HOUSE BILL NO. 863

AN ACT TO CREATE NEW SECTION 25-14-101, MISSISSIPPI CODE OF 1972, TO REQUIRE EMPLOYERS OF EMPLOYEES OF STATE AGENCIES, INSTITUTIONS OF HIGHER LEARNING, COMMUNITY AND JUNIOR COLLEGES AND PUBLIC SCHOOLS TO CONTRIBUTE MATCHING FUNDS OF $25.00 PER MONTH FOR QUALIFIED PARTICIPANTS IN THE DEFERRED COMPENSATION PLAN IN ORDER TO ENCOURAGE EMPLOYEE SAVINGS FOR RETIREMENT; TO AUTHORIZE OTHER POLITICAL SUBDIVISIONS TO PARTICIPATE IN THE MATCHING CONTRIBUTION PROGRAM ON THE SAME TERMS AS THE STATE; TO PROVIDE THAT THE BOARD OF TRUSTEES OF THE PUBLIC EMPLOYEES’ RETIREMENT SYSTEM SHALL ADMINISTER AND INVEST THE MATCHING EMPLOYER CONTRIBUTIONS; TO PROVIDE THAT THE MATCHING EMPLOYER CONTRIBUTIONS WILL NOT BE CONSIDERED A PART OF AN EMPLOYEE’S COMPENSATION; AND FOR RELATED PURPOSES.

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

SECTION 1. The following shall be codified as Section 25-14-101, Mississippi Code of 1972:

25-14-101. (1) The state may amend its deferred compensation plan adopted under to the Government Employees Deferred Compensation Plan Law (Section 25-14-1 et seq.), or adopt a defined contribution plan under Section 401(a) of the Internal Revenue Code, for the purpose of matching all or a specified portion of the state employees’ contributions to the government employees’ deferred compensation plan.

(2) The employer of each employee of a state agency, institution of higher learning, community or junior college, or public school shall contribute matching funds of Twenty-five Dollars ($25.00) per month for each qualified participant in the deferred compensation plan. The purpose of these contributions is to encourage and enhance employee savings for retirement. Any other political subdivision that has previously executed or hereafter executes a joinder agreement to the Deferred Compensation Plan and Trust for Public Employees of the State of Mississippi.
Mississippi and Its Political Subdivisions, may amend its joinder agreement to provide that it will contribute matching funds on the same terms as the state, which shall thereafter be applicable to all qualified participants of that political subdivision. The contributions shall be made on a periodic basis in accordance with the plan documents and rules and regulations as adopted by the Board of Trustees of the Public Employees’ Retirement System.

(3) The Board of Trustees of the Public Employees’ Retirement System shall determine whether the matching contribution program shall be operated as a part of the existing deferred compensation plan and trust under Section 457 of the Internal Revenue Code (IRC) or be qualified under IRC Section 401(a). The Board of Trustees of the Public Employees' Retirement System shall be the trustee for any new plan operated under IRC 401(a) and shall approve investment options for the plan, which may be the same as offerings for the employees participating in the IRC Section 457 deferred compensation plan. However, such investment options are limited to those authorized under the Government Employees Deferred Compensation Plan Law (Section 25-14-1 et seq.) Any funds invested under an IRC Section 401(a) plan shall be accounted for separately.

(4) The Board of Trustees of the Public Employees' Retirement System shall be responsible for the administration of the funds and shall be responsible for establishing rules, regulations and plan documents as necessary for the administration of the matching contributions. The Board of Trustees of the Public Employees' Retirement System may levy such charges and fees on contributions as may reasonably be necessary to provide for the administrative expenses of operating the deferred compensation program, including, but not limited to, the services of auditors, consultants, money managers and third-party administrators.

(5) All matching funds so contributed shall be held in trust for the exclusive benefit of plan participants.
(6) For purposes of this section, "qualified participant" means an employee of the State of Mississippi or any of its political subdivisions, excluding independent contractors, who is making continuous deferrals of at least Twenty-five Dollars ($25.00) per month to the Section 457 Deferred Compensation Plan and Trust administered by the state.

(7) Except to the extent necessary to comply with federal law, the matching employer funds will not be considered part of an employee’s compensation for purposes of any other employee retirement, pension, or benefit program on which additional contributions are due, nor shall such amounts be included for purposes of computation of any taxes withheld on behalf of any employee.

(8) The state is obligated only for the current market value of the matching funds previously made to a plan established under IRC Section 401(a) or the existing IRC Section 457 Plan and Trust, as applicable, on a participant’s behalf.

SECTION 2. This act shall take effect and be in force from and after July 1, 2002.