless there is a specific provision in this section
191 applicable to the member's situation that requires the suspension



192 of the member's retirement benefits from the system. Any
193 ambiguity or uncertainty about whether a member's retirement
194 benefits from the system should be suspended shall be resolved in
195 favor of the member.

196 **SECTION 2.** The following shall be codified as Section
197 25-11-321, Mississippi Code of 1972:

198 25-11-321. (1) "Felony involving public funds" means a
199 felony in which public funds were unlawfully taken, obtained or
200 misappropriated in the abuse or misuse of the person's office or
201 money coming into the person's hands by virtue of the person's
202 office.

203 (2) A member's receipt of retirement benefits from the
204 Supplemental Legislative Retirement Plan is conditioned on the
205 member's honest and faithful performance of his or her public
206 duties for the State Legislature or as President of the Senate. A
207 member's conviction of or plea of guilty or nolo contendere to a
208 felony involving public funds is considered to be a breach of the
209 public trust and a breach of the member's contract with the state.

210 (3) (a) If an active member of the plan is convicted of or
211 enters a plea of guilty or nolo contendere in any court of this
212 state to a felony involving public funds that is committed on or
213 after July 1, 2023; or

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



217 plan, is convicted of or enters a plea of guilty or nolo
218 contendere in any court of this state to a felony involving public
219 funds that was committed while the member was serving in the State
220 Legislature or as President of the Senate on or after July 1,
221 2023, the court shall conduct a hearing in a separate civil
222 proceeding to determine if all of the conditions in this
223 subsection have been met. The court shall provide notice of the
224 hearing to the member and each person who is named as a
225 beneficiary of the member in the records of the system. If, after
226 the hearing, the court determines that all of the conditions in
227 this subsection have been met, the court shall issue an order that
228 the member's retirement benefits from the plan be suspended as
229 provided in this section. The court shall send a copy of its
230 suspension order to the system.

231 (4) (a) If an active member of the plan is convicted of or
232 enters a plea of guilty or nolo contendere in a court of another
233 state or a federal court to a crime that would be a felony under
234 the laws of this state if the crime were committed in this state,
235 and that is a felony involving public funds and is committed on or
236 after July 1, 2023; or

237 (b) If a retired member of the plan, or a member of the
238 plan who is not serving in the State Legislature or as President
239 of the Senate but is not receiving a retirement allowance from the
240 plan, is convicted of or enters a plea of guilty or nolo
241 contendere in a court of another state or a federal court to a



242 crime that would be a felony under the laws of this state if the
243 crime were committed in this state, and that is a felony involving
244 public funds that was committed while the member was serving in
245 the State Legislature or as President of the Senate on or after
246 July 1, 2023, the Attorney General of Mississippi shall enter a
247 motion in the circuit court of the county of residence of the
248 member, or in the Circuit Court of the First Judicial District of
249 Hinds County, Mississippi, if the member does not reside in
250 Mississippi, for suspension of the member's retirement benefits
251 from the plan as provided in this section. The court shall
252 conduct a civil hearing to determine if all of the conditions in
253 this subsection have been met. The court shall provide notice of
254 the hearing to the member and each person who is named as a
255 beneficiary of the member in the records of the system. If, after
256 the hearing, the court determines that all of the conditions in
257 this subsection have been met, the court shall issue an order that
258 the member's retirement benefits from the plan be suspended as
259 provided in this section. The court shall send a copy of its
260 suspension order to the system.

261 (5) A member who is convicted of a felony involving public
262 funds shall not have his or her retirement benefits from the plan
263 suspended until all appeals of the conviction have been finally
264 concluded or the time for an appeal from the conviction has
265 expired. Upon receipt of the suspension order from the court, the
266 system shall request the Attorney General for a determination of



267 whether all appeals of the conviction have been finally concluded
268 or the time for an appeal from the conviction has expired. After
269 the Attorney General notifies the system that all appeals of the
270 conviction have been finally concluded or the time for an appeal
271 from the conviction has expired, the member's retirement benefits
272 from the plan shall be suspended as provided in this section.

