MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Haney To: Appropriations

# HOUSE BILL NO. 206

AN ACT TO CREATE NEW SECTIONS 25-11-147, 25-11-321 AND 25-13-37, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE RECEIPT OF RETIREMENT BENEFITS FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM, THE SUPPLEMENTAL LEGISLATIVE RETIREMENT SYSTEM AND THE MISSISSIPPI HIGHWAY SAFETY PATROL RETIREMENT SYSTEM IS CONDITIONED ON THE MEMBER'S HONEST AND FAITHFUL PERFORMANCE OF HIS OR HER PUBLIC DUTIES FOR THE STATE; TO PROVIDE THAT A MEMBER'S CONVICTION OF OR PLEA OF GUILTY OR NOLO CONTENDERE TO A FELONY INVOLVING PUBLIC FUNDS OF $50,000.00 OR MORE IS CONSIDERED TO BE A BREACH OF THE PUBLIC TRUST AND A BREACH OF THE MEMBER'S CONTRACT WITH THE STATE; TO PROVIDE THAT IF A MEMBER OF THE SYSTEM OR PLAN IS CONVICTED OF OR ENTERS A PLEA OF GUILTY OR NOLO CONTENDERE IN ANY COURT TO A FELONY INVOLVING PUBLIC FUNDS OF $50,000.00 OR MORE THAT IS COMMITTED ON OR AFTER JULY 1, 2021, THE COURT SHALL CONDUCT A HEARING IN A SEPARATE CIVIL PROCEEDING TO DETERMINE IF ALL OF THE CONDITIONS HAVE BEEN MET; TO PROVIDE THAT IF ALL OF THE CONDITIONS HAVE BEEN MET, THE COURT SHALL ISSUE AN ORDER THAT THE MEMBER BE TERMINATED FROM MEMBERSHIP IN THE SYSTEM OR PLAN AND FORFEIT HIS OR HER RETIREMENT BENEFITS FROM THE SYSTEM OR PLAN; TO PROVIDE THAT A MEMBER WHO IS CONVICTED OF SUCH A CRIME SHALL NOT BE TERMINATED FROM MEMBERSHIP IN THE SYSTEM OR PLAN OR FORFEIT HIS OR HER RETIREMENT BENEFITS FROM THE SYSTEM OR PLAN UNTIL ALL APPEALS OF THE CONVICTION HAVE BEEN FINALLY CONCLUDED OR THE TIME FOR AN APPEAL FROM THE CONVICTION HAS EXPIRED; TO PROVIDE THAT AFTER RECEIVING THE TERMINATION AND FORFEITURE ORDER FROM THE COURT, THE SYSTEM SHALL REQUEST THE ATTORNEY GENERAL FOR A DETERMINATION OF WHETHER ALL APPEALS OF THE CONVICTION HAVE BEEN FINALLY CONCLUDED OR THE TIME FOR AN APPEAL FROM THE CONVICTION HAS EXPIRED; TO PROVIDE THAT AFTER THE ATTORNEY GENERAL NOTIFIES THE SYSTEM THAT ALL APPEALS OF THE CONVICTION HAVE BEEN FINALLY CONCLUDED OR THE TIME FOR AN APPEAL FROM THE CONVICTION HAS EXPIRED, THE SYSTEM SHALL TERMINATE THE MEMBER FROM MEMBERSHIP IN THE SYSTEM OR PLAN AND THE MEMBER SHALL FORFEIT HIS OR HER RETIREMENT BENEFITS FROM THE SYSTEM OR PLAN; TO PROVIDE THAT A MEMBER WHO IS TERMINATED

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

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

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

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

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

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

(3) (a) If an active member of the system is convicted of or enters a plea of guilty or nolo contendere in any court of this state to a felony involving public funds that is committed on or after July 1, 2021; or

(b) If a retired member of the system who is employed or elected under Section 25-11-127 is convicted of or enters a plea of guilty or nolo contendere in any court of this state to a felony involving public funds that is committed on or after July 1, 2021; or

(c) If a retired member of the system, or a member of the system who has withdrawn from service but is not receiving a retirement allowance from the system, is convicted of or enters a plea of guilty or nolo contendere in any court of this state to a felony involving public funds that was committed while the member was an active employee on or after July 1, 2021, the court shall conduct a hearing in a separate civil proceeding to determine if all of the conditions in this subsection have been met. The court shall provide notice of the hearing to the member and each person who is named as a beneficiary of the member in the records of the system. If, after the hearing, the court determines that all of

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

(4) (a) If an active member of the system is convicted of or enters a plea of guilty or nolo contendere in a court of another state or a federal court to a crime that would be a felony under the laws of this state if the crime were committed in this state, and that is a felony involving public funds that is committed on or after July 1, 2021; or

(b) If a retired member of the system who is employed or elected under Section 25-11-127 is convicted of or enters a plea of guilty or nolo contendere in a court of another state or a federal court to a crime that would be a felony under the laws of this state if the crime were committed in this state, and that is a felony involving public funds that is committed on or after July 1, 2021; or

