

By: Senator(s) Seymour

To: Finance

SENATE BILL NO. 2898

1 AN ACT TO REQUIRE THE STATE OF MISSISSIPPI AND ITS
 2 DEPARTMENTS, AGENCIES AND SUBDIVISIONS TO PAY TO THE BOARD OF
 3 TRUSTEES OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM THE FULL
 4 AMOUNT OF THE EMPLOYER'S CONTRIBUTION ON THE AMOUNT OF
 5 COMPENSATION RECEIVED BY ANY PART-TIME EMPLOYEE, CONTRACT WORKER,
 6 CONTRACTUAL EMPLOYEE OR INDEPENDENT CONTRACTOR FOR SERVICES
 7 PERFORMED; TO AMEND SECTION 25-11-127, MISSISSIPPI CODE OF 1972,
 8 TO CONFORM; TO BRING FORWARD SECTIONS 25-11-123 AND 25-11-124,
 9 MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT;
 10 AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** (1) When the State of Mississippi or any of its
 13 departments, agencies or subdivisions pays for the services of a
 14 part-time employee, contract worker, contractual employee or
 15 independent contractor, the state or its department, agency or
 16 subdivision shall pay to the board the full amount of the
 17 employer's contribution on the amount of compensation received by
 18 the part-time employee, contract worker, contractual employee or
 19 independent contractor for his or her services in accordance with
 20 regulations prescribed by the board. The part-time employee,
 21 contract worker, contractual employee or independent contractor
 22 shall not become a member of the retirement system or receive any



23 creditable service in the retirement system as a result of the
24 payment of the employer's contribution.

25 (2) Except to the extent that the employer's contribution
26 required by this section would be duplicative of the employer's
27 contribution required by Section 25-11-127, this section shall
28 apply regardless of whether the part-time employee, contract
29 worker, contractual employee or independent contractor is a
30 retiree providing services while drawing a retirement allowance.

31 **SECTION 2.** Section 25-11-127, Mississippi Code of 1972, is
32 amended as follows:

33 25-11-127. (1) (a) No person who is being paid a
34 retirement allowance or a pension after retirement under this
35 article shall be employed or paid for any service by the State of
36 Mississippi, including services as an employee, contract worker,
37 contractual employee or independent contractor, until the retired
38 person has been retired for not less than ninety (90) consecutive
39 days from his or her effective date of retirement. After the
40 person has been retired for not less than ninety (90) consecutive
41 days from his or her effective date of retirement or such later
42 date as established by the board, he or she may be reemployed
43 while being paid a retirement allowance under the terms and
44 conditions provided in this section.

45 (b) No retiree of this retirement system who is
46 reemployed or is reelected to office after retirement shall



47 continue to draw retirement benefits while so reemployed, except
48 as provided in this section.

49 (c) No person employed or elected under the exceptions
50 provided for in this section shall become a member under Article 3
51 of the retirement system.

52 (2) Any person who has been retired under the provisions of
53 Article 3 and who is later reemployed in service covered by this
54 article shall cease to receive benefits under this article and
55 shall again become a contributing member of the retirement system.
56 When the person retires again, if the reemployment exceeds six (6)
57 months, the person shall have his or her benefit recomputed,
58 including service after again becoming a member, provided that the
59 total retirement allowance paid to the retired member in his or
60 her previous retirement shall be deducted from the member's
61 retirement reserve and taken into consideration in recalculating
62 the retirement allowance under a new option selected.

63 (3) The board shall have the right to prescribe rules and
64 regulations for carrying out the provisions of this section.

65 (4) The provisions of this section shall not be construed to
66 prohibit any retiree, regardless of age, from being employed and
67 drawing a retirement allowance either:

68 (a) For a period of time not to exceed one-half (1/2)
69 of the normal working days for the position in any fiscal year
70 during which the retiree will receive no more than one-half (1/2)



71 of the salary in effect for the position at the time of
72 employment, or

73 (b) For a period of time in any fiscal year sufficient
74 in length to permit a retiree to earn not in excess of twenty-five
75 percent (25%) of retiree's average compensation.

76 To determine the normal working days for a position under
77 paragraph (a) of this subsection, the employer shall determine the
78 required number of working days for the position on a full-time
79 basis and the equivalent number of hours representing the
80 full-time position. The retiree then may work up to one-half
81 (1/2) of the required number of working days or up to one-half
82 (1/2) of the equivalent number of hours and receive up to one-half
83 (1/2) of the salary for the position. In the case of employment
84 with multiple employers, the limitation shall equal one-half (1/2)
85 of the number of days or hours for a single full-time position.

86 Notice shall be given in writing to the executive director,
87 setting forth the facts upon which the employment is being made,
88 and the notice shall be given within five (5) days from the date
89 of employment and also from the date of termination of the
90 employment.

