

By: Senator(s) Sparks, Harkins, Blount

To: Rules

SENATE BILL NO. 2863

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 § 402A or any other
63 after-tax contribution vehicle allowed under the Internal Revenue
64 Code, if permitted by the plan document. A participant's Roth or
65 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 § 414(p)(8), to
73 all or a portion of a participant's benefit under the plan to the
74 extent that it is a qualified domestic relations order under 26



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

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

84 25-14-15. Notwithstanding any other provision of this
85 chapter or any other provision of law to the contrary, except as
86 provided in Section 25-14-5(3), any sum deferred under the
87 deferred compensation program shall not be included for the
88 purposes of computation of any taxes withheld on behalf of any
89 employee.

90 **SECTION 3.** This act shall take effect and be in force from
91 and after July 1, 2025.