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

member was an active employee on or after July 1, 2021, the Attorney General of Mississippi shall enter a motion in the circuit court of the county of residence of the member, or in the Circuit Court of the First Judicial District of Hinds County, Mississippi, if the member does not reside in Mississippi for termination from membership in the system and forfeiture of the member's retirement benefits from the system. The court shall conduct a civil hearing to determine if all of the conditions in this subsection have been met. The court shall provide notice of the hearing to the member and each person who is named as a beneficiary of the member in the records of the system. If, after the hearing, the court determines that all of the conditions in this subsection have been met, the court shall issue an order that the member be terminated from membership in the system and forfeit his or her retirement benefits from the system as provided in this section. The court shall send a copy of its termination and forfeiture order to the system.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) (a) If an active member of the plan is convicted of or enters a plea of guilty or nolo contendere in any court of this state to a felony involving public funds that is committed on or after July 1, 2021; or

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

of the Senate but is not receiving a retirement allowance from the plan, is convicted of or enters a plea of guilty or nolo contendere in any court of this state to a felony involving public funds that was committed while the member was serving in the State Legislature or as President of the Senate on or after July 1, 2021, the court shall conduct a hearing in a separate civil proceeding to determine if all of the conditions in this subsection have been met. The court shall provide notice of the hearing to the member and each person who is named as a beneficiary of the member in the records of the system. If, after the hearing, the court determines that all of the conditions in this subsection have been met, the court shall issue an order that the member be terminated from membership in the plan and forfeit his or her retirement benefits from the plan as provided in this section. The court shall send a copy of its termination and forfeiture order to the system.

(4) (a) If an active member of the plan is convicted of or enters a plea of guilty or nolo contendere in a court of another state or a federal court to a crime that would be a felony under the laws of this state if the crime were committed in this state, and that is a felony involving public funds that is committed on or after July 1, 2021; or

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

plan, is convicted of or enters a plea of guilty or nolo contendere in a court of another state or a federal court to a crime that would be a felony under the laws of this state if the crime were committed in this state, and that is a felony involving public funds that was committed while the member was serving in the State Legislature or as President of the Senate on or after July 1, 2021, the Attorney General of Mississippi shall enter a motion in the circuit court of the county of residence of the member, or in the Circuit Court of the first Judicial District of Hinds County, Mississippi, if the member does not reside in Mississippi, for termination from membership in the plan and forfeiture of the member's retirement benefits from the plan. The court shall conduct a civil hearing to determine if all of the conditions in this subsection have been met. The court shall provide notice of the hearing to the member and each person who is named as a beneficiary of the member in the records of the system. If, after the hearing, the court determines that all of the conditions in this subsection have been met, the court shall issue an order that the member be terminated from membership in the plan and forfeit his or her retirement benefits from the plan as provided in this section. The court shall send a copy of its termination and forfeiture order to the system.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) (a) If a member of the system is convicted of or enters a plea of guilty or nolo contendere in any court of this state to a felony involving public funds that is committed on or after July 1, 2021; or

(b) If a retired member of the system, or a member of the system who has withdrawn from service but is not receiving a retirement allowance from the system, is convicted of or enters a plea of guilty or nolo contendere in any court of this state to a felony involving public funds that was committed while the member was an active employee on or after July 1, 2021, the court shall conduct a hearing in a separate civil proceeding to determine if all of the conditions in this subsection have been met. The court shall provide notice of the hearing to the member and each person who is named as a beneficiary of the member in the records of the system. If, after the hearing, the court determines that all of the conditions in this subsection have been met, the court shall issue an order that the member be terminated from membership in the system and forfeit his or her retirement benefits from the system as provided in this section. The court shall send a copy of its termination and forfeiture order to the system.

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

of this state if the crime were committed in this state, and that is a felony involving public funds that is committed on or after July 1, 2021; or

(b) If a retired member of the system, or a member of the system who has withdrawn from service but is not receiving a retirement allowance from the system, is convicted of or enters a plea of guilty or nolo contendere in a court of another state or a federal court to a crime that would be a felony under the laws of this state if the crime were committed in this state, and that is a felony involving public funds that was committed while the member was an active employee on or after July 1, 2021, the Attorney General of Mississippi shall enter a motion in the circuit court of the county of residence of the member, or in the Circuit Court of the First Judicial District of Hinds County, Mississippi, if the member does not reside in Mississippi, for termination from membership in the system and forfeiture of the member's retirement benefits from the system. The court shall conduct a civil hearing to determine if all of the conditions in this subsection have been met. The court shall provide notice of the hearing to the member and each person who is named as a beneficiary of the member in the records of the system. If, after the hearing, the court determines that all of the conditions in this subsection have been met, the court shall issue an order that the member be terminated from membership in the system and forfeit his or her retirement benefits from the system as provided in this

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Every political subdivision or instrumentality required to make payments under paragraph (f)(v)2 of this section is authorized, in consideration of the employees' retention in or entry upon employment after enactment of Articles 1 and 3, to impose upon its employees, as to services that are covered by an approved plan, a contribution with respect to wages (as defined in Section 25-11-5) not exceeding the amount provided in Section 25-11-123(d) if those services constituted employment within the meaning of Articles 1 and 3, and to deduct the amount of the contribution from the wages as and when paid. Contributions so collected shall be paid into the contribution fund as partial discharge of the liability of the political subdivisions or instrumentalities under paragraph (f)(v)2 of this section. Failure to deduct the contribution shall not relieve the employee or employer of liability for the contribution.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**III. TERMINATION OF MEMBERSHIP**

Membership in this system shall cease by:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Membership in the plan shall cease by:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The annual amount of the retirement allowance shall consist of:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**SECTION 18.** This act shall take effect and be in force from and after July 1, 2021.


ST: Retirement; persons convicted of certain felonies shall forfeit benefits from PERS, SLRP and MHSPRS.