MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Denton To: Appropriations

# HOUSE BILL NO. 683

AN ACT TO CREATE NEW SECTIONS 25-11-147 AND 25-11-321, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IF A MEMBER OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO IS AN ELECTED OFFICIAL OR A MEMBER OF THE SUPPLEMENTAL LEGISLATIVE RETIREMENT PLAN IS CONVICTED OF OR ENTERS A PLEA OF GUILTY OR NOLO CONTENDERE IN ANY COURT TO A FELONY IN WHICH PUBLIC FUNDS WERE UNLAWFULLY TAKEN, OBTAINED OR MISAPPROPRIATED IN THE ABUSE OR MISUSE OF THE PERSON'S OFFICE 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'S RETIREMENT BENEFITS FROM THE SYSTEM OR PLAN BE SUSPENDED; TO PROVIDE THAT A MEMBER WHO IS CONVICTED OF SUCH A FELONY SHALL NOT HAVE HIS OR HER RETIREMENT BENEFITS FROM THE SYSTEM OR PLAN SUSPENDED 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 SUSPENSION 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 MEMBER'S RETIREMENT BENEFITS FROM THE SYSTEM OR PLAN SHALL BE SUSPENDED UNTIL THE MEMBER HAS MADE FULL RESTITUTION OF THE PUBLIC FUNDS THAT WERE UNLAWFULLY TAKEN, OBTAINED OR MISAPPROPRIATED IN THE ABUSE OR MISUSE OF THE MEMBER'S OFFICE, AS DETERMINED BY THE ATTORNEY GENERAL; 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 FELONY FOR WHICH THE MEMBER WAS CONVICTED OR ENTERED A PLEA OF GUILTY OR NOLO CONTENDERE WAS IN CONNECTION WITH THE MEMBER'S SERVICE AS AN ELECTED OFFICIAL THAT IS COVERED BY ONLY ONE OF THE RETIREMENT SYSTEMS, THE MEMBER'S RETIREMENT BENEFITS WILL BE

SUSPENDED ONLY FROM THE RETIREMENT SYSTEM IN WHICH HIS OR HER SERVICE AS AN ELECTED OFFICIAL WAS COVERED AT THE TIME THAT HE OR SHE COMMITTED THE FELONY; TO PROVIDE THAT THE SYSTEM MAY CONCLUSIVELY RELY ON A SUSPENSION ORDER FROM THE COURT AND THE NOTICE FROM THE ATTORNEY GENERAL THAT THE REQUIREMENTS OF THIS ACT HAVE BEEN MET IN SUSPENDING A MEMBER'S RETIREMENT BENEFITS FROM 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 SUSPENSION ORDER FROM THE COURT AND THE NOTICE FROM THE ATTORNEY GENERAL; TO PROVIDE THAT ANY AMBIGUITY OR UNCERTAINTY ABOUT WHETHER A MEMBER'S RETIREMENT BENEFITS FROM THE SYSTEM OR PLAN SHOULD BE SUSPENDED SHALL BE RESOLVED IN FAVOR OF THE MEMBER; TO AMEND SECTIONS 25-11-111, 25-11-120, 25-11-129, 25-11-309 AND 25-11-319, 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) "Felony involving public funds" means a felony in which public funds 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) If an active member of the system who is an elected official 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 elected to public office after retirement and employed 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 during the member's employment under Section 25-11-127 and is committed on or after July 1, 2021; or

(c) If a retired member of the system who was an elected official, or a member of the system who was an elected official and 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 elected official 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's retirement benefits from the system be suspended as provided in this section. The court shall send a copy of its suspension order to the system.

(3) (a) If an active member of the system who is an elected official 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 and is committed on or after July 1, 2021; or

(b) If a retired member of the system who is elected to public office after retirement and employed 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 during the member's employment under Section 25-11-127 and is committed on or after July 1, 2021; or

(c) If a retired member of the system who was an elected official, or a member of the system who was an elected official and 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 elected official 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 suspension of the member's retirement benefits from the system as provided in this section. 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's retirement benefits from the system be suspended as provided in this section. The court shall send a copy of its suspension order to the system.

(4) A member who is an elected official who is convicted of a felony involving public funds shall not have his or her retirement benefits from the system suspended 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 suspension 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 member's retirement benefits from the system shall be suspended as provided in this section.

