

By: Representative Robinson (63rd)

To: Appropriations

## HOUSE BILL NO. 1412

1 AN ACT TO AMEND SECTION 25-11-125, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE THE BOARD OF SUPERVISORS OF CERTAIN COUNTIES TO PAY  
3 THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM FOR A PERCENTAGE OF THE  
4 EMPLOYER CONTRIBUTIONS ON THE NET FEE INCOME OF EACH CONSTABLE  
5 HOLDING OFFICE IN THAT COUNTY, THE PERCENTAGE RATE TO BE  
6 DETERMINED BY THE BOARD OF SUPERVISORS; TO AMEND SECTION 25-11-106  
7 AND 25-11-123, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE  
8 PRECEDING SECTION; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 25-11-125, Mississippi Code of 1972, is  
11 amended as follows:

12 25-11-125. (1) The board of supervisors may appropriate and  
13 include in its budget for public purposes a sufficient sum to pay  
14 the required employer contribution to the Public Employees'  
15 Retirement System for all fee paid elected officials in judicial  
16 capacities of the county and supervisors' districts, and those  
17 contributions shall be included by the clerk of the board in his  
18 regular reports and remittals to the Executive Director of the  
19 Public Employees' Retirement System for other county officers and  
20 regular county employees whose employer contributions are not  
21 included in and paid from the annual county budget.

22 (2) The board of supervisors of any county having a  
23 population of not less than two hundred thousand (200,000) in the  
24 most recent federal decennial census may appropriate and include  
25 in its budget a sufficient sum to pay the Public Employees'  
26 Retirement System for a percentage of the employer contributions  
27 on the net fee income of each constable holding office in that  
28 county, the percentage rate to be determined by the board of  
29 supervisors. Those contributions shall be handled by the clerk of

30 the board in the manner required by subsection (1) of this  
31 section.

32 **SECTION 2.** Section 25-11-106, Mississippi Code of 1972, is  
33 amended as follows:

34 25-11-106. (1) (a) Any constable in office as of July 1,  
35 2005, whose position is covered in the Public Employees'  
36 Retirement System by virtue of a plan submitted and approved under  
37 Section 25-11-105(f) will remain a member of the Public Employees'  
38 Retirement System.

39 (b) The county is responsible for employer  
40 contributions on all direct payments to the constable from the  
41 county and for the percentage of the employer contributions on the  
42 net fee income of the constable as determined under Section  
43 25-11-125(2), and the constable is responsible for the employee  
44 contributions on those payments. \* \* \* In cases in which the  
45 constable is responsible for both the \* \* \* employee contributions  
46 and all or a portion of the employer contributions on net fee  
47 income, the county shall withhold from fee income due to the  
48 constable a percentage amount, as set by the board, of the gross  
49 fee income paid to the constable as estimated retirement  
50 contributions and shall remit that amount to the system. Not  
51 later than the date on which the annual report of earnings is due  
52 to be filed with the Secretary of State, the constable shall  
53 submit to the system a copy of the earnings record and make  
54 complete payment of required contributions on net earnings from  
55 his office \* \* \*. If the constable fails to make full payment at  
56 the time required, the system shall certify the delinquency to the  
57 county and the county shall withhold any and all payments and fees  
58 due to the constable until such time as his retirement  
59 contributions are fully reported and made.

60 (2) Any current or former constable for whom appropriate  
61 employer and employee contributions and interest on all fees and

62 county income from covered service before January 1, 2006, have  
63 not been made shall do one (1) of the following:

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

71 (b) Elect, before December 31, 2005, not to pay  
72 delinquent employee and employer contributions and applicable  
73 interest for service as a constable before January 1, 2006. By  
74 making this election, the current or former constable shall  
75 irrevocably forfeit that service credit so as to be relieved of  
76 the liability for additional employer and employee contributions  
77 and applicable interest.

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

89 **SECTION 3.** Section 25-11-123, Mississippi Code of 1972, is  
90 amended as follows:

91 25-11-123. All of the assets of the system shall be credited  
92 according to the purpose for which they are held to one (1) of  
93 four (4) reserves; namely, the annuity savings account, the

94 annuity reserve, the employer's accumulation account, and the  
95 expense account.

96 (a) **Annuity savings account.** In the annuity savings account  
97 shall be accumulated the contributions made by members to provide  
98 for their annuities, including interest thereon which shall be  
99 posted monthly. Credits to and charges against the annuity  
100 savings account shall be made as follows:

101 (1) Beginning July 1, 1991, the employer shall cause to  
102 be deducted from the salary of each member on each and every  
103 payroll of the employer for each and every payroll period seven  
104 and one-fourth percent (7-1/4%) of earned compensation as defined  
105 in Section 25-11-103. Future contributions shall be fixed  
106 biennially by the board on the basis of the liabilities of the  
107 retirement system for the various allowances and benefits as shown  
108 by actuarial valuation; however, any member earning at a rate less  
109 than Sixteen Dollars and Sixty-seven Cents (\$16.67) per month, or  
110 Two Hundred Dollars (\$200.00) per year, shall contribute not less  
111 than One Dollar (\$1.00) per month, or Twelve Dollars (\$12.00) per  
112 year.

