

By: Representatives Huddleston (15th),
Frierson, Dixon

To: Appropriations

HOUSE BILL NO. 903

1 AN ACT TO AMEND SECTIONS 25-14-3, 25-14-5, 25-14-7, 25-14-9,
2 25-14-11, 25-14-13 AND 25-14-15, MISSISSIPPI CODE OF 1972, TO
3 DEFINE CERTAIN TERMS IN THE GOVERNMENT EMPLOYEES' DEFERRED
4 COMPENSATION PLAN LAW; TO CLARIFY INVESTMENT OPTIONS UNDER SUCH
5 LAW; TO CLARIFY THE ADMINISTRATION OF THE DEFERRED COMPENSATION
6 PLAN ADMINISTERED BY THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND
7 THE ADMINISTRATION OF OTHER DEFERRED COMPENSATION PLANS AUTHORIZED
8 UNDER SUCH LAW; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 25-14-3, Mississippi Code of 1972, is
11 amended as follows:

12 25-14-3. * * * As used in this chapter * * *:

13 (a) "Employee" means any person, whether appointed,
14 elected, or under contract, providing services for the State of
15 Mississippi, state agencies, counties, municipalities, or other
16 political subdivisions, for which compensation is paid.

17 (b) "Mississippi Government Employees' Deferred
18 Compensation Plan and Trust" means an eligible tax-deferred
19 compensation plan under Section 457 of the Internal Revenue Code,
20 26 USC Section 457, and applicable federal regulation administered
21 by the Public Employees' Retirement System of Mississippi.



22 (c) "Plan document" means the written instrument
23 setting out the terms and conditions related to the operation and
24 administration of a deferred compensation plan.

25 (d) "Plan sponsor" means the State of Mississippi when
26 referencing the Mississippi Government Employees' Deferred
27 Compensation Plan and Trust. Otherwise, it means any county,
28 municipality or other political subdivision of the state that
29 offers a deferred compensation plan under Section 457 of the
30 Internal Revenue Code, 26 USC Section 457, and applicable federal
31 regulations.

32 **SECTION 2.** Section 25-14-5, Mississippi Code of 1972, is
33 amended as follows:

34 25-14-5. (1) The Mississippi Government Employees' Deferred
35 Compensation Plan and Trust is established. The plan is an
36 eligible tax-deferred compensation plan under Section 457 of the
37 Internal Revenue Code, 26 USC Section 457, and applicable federal
38 regulations and shall be administered by the Public Employees'
39 Retirement System of Mississippi. Other plan sponsors may also
40 establish a plan that is an eligible tax-deferred compensation
41 plan under Section 457 of the Internal Revenue Code, 26 USC
42 Section 457, and applicable federal regulations. The plan shall
43 be administered pursuant to applicable law and the plan document.

44 (2) In the administration of a deferred compensation plan
45 established under this chapter, the Public Employees' Retirement
46 System of Mississippi or the plan sponsor of plans other than



47 Mississippi Government Employees' Deferred Compensation Plan and
48 Trust established by a county, municipality or other political
49 subdivision, may adopt a plan document and any other regulations
50 as are reasonable and necessary to assure the orderly functioning
51 of the plan. The State of Mississippi, or any state agency,
52 county, municipality or other political subdivision may, by
53 written contract, agree with any employee to defer, in whole or in
54 part, any portion of that employee's income, * * * up to the
55 limits established by the Internal Revenue Code, Title 26 USC
56 Section 457. A county, municipality or other political
57 subdivision, except community and junior college districts, may
58 make contributions to the plan on behalf of actively participating
59 members on a uniform basis through an employer contribution
60 agreement as provided for in the * * * deferred compensation
61 plan's plan document if making the contribution does not conflict
62 with any other state law. * * *

63 (3) Except as otherwise provided in subsection (4) of this
64 section and notwithstanding anything in any other law to the
65 contrary * * *, the deferred portion of the employee's
66 compensation, the plan and the monies in the plan created by this
67 chapter are exempt from any state, county or municipal ad valorem
68 taxes, income taxes, premium taxes, privilege taxes, property
69 taxes, sales and use taxes and any other taxes not so named, until
70 the deferred compensation is paid to the employee or beneficiary



71 and exempt from levy, garnishment, attachment or any other process
72 whatsoever.

