

By: Senator(s) Doxey

To: Finance

SENATE BILL NO. 2860  
(As Sent to Governor)

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 SYSTEM SHALL CERTIFY THE DELINQUENCY AND THE COUNTY  
 13 SHALL WITHHOLD ANY AND ALL PAYMENTS AND FEES DUE TO THE CONSTABLE  
 14 UNTIL SUCH TIME AS THE RETIREMENT CONTRIBUTIONS ARE FULLY REPORTED  
 15 AND MADE; TO PROVIDE THAT ANY CURRENT OR FORMER CONSTABLE FOR WHOM  
 16 APPROPRIATE EMPLOYER AND EMPLOYEE CONTRIBUTIONS AND INTEREST ON  
 17 ALL FEE AND COUNTY INCOME FROM COVERED SERVICE BEFORE JANUARY 1,  
 18 2006, HAVE NOT BEEN MADE, MUST EITHER MAKE ALL OF THE REQUIRED  
 19 PAYMENTS BY A CERTAIN DATE, OR IRREVOCABLY ELECT NOT TO PAY  
 20 DELINQUENT EMPLOYEE AND EMPLOYER CONTRIBUTIONS PLUS INTEREST FOR  
 21 SERVICE AS A CONSTABLE BEFORE JANUARY 1, 2006, AND BY DOING SO  
 22 SHALL IRREVOCABLY FORFEIT THAT SERVICE CREDIT; AND FOR RELATED  
 23 PURPOSES.

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

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

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

32 (b) The county is responsible for employer  
 33 contributions on all direct payments to the constable from the  
 34 county and the constable is responsible for the employee  
 35 contributions on those payments. From and after January 1, 2006,  
 36 in cases in which the constable is responsible for both the  
 37 employer and employee contributions on net fee income, the county

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

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

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

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

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

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