113 (2) The deductions provided in paragraph (1) shall be  
114 made notwithstanding that the minimum compensation provided by law  
115 for any member is reduced by the deductions. Every member shall  
116 be deemed to consent and agree to the deductions made and provided  
117 for in paragraph (1) and shall receipt for his full salary or  
118 compensation, and payment of salary or compensation less the  
119 deduction shall be a full and complete discharge and acquittance  
120 of all claims and demands whatsoever for the services rendered by  
121 the person during the period covered by the payment, except as to  
122 the benefits provided under Articles 1 and 3. The board shall  
123 provide by rules for the methods of collection of contributions  
124 from members and the employer. The board shall have full  
125 authority to require the production of evidence necessary to  
126 verify the correctness of amounts contributed.

127           (b) **Annuity reserve.** The annuity reserve shall be the  
128 account representing the actuarial value of all annuities in  
129 force, and to it shall be charged all annuities and all benefits  
130 in lieu of annuities, payable as provided in this article. If a  
131 beneficiary retired on account of disability is restored to active  
132 service with a compensation not less than his average final  
133 compensation at the time of his last retirement, the remainder of  
134 his contributions shall be transferred from the annuity reserve to  
135 the annuity savings account and credited to his individual account  
136 therein, and the balance of his annuity reserve shall be  
137 transferred to the employer's accumulation account.

138           (c) **Employer's accumulation account.** The employer's  
139 accumulation account shall represent the accumulation of all  
140 reserves for the payment of all retirement allowances and other  
141 benefits payable from contributions made by the employer, and  
142 against this account shall be charged all retirement allowances  
143 and other benefits on account of members. Credits to and charges  
144 against the employer's accumulation account shall be made as  
145 follows:

146           (1) On account of each member there shall be paid  
147 monthly into the employer's accumulation account by the employers  
148 for the preceding fiscal year an amount equal to a certain  
149 percentage of the total earned compensation, as defined in Section  
150 25-11-103, of each member. The percentage rate of those  
151 contributions shall be fixed biennially by the board on the basis  
152 of the liabilities of the retirement system for the various  
153 allowances and benefits as shown by actuarial valuation.  
154 Beginning January 1, 1990, the rate shall be fixed at nine and  
155 three-fourths percent (9-3/4%). The board shall reduce the  
156 employer's contribution rate by one percent (1%) from and after  
157 July 1 of the year following the year in which the board  
158 determines and the board's actuary certifies that the employer's  
159 contribution rate can be reduced by that amount without causing

160 the unfunded accrued actuarial liability amortization period for  
161 the retirement system to exceed twenty (20) years. Political  
162 subdivisions joining Article 3 of the Public Employees' Retirement  
163 System after July 1, 1968, may adjust the employer's contributions  
164 by agreement with the Board of Trustees of the Public Employees'  
165 Retirement System to provide service credits for any period before  
166 execution of the agreement based upon an actuarial determination  
167 of employer's contribution rates.

168           (2) On the basis of regular interest and of such  
169 mortality and other tables as are adopted by the board of  
170 trustees, the actuary engaged by the board to make each valuation  
171 required by this article during the period over which the accrued  
172 liability contribution is payable, immediately after making that  
173 valuation, shall determine the uniform and constant percentage of  
174 the earnable compensation of each member which, if contributed by  
175 the employer on the basis of compensation of the member throughout  
176 his entire period of membership service, would be sufficient to  
177 provide for the payment of any retirement allowance payable on his  
178 account for that service. The percentage rate so determined shall  
179 be known as the "normal contribution rate." After the accrued  
180 liability contribution has ceased to be payable, the normal  
181 contribution rate shall be the percentage rate of the salary of  
182 all members obtained by deducting from the total liabilities on  
183 account of membership service the amount in the employer's  
184 accumulation account, and dividing the remainder by one percent  
185 (1%) of the present value of the prospective future salaries of  
186 all members as computed on the basis of the mortality and service  
187 tables adopted by the board of trustees and regular interest. The  
188 normal rate of contributions shall be determined by the actuary  
189 after each valuation.

190           (3) The total amount payable in each year to the  
191 employer's accumulation account shall not be less than the sum of  
192 the percentage rate known as the "normal contribution rate" and

193 the "accrued liability contribution rate" of the total  
194 compensation earnable by all members during the preceding year,  
195 provided that the payment by the employer shall be sufficient,  
196 when combined with the amounts in the account, to provide the  
197 allowances and other benefits chargeable to this account during  
198 the year then current.

199 (4) The accrued liability contribution shall be  
200 discontinued as soon as the accumulated balance in the employer's  
201 accumulation account shall equal the present value, computed on  
202 the basis of the normal contribution rate then in force, or the  
203 prospective normal contributions to be received on account of all  
204 persons who are at that time members.