91 (5) Except as otherwise provided in subsection (6) of this
92 section, the employer of any person who is receiving a retirement
93 allowance and who is employed in service covered by subsection (4)
94 of this section as an employee or a contractual employee shall pay
95 to the board the full amount of the employer's contribution on the



96 amount of compensation received by the retiree for his or her
97 employment in accordance with regulations prescribed by the board.
98 The retiree shall not receive any additional creditable service in
99 the retirement system as a result of the payment of the employer's
100 contribution. * * *

101 (6) (a) A member may retire and continue in municipal or
102 county elective office provided that the member has reached the
103 age and/or service requirement that will not result in a
104 prohibited in-service distribution as defined by the Internal
105 Revenue Service, or a retiree may be elected to a municipal or
106 county office, provided that the person:

107 (i) Files annually, in writing, in the office of
108 the employer and the office of the executive director of the
109 system before the person takes office or as soon as possible after
110 retirement, a waiver of all salary or compensation and elects to
111 receive in lieu of that salary or compensation a retirement
112 allowance as provided in this section, in which event no salary or
113 compensation shall thereafter be due or payable for those
114 services; however, any such officer or employee may receive, in
115 addition to the retirement allowance, office expense allowance,
116 mileage or travel expense authorized by any statute of the State
117 of Mississippi; or

118 (ii) Elects to receive compensation for that
119 elective office in an amount not to exceed twenty-five percent
120 (25%) of the retiree's average compensation. In order to receive



121 compensation as allowed in this subparagraph, the retiree shall
122 file annually, in writing, in the office of the employer and the
123 office of the executive director of the system, an election to
124 receive, in addition to a retirement allowance, compensation as
125 allowed in this subparagraph.

126 (b) The municipality or county in which the retired
127 person holds elective office shall pay to the board the amount of
128 the employer's contributions on the full amount of the regular
129 compensation for the elective office that the retired person
130 holds.

131 (c) As used in this subsection, the term "compensation"
132 does not include office expense allowance, mileage or travel
133 expense authorized by a statute of the State of Mississippi.

134 **SECTION 3.** Section 25-11-123, Mississippi Code of 1972, is
135 brought forward as follows:

136 25-11-123. All of the assets of the system shall be credited
137 according to the purpose for which they are held to one (1) of
138 four (4) reserves; namely, the annuity savings account, the
139 annuity reserve, the employer's accumulation account, and the
140 expense account.

141 (a) **Annuity savings account.** In the annuity savings account
142 shall be accumulated the contributions made by members to provide
143 for their annuities, including interest thereon which shall be
144 posted monthly. Credits to and charges against the annuity
145 savings account shall be made as follows:



146 (1) Beginning July 1, 2010, the employer shall cause to
147 be deducted from the salary of each member on each and every
148 payroll of the employer for each and every payroll period nine
149 percent (9%) of earned compensation as defined in Section
150 25-11-103. Future contributions shall be fixed biennially by the
151 board on the basis of the liabilities of the retirement system for
152 the various allowances and benefits as shown by actuarial
153 valuation; however, any member earning at a rate less than Sixteen
154 Dollars and Sixty-seven Cents (\$16.67) per month, or Two Hundred
155 Dollars (\$200.00) per year, shall contribute not less than One
156 Dollar (\$1.00) per month, or Twelve Dollars (\$12.00) per year.

157 (2) The deductions provided in paragraph (1) of this
158 subsection shall be made notwithstanding that the minimum
159 compensation provided by law for any member is reduced by the
160 deduction. Every member shall be deemed to consent and agree to
161 the deductions made and provided for in paragraph (1) of this
162 subsection and shall receipt for his full salary or compensation,
163 and payment of salary or compensation less the deduction shall be
164 a full and complete discharge and acquittance of all claims and
165 demands whatsoever for the services rendered by the person during
166 the period covered by the payment, except as to the benefits
167 provided under Articles 1 and 3. The board shall provide by rules
168 for the methods of collection of contributions from members and
169 the employer. The board shall have full authority to require the



170 production of evidence necessary to verify the correctness of
171 amounts contributed.

172 (b) **Annuity reserve.** The annuity reserve shall be the
173 account representing the actuarial value of all annuities in
174 force, and to it shall be charged all annuities and all benefits
175 in lieu of annuities, payable as provided in this article. If a
176 beneficiary retired on account of disability is restored to active
177 service with a compensation not less than his average final
178 compensation at the time of his last retirement, the remainder of
179 his contributions shall be transferred from the annuity reserve to
180 the annuity savings account and credited to his individual account
181 therein, and the balance of his annuity reserve shall be
182 transferred to the employer's accumulation account.

