

**Adopted
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

Senate Bill No. 2860

BY: Committee

**Amend by striking all after the enacting clause and inserting
in lieu thereof the following:**

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.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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.