

By: Representative Moak

To: County Affairs;
Appropriations

HOUSE BILL NO. 123

1 AN ACT TO AMEND SECTIONS 25-11-106, 25-11-123 AND 25-11-125,
2 MISSISSIPPI CODE OF 1972, TO REQUIRE COUNTIES TO PAY TO THE PUBLIC
3 EMPLOYEES' RETIREMENT SYSTEM THE REQUIRED EMPLOYER CONTRIBUTIONS
4 ON THE NET FEE INCOME OF EACH CONSTABLE HOLDING OFFICE IN THE
5 COUNTY; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 25-11-106, Mississippi Code of 1972, is
8 amended as follows:

9 25-11-106. (1) (a) Any constable in office as of July 1,
10 2005, whose position is covered in the Public Employees'
11 Retirement System by virtue of a plan submitted and approved under
12 Section 25-11-105(f) will remain a member of the Public Employees'
13 Retirement System.

14 (b) The county is responsible for employer
15 contributions on all direct payments to the constable from the
16 county and on the net fee income of the constable, and the
17 constable is responsible for the employee contributions on those
18 payments. * * * The county shall withhold from fee income due to
19 the constable a percentage amount, as set by the board, of the
20 gross fee income paid to the constable as estimated employee
21 contributions and shall remit that amount to the system. Not
22 later than the date on which the annual report of earnings is due
23 to be filed with the Secretary of State, the constable shall
24 submit to the system a copy of the earnings record and make
25 complete payment of required employee contributions on net
26 earnings from his office * * *. If the constable fails to make
27 full payment at the time required, the system shall certify the
28 delinquency to the county and the county shall withhold any and



29 all payments and fees due to the constable until such time as his
30 employee contributions are fully reported and made.

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

35 (a) Make the required payments or enter into an
36 irrevocable agreement by not later than December 31, 2005, to make
37 the payments for all calendar years before January 1, 2006.
38 Contributions and interest due and owing for covered services
39 before January 1, 2006, must be received by the system not later
40 than April 15, 2007, or such date as set forth in the payment
41 schedule mutually adopted by the member and the system.

42 (b) Elect, before December 31, 2005, not to pay
43 delinquent employee and employer contributions and applicable
44 interest for service as a constable before January 1, 2006. By
45 making this election, the current or former constable shall
46 irrevocably forfeit that service credit so as to be relieved of
47 the liability for additional employer and employee contributions
48 and applicable interest.

49 (3) Where a current or former constable fails to make
50 required contributions as provided in subsection (2)(a) of this
51 section, or where a current or former constable irrevocably elects
52 to forfeit service credit as provided in subsection (2)(b) of this
53 section, all employer and employee contributions previously paid
54 on that service shall be credited to the county as the reporting
55 entity to be distributed as appropriate between the county and the
56 constable or former constable. No further contributions shall be
57 due on that past service and any credit on that past service shall
58 be removed from the member's record and may not be reinstated at
59 any time in the future.

60 **SECTION 2.** Section 25-11-123, Mississippi Code of 1972, is
61 amended as follows:



62 25-11-123. All of the assets of the system shall be credited
63 according to the purpose for which they are held to one (1) of
64 four (4) reserves; namely, the annuity savings account, the
65 annuity reserve, the employer's accumulation account, and the
66 expense account.

67 (a) **Annuity savings account.** In the annuity savings account
68 shall be accumulated the contributions made by members to provide
69 for their annuities, including interest thereon, which shall be
70 posted monthly. Credits to and charges against the annuity
71 savings account shall be made as follows:

72 (1) Beginning July 1, 1991, the employer shall cause to
73 be deducted from the salary of each member on each and every
74 payroll of the employer for each and every payroll period seven
75 and one-fourth percent (7-1/4%) of earned compensation as defined
76 in Section 25-11-103. Future contributions shall be fixed
77 biennially by the board on the basis of the liabilities of the
78 retirement system for the various allowances and benefits as shown
79 by actuarial valuation; however, any member earning at a rate less
80 than Sixteen Dollars and Sixty-seven Cents (\$16.67) per month, or
81 Two Hundred Dollars (\$200.00) per year, shall contribute not less
82 than One Dollar (\$1.00) per month, or Twelve Dollars (\$12.00) per
83 year.

84 (2) The deductions provided in paragraph (1) shall be
85 made notwithstanding that the minimum compensation provided by law
86 for any member is reduced by the deductions. Every member shall
87 be deemed to consent and agree to the deductions made and provided
88 for in paragraph (1) and shall receipt for his full salary or
89 compensation, and payment of salary or compensation less the
90 deduction shall be a full and complete discharge and acquittance
91 of all claims and demands whatsoever for the services rendered by
92 the person during the period covered by the payment, except as to
93 the benefits provided under Articles 1 and 3. The board shall
94 provide by rules for the methods of collection of contributions



95 from members and the employer. The board shall have full
96 authority to require the production of evidence necessary to
97 verify the correctness of amounts contributed.

