

By: Senator(s) Doxey

To: Finance

SENATE BILL NO. 2860

1 AN ACT TO PROVIDE THAT THE COUNTY SHALL BE RESPONSIBLE FOR
2 THE EMPLOYER CONTRIBUTIONS REQUIRED BY THE PUBLIC EMPLOYEES'
3 RETIREMENT SYSTEM ON ALL DIRECT PAYMENTS FROM THE COUNTY TO THE
4 CONSTABLE; TO PROVIDE THAT FROM AND AFTER JANUARY 1, 2006, IN
5 CASES IN WHICH THE CONSTABLE IS RESPONSIBLE FOR BOTH THE EMPLOYER
6 AND EMPLOYEE CONTRIBUTIONS ON FEE INCOME, THE COUNTY SHALL
7 WITHHOLD FROM FEE INCOME DUE THE CONSTABLE A CERTAIN PERCENTAGE
8 AMOUNT OF THE GROSS FEE INCOME PAID TO THE CONSTABLE AS ESTIMATED
9 RETIREMENT CONTRIBUTIONS AND SHALL REMIT THAT AMOUNT TO THE
10 SYSTEM; TO PROVIDE THAT CONSTABLES SHALL MAKE FULL PAYMENT OF
11 AMOUNTS THEY ARE REQUIRED TO PAY INTO THE RETIREMENT SYSTEM BY NOT
12 LATER THAN THE DATE ON WHICH THE ANNUAL REPORT OF EARNINGS IS DUE
13 TO BE FILED WITH THE SECRETARY OF STATE; TO PROVIDE THAT IF THE
14 CONSTABLE FAILS TO MAKE FULL PAYMENT AT THE TIME REQUIRED THE
15 COUNTY SHALL WITHHOLD ALL PAYMENTS AND FEES DUE TO THE CONSTABLE
16 UNTIL SUCH TIME AS HIS RETIREMENT CONTRIBUTIONS ARE FULLY REPORTED
17 AND MADE; TO PROVIDE THAT CURRENT AND FORMER CONSTABLES WHOSE
18 EMPLOYER AND EMPLOYEE CONTRIBUTION FOR SERVICE PRIOR TO JANUARY 1,
19 2006, HAVE NOT BEEN MADE MAY ELECT TO PAY THE REQUIRED AMOUNT OR
20 IRREVOCABLY FORFEIT CREDIT FOR SERVICE PRIOR TO JANUARY 1, 2006,
21 SO AS TO BE RELIEVED OF THE LIABILITY FOR ADDITIONAL EMPLOYER AND
22 EMPLOYEE CONTRIBUTIONS AND APPLICABLE INTEREST; TO PROVIDE FOR THE
23 DISTRIBUTION OF RETIREMENT CONTRIBUTIONS MADE FOR SERVICE PRIOR TO
24 JANUARY 1, 2006, IF THE CURRENT OR FORMER CONSTABLE FAILS TO MAKE
25 SUCH ELECTION; AND FOR RELATED PURPOSES.

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

27 **SECTION 1.** The following provision shall be codified a
28 Section 25-11-106, Mississippi Code of 1972:

29 25-11-106. (1) (a) Any member who is or was a member of
30 the system by virtue of a plan submitted and approved under
31 Section 25-11-105(f) shall remain a member of the system.

32 (b) The county shall be responsible for the employer
33 contributions on all direct payments from the county to the
34 constable. From and after January 1, 2006, in cases in which the
35 constable is responsible for both the employer and employee
36 contributions on fee income, the county shall withhold from fee
37 income due the constable a percentage amount, as set by the board,
38 of the gross fee income paid to the constable as estimated

39 retirement contributions and shall remit that amount to the
40 system. Not later than the date on which the annual report of
41 earnings is due to be filed with the Secretary of State, the
42 constable shall submit to the system a copy of the earnings record
43 and make complete payment of required contributions on earnings
44 from his office but not less than the governmental treasuries
45 payments from the prior calendar year. If the constable fails to
46 make full payment at the time required, the system shall certify
47 the delinquency to the county and the county shall withhold any
48 and all payments and fees due to the constable until such time as
49 his retirement contributions are fully reported and made.

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

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

61 (b) Elect, prior to December 31, 2005, not to pay
62 delinquent employee and employer contributions and applicable
63 interest for service as a constable prior to January 1, 2006. By
64 making this election, the current or former constable shall
65 irrevocably forfeit such service credit so as to be relieved of
66 the liability for additional employer and employee contributions
67 and applicable interest.

68 (3) Where a current or former constable fails to make
69 required contributions as provided in subsection (2)(a) of this
70 section, or where a current or former constable irrevocably elects
71 to forfeit service credit as provided in subsection (2)(b) of this

72 section, all employer and employee contributions previously paid
73 on such service shall be credited to the county as the reporting
74 entity to be distributed as appropriate between the county and the
75 constable or former constable. No further contributions shall be
76 due on such past service and any credit on such past service shall
77 be removed from the member's record and may not be reinstated at
78 any time in the future.

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