

By: Representative Brown

To: County Affairs;  
Appropriations

## HOUSE BILL NO. 1205

1 AN ACT TO PROVIDE THAT FOR CONSTABLES WHOSE POSITION IS  
 2 COVERED IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM, THE COUNTY IS  
 3 RESPONSIBLE FOR EMPLOYER CONTRIBUTIONS ON ALL DIRECT PAYMENTS TO  
 4 THE CONSTABLE FROM THE COUNTY AND THE CONSTABLE IS RESPONSIBLE FOR  
 5 THE EMPLOYEE CONTRIBUTIONS ON THOSE PAYMENTS; TO PROVIDE THAT  
 6 WHERE THE CONSTABLE IS RESPONSIBLE FOR BOTH THE EMPLOYER AND  
 7 EMPLOYEE CONTRIBUTIONS ON NET FEE INCOME, THE COUNTY SHALL  
 8 WITHHOLD FROM FEE INCOME DUE TO THE CONSTABLE A PERCENTAGE OF THE  
 9 GROSS FEE INCOME PAID TO THE CONSTABLE AS ESTIMATED RETIREMENT  
 10 CONTRIBUTIONS AND SHALL REMIT THAT AMOUNT TO THE SYSTEM; TO  
 11 PROVIDE THAT IF THE CONSTABLE FAILS TO MAKE THE FULL PAYMENT AT  
 12 THAT TIME, THE BOARD OF TRUSTEES OF THE SYSTEM MAY CERTIFY THE  
 13 DELINQUENCY AND THE COUNTY SHALL WITHHOLD ANY AND ALL PAYMENTS AND  
 14 FEES DUE TO THE CONSTABLE UNTIL SUCH TIME AS THE RETIREMENT  
 15 CONTRIBUTIONS ARE FULLY REPORTED AND MADE; TO PROVIDE THAT ANY  
 16 CURRENT OR FORMER CONSTABLE FOR WHOM APPROPRIATE EMPLOYER AND  
 17 EMPLOYEE CONTRIBUTIONS, AND INTEREST, ON ALL FEE AND COUNTY INCOME  
 18 FROM COVERED SERVICE BEFORE JANUARY 1, 2006, HAVE NOT BEEN MADE,  
 19 MUST EITHER MAKE ALL OF THE REQUIRED PAYMENTS BY A CERTAIN DATE,  
 20 OR IRREVOCABLY ELECT NOT TO PAY DELINQUENT EMPLOYEE AND EMPLOYER  
 21 CONTRIBUTIONS, PLUS INTEREST, FOR SERVICE AS A CONSTABLE BEFORE  
 22 JANUARY 1, 2006, AND BY DOING SO SHALL IRREVOCABLY FORFEIT THAT  
 23 SERVICE CREDIT; AND FOR RELATED PURPOSES.

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

25 **SECTION 1.** The following shall be codified as Section  
 26 25-11-106, Mississippi Code of 1972:

27 25-11-106. (1) Any constable in office as of July 1, 2005,  
 28 whose position is covered in the Public Employees' Retirement  
 29 System by virtue of a plan submitted and approved under Section  
 30 25-11-105(f) will remain a member of the Public Employees'  
 31 Retirement System.

32 The county is responsible for employer contributions on all  
 33 direct payments to the constable from the county and the constable  
 34 is responsible for the employee contributions on those payments.  
 35 Effective January 1, 2006, where the constable is responsible for  
 36 both the employer and employee contributions on net fee income,  
 37 the county shall withhold from fee income due to the constable a

38 percentage, as set by the board of trustees, of the gross fee  
39 income paid to the constable as estimated retirement contributions  
40 and shall remit that amount to the system. No later than the date  
41 on which the Annual Report of Earnings is due to the Secretary of  
42 State, the constable shall submit to the system a copy of the  
43 earnings record and make complete payment of the required  
44 contributions on net earnings from his office, but not less than  
45 the contributions due on the governmental treasuries paid by the  
46 county in the prior calendar year. If the constable fails to make  
47 the full payment at that time, the board of trustees may certify  
48 the delinquency and the county shall withhold any and all payments  
49 and fees due to the constable until such time as the retirement  
50 contributions are fully reported and made.

51 (2) Any current or former constable for whom appropriate  
52 employer and employee contributions, and interest, on all fee and  
53 county income from covered service before January 1, 2006, have  
54 not been made, must do one (1) of the following:

55 (a) The current or former constable must make the  
56 required payments or enter into an irrevocable agreement to make  
57 them for all calendar years before January 1, 2006, not later than  
58 December 31, 2005. Contributions and interest due and owing for  
59 covered services before January 1, 2006, must be received by the  
60 system by April 15, 2006, or such date as set forth in the payment  
61 schedule mutually adopted by the member and the system.

62 (b) The current or former constable may irrevocably  
63 elect before December 31, 2005, not to pay delinquent employee and  
64 employer contributions, plus interest if applicable, for service  
65 as a constable before January 1, 2006, and by doing so shall  
66 irrevocably forfeit that service credit so as to be relieved of  
67 the liability for additional employer and employee contributions,  
68 plus interest.

69 (3) Where a current or former constable fails to make  
70 required contributions as provided in subsection (2)(a) of this

71 section, or where a current or former constable irrevocably elects  
72 before December 31, 2005, to forfeit service credit on past  
73 service as a constable as provided in (2)(b) of this section, all  
74 employer and employee contributions previously paid on that  
75 service shall be credited to the county as the reporting entity to  
76 be distributed as appropriate between the county and the constable  
77 or former constable. No further contributions will be due on that  
78 past service. Further, any credit on that past service will be  
79 removed from the member's record and may not be reinstated at any  
80 time in the future.

81 **SECTION 2.** This act shall take effect and be in force from  
82 and after July 1, 2005.