273 (6) (a) A member of the plan who is serving in the State
274 Legislature or as President of the Senate, or a member of the plan
275 who is not serving in the State Legislature or as President of the
276 Senate but is not receiving a retirement allowance from the plan,
277 whose retirement benefits from the plan have been suspended shall
278 not receive a retirement allowance or other retirement benefits
279 from the plan following the date that the system receives the
280 notice from the Attorney General until the member has made full
281 restitution of the public funds that were unlawfully taken,
282 obtained or misappropriated in the abuse or misuse of the member's
283 office or employment, as determined by the Attorney General.

284 (b) A retired member of the plan whose retirement
285 benefits from the plan have been suspended shall have his or her
286 retirement allowance suspended beginning on the first day of the
287 month following the date that the system receives the notice from
288 the Attorney General, and the member shall not receive any
289 additional retirement benefits from the plan after that date until
290 the member has made full restitution of the public funds that were
291 unlawfully taken, obtained or misappropriated in the abuse or



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

294 (c) When a member's retirement benefits in the plan
295 have been suspended under this section, the member shall forfeit
296 all of the retirement benefits that the member otherwise would
297 have been entitled to receive during the period that the benefits
298 are suspended.

299 (7) If an active member of the plan, or a member of the plan
300 who is not serving in the State Legislature or as President of the
301 Senate but is not receiving a retirement allowance from the plan,
302 has his or her retirement benefits from the plan suspended under
303 this section, the member also will have his or her retirement
304 benefits from the Public Employees' Retirement System suspended.
305 If a retired member of the plan is an active or retired member of
306 the Public Employees' Retirement System, or a member of the system
307 who has withdrawn from service but is not receiving a retirement
308 allowance from the system, whose retirement benefits from the
309 system are suspended under Section 25-11-147, the member's
310 retirement benefits from the plan will not be suspended if the
311 felony involving public funds for which the member was convicted
312 or entered a plea of guilty or nolo contendere was not in
313 connection with the member's service with the State Legislature or
314 as President of the Senate.

315 (8) The Public Employees' Retirement System may conclusively
316 rely on a suspension order from the court and the notice from the



317 Attorney General that the requirements of this section have been
318 met in suspending a member's retirement benefits from the plan
319 under this section. The system is not liable for any mistake in
320 the payment of retirement benefits under the plan to a member in
321 good faith reliance on a suspension order from the court and the
322 notice from the Attorney General, and a member who receives any
323 such mistaken payments shall not be liable to repay those benefits
324 to the plan.

325 (9) A member's retirement benefits from the plan shall not
326 be suspended unless there is a specific provision in this section
327 applicable to the member's situation that requires the suspension
328 of the member's retirement benefits from the plan. Any ambiguity
329 or uncertainty about whether a member's retirement benefits from
330 the plan should be suspended shall be resolved in favor of the
331 member.

332 **SECTION 3.** Section 25-11-111, Mississippi Code of 1972, is
333 amended as follows:

334 25-11-111. (a) (1) Any member who became a member of the
335 system before July 1, 2007, upon withdrawal from service upon or
336 after attainment of the age of sixty (60) years who has completed
337 at least four (4) years of membership service, or any member who
338 became a member of the system before July 1, 2011, upon withdrawal
339 from service regardless of age who has completed at least
340 twenty-five (25) years of creditable service, shall be entitled to
341 receive a retirement allowance, which shall begin on the first of



342 the month following the date the member's application for the
343 allowance is received by the board, but in no event before
344 withdrawal from service.

345 (2) Any member who became a member of the system on or
346 after July 1, 2007, upon withdrawal from service upon or after
347 attainment of the age of sixty (60) years who has completed at
348 least eight (8) years of membership service, or any member who
349 became a member of the system on or after July 1, 2011, upon
350 withdrawal from service regardless of age who has completed at
351 least thirty (30) years of creditable service, shall be entitled
352 to receive a retirement allowance, which shall begin on the first
353 of the month following the date the member's application for the
354 allowance is received by the board, but in no event before
355 withdrawal from service.