183 (c) **Employer's accumulation account.** The employer's
184 accumulation account shall represent the accumulation of all
185 reserves for the payment of all retirement allowances and other
186 benefits payable from contributions made by the employer, and
187 against this account shall be charged all retirement allowances
188 and other benefits on account of members. Credits to and charges
189 against the employer's accumulation account shall be made as
190 follows:

191 (1) On account of each member there shall be paid
192 monthly into the employer's accumulation account by the employers
193 for the preceding fiscal year an amount equal to a certain
194 percentage of the total earned compensation, as defined in Section



195 25-11-103, of each member. The percentage rate of those
196 contributions shall be fixed biennially by the board on the basis
197 of the liabilities of the retirement system for the various
198 allowances and benefits as shown by actuarial valuation.
199 Beginning January 1, 1990, the rate shall be fixed at nine and
200 three-fourths percent (9-3/4%). The board shall reduce the
201 employer's contribution rate by one percent (1%) from and after
202 July 1 of the year following the year in which the board
203 determines and the board's actuary certifies that the employer's
204 contribution rate can be reduced by that amount without causing
205 the unfunded accrued actuarial liability amortization period for
206 the retirement system to exceed twenty (20) years. Political
207 subdivisions joining Article 3 of the Public Employees' Retirement
208 System after July 1, 1968, may adjust the employer's contributions
209 by agreement with the Board of Trustees of the Public Employees'
210 Retirement System to provide service credits for any period before
211 execution of the agreement based upon an actuarial determination
212 of employer's contribution rates.

213 (2) On the basis of regular interest and of such
214 mortality and other tables as are adopted by the board of
215 trustees, the actuary engaged by the board to make each valuation
216 required by this article during the period over which the accrued
217 liability contribution is payable, immediately after making that
218 valuation, shall determine the uniform and constant percentage of
219 the earnable compensation of each member which, if contributed by



220 the employer on the basis of compensation of the member throughout
221 his entire period of membership service, would be sufficient to
222 provide for the payment of any retirement allowance payable on his
223 account for that service. The percentage rate so determined shall
224 be known as the "normal contribution rate." After the accrued
225 liability contribution has ceased to be payable, the normal
226 contribution rate shall be the percentage rate of the salary of
227 all members obtained by deducting from the total liabilities on
228 account of membership service the amount in the employer's
229 accumulation account, and dividing the remainder by one percent
230 (1%) of the present value of the prospective future salaries of
231 all members as computed on the basis of the mortality and service
232 tables adopted by the board of trustees and regular interest. The
233 normal rate of contributions shall be determined by the actuary
234 after each valuation.

235 (3) The total amount payable in each year to the
236 employer's accumulation account shall not be less than the sum of
237 the percentage rate known as the "normal contribution rate" and
238 the "accrued liability contribution rate" of the total
239 compensation earnable by all members during the preceding year,
240 provided that the payment by the employer shall be sufficient,
241 when combined with the amounts in the account, to provide the
242 allowances and other benefits chargeable to this account during
243 the year then current.



244 (4) The accrued liability contribution shall be
245 discontinued as soon as the accumulated balance in the employer's
246 accumulation account shall equal the present value, computed on
247 the basis of the normal contribution rate then in force, or the
248 prospective normal contributions to be received on account of all
249 persons who are at that time members.

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

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

257 (7) The employer's accumulation account shall be
258 credited with any assets authorized by law to be credited to the
259 account.

260 (d) **Expense account.** The expense account shall be the
261 account to which the expenses of the administration of the system
262 shall be charged, exclusive of amounts payable as retirement
263 allowances and as other benefits provided herein. The Legislature
264 shall make annual appropriations in amounts sufficient to
265 administer the system, which shall be credited to this account.
266 There shall be transferred to the State Treasury from this
267 account, not less than once per month, an amount sufficient for
268 payment of the estimated expenses of the system for the succeeding



269 thirty (30) days. Any interest earned on the expense account
270 shall accrue to the benefit of the system. However,
271 notwithstanding the provisions of Sections 25-11-15(10) and
272 25-11-105(f) (v)5, all expenses of the administration of the system
273 shall be paid from the interest earnings, provided the interest
274 earnings are in excess of the actuarial interest assumption as
275 determined by the board, and provided the present cost of the
276 administrative expense fee of two percent (2%) of the
277 contributions reported by the political subdivisions and
278 instrumentalities shall be reduced to one percent (1%) from and
279 after July 1, 1983, through June 30, 1984, and shall be eliminated
280 thereafter.

281 (e) **Collection of contributions.** The employer shall cause
282 to be deducted on each and every payroll of a member for each and
283 every payroll period, beginning subsequent to January 31, 1953,
284 the contributions payable by the member as provided in Articles 1
285 and 3.

286 The employer shall make deductions from salaries of employees
287 as provided in Articles 1 and 3 and shall transmit monthly, or at
288 such time as the board of trustees designates, the amount
289 specified to be deducted to the Executive Director of the Public
290 Employees' Retirement System. The executive director, after
291 making a record of all those receipts, shall deposit such amounts
292 as provided by law.



