

By: Senator(s) Harkins

To: Finance

SENATE BILL NO. 2921

1 AN ACT TO AMEND SECTION 25-14-5, MISSISSIPPI CODE OF 1972, TO
 2 ALLOW THE MISSISSIPPI DEFERRED COMPENSATION PLAN AND TRUST TO
 3 OFFER ROTH ACCOUNTS AND OTHER AFTER-TAX CONTRIBUTION VEHICLES; TO
 4 PROVIDE THAT A PARTICIPANT'S ROTH OR OTHER ALLOWABLE AFTER-TAX
 5 CONTRIBUTION INTO A DEFERRED COMPENSATION ACCOUNT SHALL BE TREATED
 6 BY THE EMPLOYER AS INCLUDABLE IN THE PARTICIPANT'S INCOME AT THE
 7 TIME THE PARTICIPANT WOULD HAVE RECEIVED THAT AMOUNT IN
 8 COMPENSATION IF THE PARTICIPANT HAD NOT MADE A DEFERRED ELECTION;
 9 TO PROVIDE THAT THE MISSISSIPPI DEFERRED COMPENSATION PLAN AND
 10 TRUST SHALL COMPLY WITH ANY QUALIFIED DOMESTIC RELATIONS ORDER
 11 UNDER THE INTERNAL REVENUE CODE ESTABLISHING THE RIGHT OF AN
 12 ALTERNATE PAYEE TO ALL OR A PORTION OF A PARTICIPANT'S BENEFIT
 13 UNDER THE PLAN; TO AMEND SECTION 25-14-15, MISSISSIPPI CODE OF
 14 1972, TO CONFORM; AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** Section 25-14-5, Mississippi Code of 1972, is
 17 amended as follows:

18 25-14-5. (1) The State of Mississippi, or any state agency,
 19 county, municipality or other political subdivision may, by
 20 contract, agree with any employee to defer, in whole or in part,
 21 any portion of that employee's income, and a county, municipality
 22 or other political subdivision, except community and junior
 23 college districts, may make contributions to the plan on behalf of
 24 actively participating members on a uniform basis through an



25 employer contribution agreement as provided for in the Mississippi
26 Deferred Compensation Plan and Trust Plan Document if making the
27 contribution does not conflict with any other state law. Those
28 funds may subsequently be used to purchase a fixed or variable
29 life insurance or annuity contract authorized for purchase by the
30 Public Employees' Retirement System of Mississippi for the purpose
31 of protecting its obligation to the deferred compensation program
32 for the employee from any life underwriter duly licensed by this
33 state who represents an insurance company licensed to contract
34 fixed and variable annuities and fixed or variable life insurance
35 business in this state and authorized by the Public Employees'
36 Retirement System of Mississippi to offer their products in the
37 plan, or to purchase any investments authorized for purchase by
38 the Public Employees' Retirement System of Mississippi under
39 Section 25-11-121, or to invest those monies in a fund or funds
40 maintained by a corporate trustee, which fund or funds are used as
41 an investment media for retirement, pension or profit sharing
42 plans that are tax qualified for that purpose. However, in the
43 administration of this plan, the Public Employees' Retirement
44 System of Mississippi may adopt such regulations as are reasonable
45 and necessary to assure the orderly functioning of the plan, but
46 those regulations shall not unreasonably restrict all licensed
47 life underwriters and insurance companies described in this
48 section from concurrently participating in providing contracts
49 authorized under this section.



50 (2) Anything in any other law to the contrary
51 notwithstanding, except as provided in subsections (3) and (4) of
52 this section, the deferred portion of the employee's compensation,
53 the plan and the monies in the plan created by this chapter are
54 exempt from any state, county or municipal ad valorem taxes,
55 income taxes, premium taxes, privilege taxes, property taxes,
56 sales and use taxes and any other taxes not so named, until the
57 deferred compensation is paid to the employee or beneficiary and
58 exempt from levy, garnishment, attachment or any other process
59 whatsoever.

60 (3) The Mississippi Deferred Compensation Plan and Trust, or
61 any other deferred compensation plan established by this chapter,
62 may include Roth accounts pursuant to 26 USC Section 402A or any
63 other after-tax contribution vehicle allowed under the Internal
64 Revenue Code, if permitted by the plan document. A participant's
65 Roth or other allowable after-tax contribution into a deferred
66 compensation account shall be treated by the employer as
67 includable in the participant's income at the time the participant
68 would have received that amount in compensation if the participant
69 had not made a deferred election.

70 (4) The Mississippi Deferred Compensation Plan and Trust
71 shall comply with any judgment, decree or order establishing the
72 right of an alternate payee, as defined in 26 USC Section
73 414(p) (8), to all or a portion of a participant's benefit under
74 the plan to the extent that it is a qualified domestic relations



75 order under 26 USC Section 414(p). The administrator shall
76 establish reasonable written procedures to determine whether an
77 order is a qualified domestic relations order, and to administer
78 the distribution of benefits with respect to such an order, which
79 procedures may be amended from time to time. Notwithstanding any
80 other provisions in the plan, the plan may make an immediate
81 distribution to the alternate payee pursuant to a qualified
82 domestic relations order.

83 **SECTION 2.** Section 25-14-15, Mississippi Code of 1972, is
84 amended as follows:

85 25-14-15. Notwithstanding any other provision of this
86 chapter or any other provision of law to the contrary, except as
87 provided in Section 25-14-5(3), any sum deferred under the
88 deferred compensation program shall not be included for the
89 purposes of computation of any taxes withheld on behalf of any
90 employee.

91 **SECTION 3.** This act shall take effect and be in force from
92 and after July 1, 2024.