356 (b) (1) Any member who became a member of the system before
357 July 1, 2007, whose withdrawal from service occurs before
358 attaining the age of sixty (60) years who has completed four (4)
359 or more years of membership service and has not received a refund
360 of his accumulated contributions, shall be entitled to receive a
361 retirement allowance, beginning upon his attaining the age of
362 sixty (60) years, of the amount earned and accrued at the date of
363 withdrawal from service. The retirement allowance shall begin on
364 the first of the month following the date the member's application
365 for the allowance is received by the board, but in no event before
366 withdrawal from service.



367 (2) Any member who became a member of the system on or
368 after July 1, 2007, whose withdrawal from service occurs before
369 attaining the age of sixty (60) years who has completed eight (8)
370 or more years of membership service and has not received a refund
371 of his accumulated contributions, shall be entitled to receive a
372 retirement allowance, beginning upon his attaining the age of
373 sixty (60) years, of the amount earned and accrued at the date of
374 withdrawal from service. The retirement allowance shall begin on
375 the first of the month following the date the member's application
376 for the allowance is received by the board, but in no event before
377 withdrawal from service.

378 (c) Any member in service who has qualified for retirement
379 benefits may select any optional method of settlement of
380 retirement benefits by notifying the Executive Director of the
381 Board of Trustees of the Public Employees' Retirement System in
382 writing, on a form prescribed by the board, of the option he has
383 selected and by naming the beneficiary of the option and
384 furnishing necessary proof of age. The option, once selected, may
385 be changed at any time before actual retirement or death, but upon
386 the death or retirement of the member, the optional settlement
387 shall be placed in effect upon proper notification to the
388 executive director.

389 (d) Any member who became a member of the system before July
390 1, 2011, shall be entitled to an annual retirement allowance which
391 shall consist of:



392 (1) A member's annuity, which shall be the actuarial
393 equivalent of the accumulated contributions of the member at the
394 time of retirement computed according to the actuarial table in
395 use by the system; and

396 (2) An employer's annuity, which, together with the
397 member's annuity provided above, shall be equal to two percent
398 (2%) of the average compensation for each year of service up to
399 and including twenty-five (25) years of creditable service, and
400 two and one-half percent (2-1/2%) of the average compensation for
401 each year of service exceeding twenty-five (25) years of
402 creditable service.

403 (3) Any retired member or beneficiary thereof who was
404 eligible to receive a retirement allowance before July 1, 1991,
405 and who is still receiving a retirement allowance on July 1, 1992,
406 shall receive an increase in the annual retirement allowance of
407 the retired member equal to one-eighth of one percent (1/8 of 1%)
408 of the average compensation for each year of state service in
409 excess of twenty-five (25) years of membership service up to and
410 including thirty (30) years. The maximum increase shall be
411 five-eighths of one percent (5/8 of 1%). In no case shall a
412 member who has been retired before July 1, 1987, receive less than
413 Ten Dollars (\$10.00) per month for each year of creditable service
414 and proportionately for each quarter year thereof. Persons
415 retired on or after July 1, 1987, shall receive at least Ten
416 Dollars (\$10.00) per month for each year of service and



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

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

425 (1) A member's annuity, which shall be the actuarial
426 equivalent of the accumulated contributions of the member at the
427 time of retirement computed according to the actuarial table in
428 use by the system; and

429 (2) An employer's annuity, which, together with the
430 member's annuity provided above, shall be equal to two percent
431 (2%) of the average compensation for each year of service up to
432 and including thirty (30) years of creditable service, and two and
433 one-half percent (2-1/2%) of average compensation for each year of
434 service exceeding thirty (30) years of creditable service.

435 (f) Any member who became a member of the system on or after
436 July 1, 2011, upon withdrawal from service upon or after attaining
437 the age of sixty (60) years who has completed at least eight (8)
438 years of membership service, or any such member upon withdrawal
439 from service regardless of age who has completed at least thirty
440 (30) years of creditable service, shall be entitled to receive a
441 retirement allowance computed in accordance with the formula set



442 forth in subsection (e) of this section. In the case of the
443 retirement of any member who has attained age sixty (60) but who
444 has not completed at least thirty (30) years of creditable
445 service, the retirement allowance shall be computed in accordance
446 with the formula set forth in subsection (e) of this section
447 except that the total annual retirement allowance shall be reduced
448 by an actuarial equivalent factor for each year of creditable
449 service below thirty (30) years or the number of years in age that
450 the member is below age sixty-five (65), whichever is less.