293 (f) (1) Upon the basis of each actuarial valuation provided
294 herein, the board of trustees shall biennially determine the
295 normal contribution rate and the accrued liability contribution
296 rate as provided in this section. The sum of these two (2) rates
297 shall be known as the "employer's contribution rate." Beginning
298 on earned compensation effective January 1, 1990, the rate
299 computed as provided in this section shall be nine and
300 three-fourths percent (9-3/4%). The board shall reduce the
301 employer's contribution rate by one percent (1%) from and after
302 July 1 of the year following the year in which the board
303 determines and the board's actuary certifies that the employer's
304 contribution rate can be reduced by that amount without causing
305 the unfunded accrued actuarial liability amortization period for
306 the retirement system to exceed twenty (20) years. The percentage
307 rate of those contributions shall be fixed biennially by the board
308 on the basis of the liabilities of the retirement system for the
309 various allowances and benefits as shown by actuarial valuation.

310 (2) The amount payable by the employer on account of
311 normal and accrued liability contributions shall be determined by
312 applying the employer's contribution rate to the amount of
313 compensation earned by employees who are members of the system.
314 Monthly, or at such time as the board of trustees designates, each
315 department or agency shall compute the amount of the employer's
316 contribution payable, with respect to the salaries of its
317 employees who are members of the system, and shall cause that



318 amount to be paid to the board of trustees from the personal
319 service allotment of the amount appropriated for the operation of
320 the department or agency, or from funds otherwise available to the
321 agency, for the payment of salaries to its employees.

322 (3) Except as otherwise provided in Section 25-11-106:

323 (i) Constables shall pay employer and employee
324 contributions on their net fee income as well as the employee
325 contributions on all direct treasury or county payroll income.

326 (ii) The county shall be responsible for the
327 employer contribution on all direct treasury or county payroll
328 income of constables.

329 (4) Except as otherwise provided in Section
330 25-11-106.1, chancery and circuit clerks shall be responsible for
331 both the employer and employee share of contributions on the
332 proportionate share of net income attributable to fees, as well as
333 the employee share of net income attributable to direct treasury
334 or county payroll income, and the employing county shall be
335 responsible for the employer contributions on the net income
336 attributable to direct treasury or county payroll income.

337 (5) Once each year, under procedures established by the
338 system, each employer shall submit to the Public Employees'
339 Retirement System a copy of their report to Social Security of all
340 employees' earnings.

341 (6) The board shall provide by rules for the methods of
342 collection of contributions of employers and members. The amounts



343 determined due by an agency to the various funds as specified in
344 Articles 1 and 3 are made obligations of the agency to the board
345 and shall be paid as provided herein. Failure to deduct those
346 contributions shall not relieve the employee and employer from
347 liability thereof. Delinquent employee contributions and any
348 accrued interest shall be the obligation of the employee and
349 delinquent employer contributions and any accrued interest shall
350 be the obligation of the employer. The employer may, in its
351 discretion, elect to pay any or all of the interest on delinquent
352 employee contributions. From and after July 1, 1996, under rules
353 and regulations established by the board, all employers are
354 authorized and shall transfer all funds due to the Public
355 Employees' Retirement System electronically and shall transmit any
356 wage or other reports by computerized reporting systems.

357 **SECTION 4.** Section 25-11-124, Mississippi Code of 1972, is
358 brought forward as follows:

359 25-11-124. Each employer shall pick up the member
360 contributions required by Section 25-11-123, Mississippi Code of
361 1972, for all compensation earned after June 30, 1982, and the
362 contributions so picked up shall be treated as employer
363 contributions in determining tax treatment under the United States
364 Internal Revenue Code and the Mississippi Income Tax Code;
365 however, each employer shall continue to withhold federal and
366 state income taxes based upon such contributions until the
367 Internal Revenue Service or the federal courts rule that, pursuant



368 to Section 414(h) of the United States Internal Revenue Code,
369 these contributions shall not be included as gross income of the
370 member until such time as they are distributed or made available.
371 The employer shall pay these member contributions from the same
372 source of funds which is used in paying earnings to the member.
373 The employer may pick up these contributions by a reduction in the
374 cash salary of the member, or by an offset against a future salary
375 increase, or by a combination of a reduction in salary and offset
376 against a future salary increase. If member contributions are
377 picked up they shall be treated for all purposes of the Public
378 Employees' Retirement System in the same manner and to the same
379 extent as member contributions made prior to the date picked up.

380 **SECTION 5.** Section 1 of this act shall be codified in Title
381 25, Chapter 11, Article 3, Mississippi Code of 1972.

382 **SECTION 6.** This act shall take effect and be in force from
383 and after July 1, 2024.