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

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

212 (d) **Expense account.** The expense account shall be the  
213 account to which the expenses of the administration of the system  
214 shall be charged, exclusive of amounts payable as retirement  
215 allowances and as other benefits provided in this article. The  
216 Legislature shall make annual appropriations in amounts sufficient  
217 to administer the system, which shall be credited to this account.  
218 There shall be transferred to the State Treasury from this  
219 account, not less than once per month, an amount sufficient for  
220 payment of the estimated expenses of the system for the succeeding  
221 thirty (30) days. Any interest earned on the expense account  
222 shall accrue to the benefit of the system. However,  
223 notwithstanding the provisions of Sections 25-11-15(10) and  
224 25-11-105(f)(5)E, all expenses of the administration of the system  
225 shall be paid from the interest earnings, provided the interest

226 earnings are in excess of the actuarial interest assumption as  
227 determined by the board, and provided the present cost of the  
228 administrative expense fee of two percent (2%) of the  
229 contributions reported by the political subdivisions and  
230 instrumentalities shall be reduced to one percent (1%) from and  
231 after July 1, 1983, through June 30, 1984, and shall be eliminated  
232 thereafter.

233 (e) **Collection of contributions.** The employer shall cause  
234 to be deducted on each and every payroll of a member for each and  
235 every payroll period, beginning subsequent to January 31, 1953,  
236 the contributions payable by the member as provided in Articles 1  
237 and 3.

238 The employer shall make deductions from salaries of employees  
239 as provided in Articles 1 and 3 and shall transmit monthly, or at  
240 such time as the board of trustees designates, the amount  
241 specified to be deducted to the Executive Director of the Public  
242 Employees' Retirement System. The executive director, after  
243 making a record of all those receipts, shall deposit such amounts  
244 as provided by law.

245 (f) (1) Upon the basis of each actuarial valuation provided  
246 herein, the board of trustees shall biennially determine the  
247 normal contribution rate and the accrued liability contribution  
248 rate as provided in this section. The sum of these two (2) rates  
249 shall be known as the "employer's contribution rate." Beginning  
250 on earned compensation effective January 1, 1990, the rate  
251 computed as provided in this section shall be nine and  
252 three-fourths percent (9-3/4%). The board shall reduce the  
253 employer's contribution rate by one percent (1%) from and after  
254 July 1 of the year following the year in which the board  
255 determines and the board's actuary certifies that the employer's  
256 contribution rate can be reduced by that amount without causing  
257 the unfunded accrued actuarial liability amortization period for  
258 the retirement system to exceed twenty (20) years. The percentage



259 rate of those contributions shall be fixed biennially by the board  
260 on the basis of the liabilities of the retirement system for the  
261 various allowances and benefits as shown by actuarial  
262 valuation.

263 (2) The amount payable by the employer on account of  
264 normal and accrued liability contributions shall be determined by  
265 applying the employer's contribution rate to the amount of  
266 compensation earned by employees who are members of the system.  
267 Monthly, or at such time as the board of trustees designates, each  
268 department or agency shall compute the amount of the employer's  
269 contribution payable, with respect to the salaries of its  
270 employees who are members of the system, and shall cause that  
271 amount to be paid to the board of trustees from the personal  
272 service allotment of the amount appropriated for the operation of  
273 the department or agency, or from funds otherwise available to the  
274 agency, for the payment of salaries to its employees.

275 (3) Except as provided in the next sentence, constables  
276 shall pay employer and employee contributions on their net fee  
277 income as well as the employee contributions on all direct  
278 treasury or county payroll income. The county shall be  
279 responsible for the employer contributions on all direct treasury  
280 or county payroll income of constables and for the percentage of  
281 the employer contributions on the net fee income of the constable  
282 as determined under Section 25-11-125(2).

283 (4) Chancery and circuit clerks shall be responsible  
284 for both the employer and employee share of contributions on the  
285 proportionate share of net income attributable to fees, as well as  
286 the employee share of net income attributable to direct treasury  
287 or county payroll income, and the employing county shall be  
288 responsible for the employer contributions on the net income  
289 attributable to direct treasury or county payroll income.

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

292 Retirement System a copy of their report to Social Security of all  
293 employees' earnings.

294           (6) The board shall provide by rules for the methods of  
295 collection of contributions of employers and members. The amounts  
296 determined due by an agency to the various funds as specified in  
297 Articles 1 and 3 are made obligations of the agency to the board  
298 and shall be paid as provided in this section. Failure to deduct  
299 those contributions shall not relieve the employee and employer  
300 from liability for the contributions. Delinquent employee  
301 contributions and any accrued interest shall be the obligation of  
302 the employee and delinquent employer contributions and any accrued  
303 interest shall be the obligation of the employer. The employer  
304 may, in its discretion, elect to pay any or all of the interest on  
305 delinquent employee contributions. From and after July 1, 1996,  
306 under rules and regulations established by the board, all  
307 employers are authorized and shall transfer all funds due to the  
308 Public Employees' Retirement System electronically and shall  
309 transmit any wage or other reports by computerized reporting  
310 systems.

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