98 (b) **Annuity reserve.** The annuity reserve shall be the
99 account representing the actuarial value of all annuities in
100 force, and to it shall be charged all annuities and all benefits
101 in lieu of annuities, payable as provided in this article. If a
102 beneficiary retired on account of disability is restored to active
103 service with a compensation not less than his average final
104 compensation at the time of his last retirement, the remainder of
105 his contributions shall be transferred from the annuity reserve to
106 the annuity savings account and credited to his individual account
107 therein, and the balance of his annuity reserve shall be
108 transferred to the employer's accumulation account.

109 (c) **Employer's accumulation account.** The employer's
110 accumulation account shall represent the accumulation of all
111 reserves for the payment of all retirement allowances and other
112 benefits payable from contributions made by the employer, and
113 against this account shall be charged all retirement allowances
114 and other benefits on account of members. Credits to and charges
115 against the employer's accumulation account shall be made as
116 follows:

117 (1) On account of each member there shall be paid
118 monthly into the employer's accumulation account by the employers
119 for the preceding fiscal year an amount equal to a certain
120 percentage of the total earned compensation, as defined in Section
121 25-11-103, of each member. The percentage rate of those
122 contributions shall be fixed biennially by the board on the basis
123 of the liabilities of the retirement system for the various
124 allowances and benefits as shown by actuarial valuation.
125 Beginning January 1, 1990, the rate shall be fixed at nine and
126 three-fourths percent (9-3/4%). The board shall reduce the
127 employer's contribution rate by one percent (1%) from and after



128 July 1 of the year following the year in which the board
129 determines and the board's actuary certifies that the employer's
130 contribution rate can be reduced by that amount without causing
131 the unfunded accrued actuarial liability amortization period for
132 the retirement system to exceed twenty (20) years. Political
133 subdivisions joining Article 3 of the Public Employees' Retirement
134 System after July 1, 1968, may adjust the employer's contributions
135 by agreement with the Board of Trustees of the Public Employees'
136 Retirement System to provide service credits for any period before
137 execution of the agreement based upon an actuarial determination
138 of employer's contribution rates.

139 (2) On the basis of regular interest and of such
140 mortality and other tables as are adopted by the board of
141 trustees, the actuary engaged by the board to make each valuation
142 required by this article during the period over which the accrued
143 liability contribution is payable, immediately after making that
144 valuation, shall determine the uniform and constant percentage of
145 the earnable compensation of each member which, if contributed by
146 the employer on the basis of compensation of the member throughout
147 his entire period of membership service, would be sufficient to
148 provide for the payment of any retirement allowance payable on his
149 account for that service. The percentage rate so determined shall
150 be known as the "normal contribution rate." After the accrued
151 liability contribution has ceased to be payable, the normal
152 contribution rate shall be the percentage rate of the salary of
153 all members obtained by deducting from the total liabilities on
154 account of membership service the amount in the employer's
155 accumulation account, and dividing the remainder by one percent
156 (1%) of the present value of the prospective future salaries of
157 all members as computed on the basis of the mortality and service
158 tables adopted by the board of trustees and regular interest. The
159 normal rate of contributions shall be determined by the actuary
160 after each valuation.



161 (3) The total amount payable in each year to the
162 employer's accumulation account shall not be less than the sum of
163 the percentage rate known as the "normal contribution rate" and
164 the "accrued liability contribution rate" of the total
165 compensation earnable by all members during the preceding year,
166 provided that the payment by the employer shall be sufficient,
167 when combined with the amounts in the account, to provide the
168 allowances and other benefits chargeable to this account during
169 the year then current.

170 (4) The accrued liability contribution shall be
171 discontinued as soon as the accumulated balance in the employer's
172 accumulation account shall equal the present value, computed on
173 the basis of the normal contribution rate then in force, or the
174 prospective normal contributions to be received on account of all
175 persons who are at that time members.

176 (5) All allowances and benefits in lieu thereof, with
177 the exception of those payable on account of members who receive
178 no prior service credit, payable from contributions of the
179 employer, shall be paid from the employer's accumulation account.

180 (6) Upon the retirement of a member, an amount equal to
181 his retirement allowance shall be transferred from the employer's
182 accumulation account to the annuity reserve.

183 (d) **Expense account.** The expense account shall be the
184 account to which the expenses of the administration of the system
185 shall be charged, exclusive of amounts payable as retirement
186 allowances and as other benefits provided in this article. The
187 Legislature shall make annual appropriations in amounts sufficient
188 to administer the system, which shall be credited to this account.
189 There shall be transferred to the State Treasury from this
190 account, not less than once per month, an amount sufficient for
191 payment of the estimated expenses of the system for the succeeding
192 thirty (30) days. Any interest earned on the expense account
193 shall accrue to the benefit of the system. However,



194 notwithstanding the provisions of Sections 25-11-15(10) and
195 25-11-105(f)(5)E, all expenses of the administration of the system
196 shall be paid from the interest earnings, provided the interest
197 earnings are in excess of the actuarial interest assumption as
198 determined by the board, and provided the present cost of the
199 administrative expense fee of two percent (2%) of the
200 contributions reported by the political subdivisions and
201 instrumentalities shall be reduced to one percent (1%) from and
202 after July 1, 1983, through June 30, 1984, and shall be eliminated
203 thereafter.