451 (g) No member, except members excluded by the Age
452 Discrimination in Employment Act Amendments of 1986 (Public Law
453 99-592), under either Article 1 or Article 3 in state service
454 shall be required to retire because of age.

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

458 (i) (1) A retiree or beneficiary may, on a form prescribed
459 by and filed with the retirement system, irrevocably waive all or
460 a portion of any benefits from the retirement system to which the
461 retiree or beneficiary is entitled. The waiver shall be binding
462 on the heirs and assigns of any retiree or beneficiary and the
463 same must agree to forever hold harmless the Public Employees'
464 Retirement System of Mississippi from any claim to the waived
465 retirement benefits.



466 (2) Any waiver under this subsection shall apply only
467 to the person executing the waiver. A beneficiary shall be
468 entitled to benefits according to the option selected by the
469 member at the time of retirement. However, a beneficiary may, at
470 the option of the beneficiary, execute a waiver of benefits under
471 this subsection.

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

475 (4) The board of trustees may provide rules and
476 regulations for the administration of waivers under this
477 subsection.

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

482 **SECTION 4.** Section 25-11-120, Mississippi Code of 1972, is
483 amended as follows:

484 25-11-120. (1) Any individual aggrieved by an
485 administrative determination, including a determination of the
486 medical board, relating to the eligibility for or payment of
487 benefits, or the calculation of creditable service or other
488 similar matters relating to the Public Employees' Retirement
489 System or any other retirement system or program administered by
490 the board, may request a hearing before a hearing officer



491 designated by the board. Such hearings shall be conducted in
492 accordance with rules and regulations adopted by the board and
493 formal rules of evidence shall not apply. The hearing officer is
494 authorized to administer oaths, hear testimony of witnesses and
495 receive documentary and other evidence. In case of disability
496 appeals, the hearing officer shall have the authority to defer a
497 decision in order to request a medical evaluation or test or
498 additional existing medical records not previously furnished by
499 the claimant. After the hearing and the receipt of any additional
500 medical evidence requested by the hearing officer, the hearing
501 officer shall certify the record to the board, which shall include
502 the hearing officer's proposed statement of facts, conclusions of
503 law and recommendation. The record may include a taped recording
504 of the proceedings of the hearing in lieu of a transcribed copy of
505 the proceedings. The board shall receive the record and make its
506 determination based solely on matters contained therein.

507 (2) Any individual aggrieved by the determination of the
508 board may appeal to the Circuit Court of the First Judicial
509 District of Hinds County, Mississippi, in accordance with the
510 Uniform Circuit Court Rules governing appeals to the circuit court
511 in civil cases. Such appeal shall be made solely on the record
512 before the board and this procedure shall be the exclusive method
513 of appealing determinations of the board.

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



516 qualified personnel to perform the duties of hearing officer and
517 court reporter as may be necessary for conducting, recording and
518 transcribing such hearings. The board may assess and collect fees
519 to offset costs related to such hearings. Those fees shall be
520 deposited to the credit of the Public Employees' Retirement
521 System.

522 (4) Interest shall not be paid on any benefits, including,
523 but not limited to, benefits that are delayed as a result of an
524 administrative determination or an appeal from an administrative
525 determination.

526 (5) The suspension of a member's retirement benefits from
527 the Public Employees' Retirement System under Section 25-11-147 or
528 from the Supplemental Legislative Retirement Plan under Section
529 25-11-321 shall not be considered an administrative determination
530 for which a hearing may be requested or held under this section.

531 **SECTION 5.** Section 25-11-129, Mississippi Code of 1972, is
532 amended as follows:

533 25-11-129. (1) The right of a person to an annuity, a
534 retirement allowance or benefit, or to the return of
535 contributions, or to any optional benefit or any other right
536 accrued or accruing to any person under the provisions of Articles
537 1 and 3, the system and the monies in the system created by * * *
538 those articles, are * * * exempt from any state, county or
539 municipal ad valorem taxes, income taxes, premium taxes, privilege
540 taxes, property taxes, sales and use taxes or other taxes not so



541 named, notwithstanding any other provision of law to the contrary,
542 and exempt from levy and sale, garnishment, attachment or any
543 other process whatsoever, and shall be unassignable except as
544 specifically otherwise provided in this article and except as
545 otherwise provided in subsection (2) of this section. The
546 suspension of a member's retirement benefits from the system under
547 Section 25-11-147 is not an attachment or assignment of the
548 member's retirement benefits for the purposes of this section.

