

By: Representative Moak

To: Appropriations

HOUSE BILL NO. 92

1 AN ACT TO AMEND SECTION 25-11-106, MISSISSIPPI CODE OF 1972,
2 TO ALLOW PERSONS WHO WERE HOLDING THE OFFICE OF CONSTABLE ON JULY
3 1, 2005, FOR WHOM APPROPRIATE EMPLOYER AND EMPLOYEE CONTRIBUTIONS
4 AND INTEREST ON ALL FEE AND COUNTY INCOME FROM COVERED SERVICE
5 HAVE NOT BEEN MADE TO THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM, TO
6 MAKE ALL OF THE REQUIRED PAYMENTS AT ANY TIME BEFORE THE PERSON
7 LEAVES THE OFFICE OF CONSTABLE, OR IRREVOCABLY ELECT NOT TO MAKE
8 THE REQUIRED PAYMENTS AND FORFEIT THE SERVICE CREDIT FOR THOSE
9 PAYMENTS; AND FOR RELATED PURPOSES.

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

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

13 25-11-106. (1) (a) Any constable in office as of July 1,
14 2005, whose position is covered in the Public Employees'
15 Retirement System by virtue of a plan submitted and approved under
16 Section 25-11-105(f) will remain a member of the Public Employees'
17 Retirement System.

18 (b) The county is responsible for employer
19 contributions on all direct payments to the constable from the
20 county and the constable is responsible for the employee
21 contributions on those payments. From and after January 1, 2006,
22 in cases in which the constable is responsible for both the
23 employer and employee contributions on net fee income, the county
24 shall withhold from fee income due to the constable a percentage
25 amount, as set by the board, of the gross fee income paid to the
26 constable as estimated retirement contributions and shall remit
27 that amount to the system. Not later than the date on which the
28 annual report of earnings is due to be filed with the Secretary of
29 State, the constable shall submit to the system a copy of the
30 earnings record and make complete payment of required

31 contributions on net earnings from his office, but not less than
32 the contributions due on the governmental treasuries paid by the
33 county in the prior calendar year. If the constable fails to make
34 full payment at the time required, the system shall certify the
35 delinquency to the county and the county shall withhold any and
36 all payments and fees due to the constable until such time as his
37 retirement contributions are fully reported and made.

38 (2) Any person who held the office of constable before July
39 1, 2005, but was not holding the office of constable on July 1,
40 2005, for whom appropriate employer and employee contributions and
41 interest on all fees and county income from covered service before
42 January 1, 2006, have not been made shall do one (1) of the
43 following:

44 (a) Make the required payments or enter into an
45 irrevocable agreement by not later than December 31, 2005, to make
46 the payments for all calendar years before January 1, 2006.
47 Contributions and interest due and owing for covered services
48 before January 1, 2006, must be received by the system not later
49 than April 15, 2006, or such date as set forth in the payment
50 schedule mutually adopted by the member and the system.

51 (b) Elect, before December 31, 2005, not to pay
52 delinquent employee and employer contributions and applicable
53 interest for service as a constable before January 1, 2006. By
54 making this election, the * * * former constable shall irrevocably
55 forfeit that service credit so as to be relieved of the liability
56 for additional employer and employee contributions and applicable
57 interest.

58 (3) Any person who was holding the office of constable on
59 July 1, 2005, for whom appropriate employer and employee
60 contributions and interest on all fees and county income from
61 covered service have not been made shall do one (1) of the
62 following:

63 (a) Make the required payments at any time before the
64 person leaves the office of constable, or enter into an
65 irrevocable agreement before the person leaves the office of
66 constable to make the required payments. Contributions and
67 interest due and owing for covered services before the date that
68 the person leaves the office of constable must be received by the
69 system not later than the date set forth in the payment schedule
70 mutually adopted by the member and the system, which shall not be
71 earlier than the date that the person leaves the office of
72 constable nor later than ninety (90) days after that date.

73 (b) Elect, before the person leaves the office of
74 constable, not to pay delinquent employee and employer
75 contributions and applicable interest for service as a constable
76 before the date that the person leaves the office of constable.
77 By making this election, the constable shall irrevocably forfeit
78 that service credit so as to be relieved of the liability for
79 additional employer and employee contributions and applicable
80 interest.

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

93 **SECTION 2.** This act shall take effect and be in force from
94 and after its passage.