(5) (a) An active member who is an elected official, or a member of the system who was an elected official and has withdrawn from service but is not receiving a retirement allowance from the system, whose retirement benefits from the system have been suspended 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 until the member has made full restitution of the public funds that were

unlawfully taken, obtained or misappropriated in the abuse or misuse of the member's office, as determined by the Attorney General.

(b) A retired member who was an elected official whose retirement benefits from the system have been suspended shall have his or her retirement allowance suspended 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 until the member has made full restitution of the public funds that were unlawfully taken, obtained or misappropriated in the abuse or misuse of the member's office or employment, as determined by the Attorney General.

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

(6) If a member of the system who is or was an elected official is also a member of another retirement system administered by the Board of Trustees of the Public Employees' Retirement System, and the felony involving public funds for which the member was convicted or entered a plea of guilty or nolo contendere was in connection with the member's service as an elected official that is covered by only one (1) of the retirement

systems, the member's retirement benefits will be suspended only from the retirement system in which his or her service as an elected official was covered at the time that he or she committed the felony. In the case of a retired member who is elected to public office after retirement and employed under Section 25-11-127, the member's retirement benefits will be suspended only from the retirement system in which his or her service as an elected official would have been covered if the member had been an elected official in the same office at the time that he or she committed the felony.

(7) The system may conclusively rely on a suspension order from the court and the notice from the Attorney General that the requirements of this section have been met in suspending a member's retirement benefits from the system under this section. The system is not liable for any mistake in the payment of retirement benefits to a member in good faith reliance on a suspension 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.

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

benefits from the system should be suspended 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) "Felony involving public funds" means a felony in which public funds 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) 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's retirement benefits from the plan be suspended as provided in this section. The court shall send a copy of its suspension order to the system.

(3) (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 and 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 suspension of the member's retirement benefits

from the plan as provided in this section. 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's retirement benefits from the plan be suspended as provided in this section. The court shall send a copy of its suspension order to the system.

(4) A member who is convicted of a felony involving public funds shall not have his or her retirement benefits from the plan suspended 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 suspension 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 member's retirement benefits from the plan shall be suspended as provided in this section.

(5) (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, whose retirement benefits from the plan have been suspended 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 until the member has made full restitution of the public funds that were unlawfully taken, obtained or misappropriated in the abuse or misuse of the member's office or employment, as determined by the Attorney General.

(b) A retired member of the plan whose retirement benefits from the plan have been suspended shall have his or her retirement allowance suspended 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 until the member has made full restitution of the public funds that were unlawfully taken, obtained or misappropriated in the abuse or misuse of the member's office or employment, as determined by the Attorney General.

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

(6) 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, has his or her retirement benefits from the plan suspended under this section, the member also will have his or her retirement benefits from the Public Employees' Retirement System suspended. 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, whose retirement benefits from the system are suspended under Section 25-11-147, the member's retirement benefits from the plan will not be suspended if the felony involving public funds for which the member was convicted or entered a plea of guilty or nolo contendere was not in connection with the member's service with the State Legislature or as President of the Senate.

(7) The Public Employees' Retirement System may conclusively rely on a suspension order from the court and the notice from the Attorney General that the requirements of this section have been met in suspending a member's retirement benefits from the plan under this section. 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 suspension 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.

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

**SECTION 3.** 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 whose retirement benefits from the system have been suspended under Section 25-11-147 shall not be eligible to receive a retirement allowance under this section during the entire period of the suspension of the benefits.

**SECTION 4.** 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) The suspension of a member's retirement benefits from the Public Employees' Retirement System under Section 25-11-147 or from the Supplemental Legislative Retirement Plan under Section 25-11-321 shall not be considered an administrative determination for which a hearing may be requested or held under this section.

**SECTION 5.** 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 suspension 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 6.** 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 whose retirement benefits from the plan have been suspended under Section 25-11-321 shall not be eligible to receive a retirement allowance under this section during the entire period of the suspension of the benefits.

**SECTION 7.** 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 suspension 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 8.** This act shall take effect and be in force from and after July 1, 2021.



ST: Retirement; elected officials convicted of certain felonies shall have benefits suspended until full restitution has been made.