549 (2) Any retired member or beneficiary receiving a retirement
550 allowance or benefit under this article may authorize the system
551 to make deductions from the retirement allowance or benefit for
552 the payment of employer or system sponsored group life or health
553 insurance. The deductions authorized under this subsection shall
554 be subject to rules and regulations adopted by the board.

555 **SECTION 6.** Section 25-11-309, Mississippi Code of 1972, is
556 amended as follows:

557 25-11-309. (1) The retirement allowance from the
558 Supplemental Legislative Retirement Plan shall consist of fifty
559 percent (50%) of an amount equal to the retirement allowance
560 determined by creditable service as an elected Senator or
561 Representative of the State Legislature or as President of the
562 Senate payable by the Public Employees' Retirement System in
563 accordance with Section 25-11-101 et seq.

564 (2) The percentage of the retirement allowance as provided
565 in this section shall be transferred from the annuity savings



566 account of the member and the employer accumulation account in the
567 Supplemental Legislative Retirement Plan to the retirement account
568 of the member in the Public Employees' Retirement System as
569 provided.

570 (3) (a) Notwithstanding any provisions of this section or
571 this title to the contrary, the maximum annual retirement
572 allowance attributable to the employer contributions payable under
573 the Supplemental Legislative Retirement Plan to a member shall be
574 subject to the limitations set forth in Section 415 of the
575 Internal Revenue Code and any regulations issued thereunder
576 applicable to governmental plans as the term is defined under
577 Section 414(d) of the Internal Revenue Code.

578 (b) The board is authorized to provide by rule or
579 regulation for the payment of benefits as provided under this
580 chapter to members or beneficiaries of the Supplemental
581 Legislative Retirement System at a time and under circumstances
582 not otherwise provided for in this chapter to the extent that the
583 payment is required to maintain the Supplemental Legislative
584 Retirement System as a qualified retirement plan for purposes of
585 federal income tax laws.

586 (4) (a) A retiree or beneficiary may, on a form prescribed
587 by and filed with the Executive Director of the Public Employees'
588 Retirement System, irrevocably waive all or a portion of any
589 benefits from the plan to which the retiree or beneficiary is
590 entitled under this article. The waiver shall be binding on the



591 heirs and assigns of any retiree or beneficiary and the same must
592 agree to forever hold harmless the plan and the Public Employees'
593 Retirement System from any claim to the waived retirement
594 benefits.

595 (b) Any waiver under this subsection shall apply only
596 to the person executing the waiver. A beneficiary shall be
597 entitled to benefits according to the option selected by the
598 member at the time of retirement; however, a beneficiary may
599 execute a waiver of benefits under this subsection.

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

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

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

610 **SECTION 7.** Section 25-11-319, Mississippi Code of 1972, is
611 amended as follows:

612 25-11-319. (1) The right of a person to an annuity, a
613 retirement allowance or benefit, or to the return of
614 contributions, or to any optional benefit or any other right
615 accrued or accruing to any person under the provisions of the



616 Supplemental Legislative Retirement Plan, and the monies in the
617 plan created by this article, are exempt from any state or
618 municipal tax, and exempt from levy and sale, garnishment,
619 attachment or any other process whatsoever, and shall be
620 unassignable except as specifically otherwise provided in this
621 article. The suspension of a member's retirement benefits from
622 the plan under Section 25-11-321 is not an attachment or
623 assignment of the member's retirement benefits for the purposes of
624 this section.

625 (2) Any retired member or beneficiary receiving a retirement
626 allowance or benefit under this article may authorize the system
627 to make deductions from the retirement allowance or benefit for
628 the payment of employer or system sponsored group life or health
629 insurance. The deductions authorized under this subsection shall
630 be subject to rules and regulations adopted by the board.

631 **SECTION 8.** This act shall take effect and be in force from
632 and after July 1, 2023.