204 (e) **Collection of contributions.** The employer shall cause
205 to be deducted on each and every payroll of a member for each and
206 every payroll period, beginning subsequent to January 31, 1953,
207 the contributions payable by the member as provided in Articles 1
208 and 3.

209 The employer shall make deductions from salaries of employees
210 as provided in Articles 1 and 3 and shall transmit monthly, or at
211 such time as the board of trustees designates, the amount
212 specified to be deducted to the Executive Director of the Public
213 Employees' Retirement System. The executive director, after
214 making a record of all those receipts, shall deposit such amounts
215 as provided by law.

216 (f) (1) Upon the basis of each actuarial valuation provided
217 herein, the board of trustees shall biennially determine the
218 normal contribution rate and the accrued liability contribution
219 rate as provided in this section. The sum of these two (2) rates
220 shall be known as the "employer's contribution rate." Beginning
221 on earned compensation effective January 1, 1990, the rate
222 computed as provided in this section shall be nine and
223 three-fourths percent (9-3/4%). The board shall reduce the
224 employer's contribution rate by one percent (1%) from and after
225 July 1 of the year following the year in which the board
226 determines and the board's actuary certifies that the employer's



227 contribution rate can be reduced by that amount without causing
228 the unfunded accrued actuarial liability amortization period for
229 the retirement system to exceed twenty (20) years. The percentage
230 rate of those contributions shall be fixed biennially by the board
231 on the basis of the liabilities of the retirement system for the
232 various allowances and benefits as shown by actuarial
233 valuation.

234 (2) The amount payable by the employer on account of
235 normal and accrued liability contributions shall be determined by
236 applying the employer's contribution rate to the amount of
237 compensation earned by employees who are members of the system.
238 Monthly, or at such time as the board of trustees designates, each
239 department or agency shall compute the amount of the employer's
240 contribution payable, with respect to the salaries of its
241 employees who are members of the system, and shall cause that
242 amount to be paid to the board of trustees from the personal
243 service allotment of the amount appropriated for the operation of
244 the department or agency, or from funds otherwise available to the
245 agency, for the payment of salaries to its employees.

246 (3) Constables shall pay * * * employee contributions
247 on their net fee income and on all direct treasury or county
248 payroll income. The county shall be responsible for the employer
249 contributions on the net fee income and all direct treasury or
250 county payroll income of constables.

251 (4) Chancery and circuit clerks shall be responsible
252 for both the employer and employee share of contributions on the
253 proportionate share of net income attributable to fees, as well as
254 the employee share of net income attributable to direct treasury
255 or county payroll income, and the employing county shall be
256 responsible for the employer contributions on the net income
257 attributable to direct treasury or county payroll income.

258 (5) Once each year, under procedures established by the
259 system, each employer shall submit to the Public Employees'



260 Retirement System a copy of their report to Social Security of all
261 employees' earnings.

262 (6) The board shall provide by rules for the methods of
263 collection of contributions of employers and members. The amounts
264 determined due by an agency to the various funds as specified in
265 Articles 1 and 3 are made obligations of the agency to the board
266 and shall be paid as provided in this section. Failure to deduct
267 those contributions shall not relieve the employee and employer
268 from liability for the contributions. Delinquent employee
269 contributions and any accrued interest shall be the obligation of
270 the employee and delinquent employer contributions and any accrued
271 interest shall be the obligation of the employer. The employer
272 may, in its discretion, elect to pay any or all of the interest on
273 delinquent employee contributions. From and after July 1, 1996,
274 under rules and regulations established by the board, all
275 employers are authorized and shall transfer all funds due to the
276 Public Employees' Retirement System electronically and shall
277 transmit any wage or other reports by computerized reporting
278 systems.

279 **SECTION 3.** Section 25-11-125, Mississippi Code of 1972, is
280 amended as follows:

281 25-11-125. (1) The board of supervisors may appropriate and
282 include in its budget for public purposes a sufficient sum to pay
283 the required employer contribution to the Public Employees'
284 Retirement System for all fee paid elected officials in judicial
285 capacities of the county and supervisors districts, and those
286 contributions shall be included by the clerk of the board in his
287 regular reports and remittals to the Executive Director of the
288 Public Employees' Retirement System for other county officers and
289 regular county employees whose employer contributions are not
290 included in and paid from the annual county budget.

291 (2) The board of supervisors of each county shall
292 appropriate and include in its budget a sufficient sum to pay to



293 the Public Employees' Retirement System for each constable holding
294 office in that county the required employer contributions on the
295 net fee income and all direct payments to the constable from the
296 county, and those contributions shall be handled by the clerk of
297 the board in the manner required by subsection (1) of this
298 section.

299 **SECTION 4.** This act shall take effect and be in force from
300 and after October 1, 2007.