73 (4) The Mississippi Government Employees' Deferred
74 Compensation Plan and Trust or any other deferred compensation
75 plan established by this chapter may include Roth accounts
76 pursuant to 26 USC Section 402A of the Internal Revenue Code or
77 any other post-tax vehicle contribution allowed pursuant to the
78 Internal Revenue Code if permitted under the plan document. A
79 participant's Roth or other allowable post-tax contribution into a
80 deferred compensation account shall be treated by the employer as
81 includable in the participant's income at the time the participant
82 would have received that amount in compensation if the participant
83 had not made a deferred election. A participant's Roth or other
84 allowable post-tax contribution into a deferred compensation
85 account and any associated earnings are exempt from levy,
86 garnishment, attachment or any other process whatsoever and may be
87 withdrawn tax-free if the requirements for a qualified
88 distribution under the Internal Revenue Code are met.

89 **SECTION 3.** Section 25-14-7, Mississippi Code of 1972, is
90 amended as follows:

91 25-14-7. (1) The administration of the Mississippi
92 Government Employees' Deferred Compensation * * * Plan and Trust
93 shall be under the direction of the Public Employees' Retirement
94 System of Mississippi * * * and shall be operated in accordance
95 with the * * * laws established by the Internal Revenue * * *



96 Code, 26 USC Section 457 and related federal laws, as reflected in
97 the plan document as may be modified from time to time by the
98 board of trustees. Payroll reductions shall be made, in each
99 instance, by the appropriate payroll officer. The * * * Public
100 Employees' Retirement System of Mississippi may contract with a
101 private corporation or institution for providing consolidated
102 billing and other administrative services if deemed * * *
103 appropriate.

104 The Board of Trustees of the Public Employees' Retirement
105 System of Mississippi may * * * authorize such charges and fees on
106 participants' contributions as may reasonably be necessary to
107 provide for the administrative expenses of operating the deferred
108 compensation * * * plan, including, but not limited to, the
109 services of auditors, legal advisors, consultants, money managers
110 and third-party administrators.

111 (2) The administration of deferred compensation plans
112 established by this chapter, other than Mississippi Government
113 Employees' Deferred Compensation Plan and Trust, shall be under
114 the direction of the plan sponsor. The deferred compensation plan
115 shall be operated in accordance with the applicable federal laws
116 as reflected in the plan document as may be modified from time to
117 time by the plan sponsor. Payroll reductions shall be made, in
118 each instance, by the appropriate payroll officer. The
119 administrator of a deferred compensation program may contract with
120 a private corporation or institution for providing consolidated



121 billing and other administrative services if deemed appropriate.
122 The plan sponsor may authorize such charges and fees on
123 participants' contributions as may reasonably be necessary to
124 provide for the administrative expenses of operating the deferred
125 compensation program, including, but not limited to, the service
126 of auditors, legal advisors, consultants, money managers and
127 third-party administrators.

128 **SECTION 4.** Section 25-14-9, Mississippi Code of 1972, is
129 amended as follows:

130 25-14-9. (1) Notwithstanding any other provision of law to
131 the contrary, the Public Employees' Retirement System of
132 Mississippi * * * as the administrator of the Mississippi
133 Government Employees' Deferred Compensation Plan and Trust is
134 authorized to contract with providers to offer investment options,
135 including, but not limited to, fixed and variable life insurance
136 or annuity contracts; * * * mutual funds, collective investment
137 trusts or common group trusts that provide for the pooling of
138 assets of employee benefits trusts, separate accounts or any other
139 investment vehicles, including funds exempt from registration as
140 securities that invest in any investments authorized for purchase
141 by the Public Employees' Retirement System of Mississippi under
142 Section 25-11-121 * * * or benefit responsive contracts issued by
143 insurance companies, banks or financial institutions. While any
144 portion of the program's assets are invested in a collective
145 investment trust or a common group trust, such trust shall



146 constitute a part of the program and the instruments creating the
147 trust shall constitute a part of the program documentation.

148 (2) Notwithstanding any other provision of law to the
149 contrary, the appropriate officer of a county, municipality, or
150 other political subdivision designated to administer a deferred
151 compensation program established by this chapter is authorized to
152 invest money held pursuant to a deferred compensation program in
153 fixed and variable life insurance or annuity contracts, or to
154 purchase any investments authorized for purchase by the Public
155 Employees' Retirement System of Mississippi under Section
156 25-11-121, or to invest such monies in a fund or funds maintained
157 by a corporate trustee, which fund or funds are used as an
158 investment media for retirement, pension or profit-sharing plans
159 that are tax qualified for such purpose.

160 **SECTION 5.** Section 25-14-11, Mississippi Code of 1972, is
161 amended as follows:

162 25-14-11. * * * A deferred compensation * * * plan
163 established by this chapter shall exist and serve in addition to
164 other retirement, pension, or benefit systems established by * * *
165 state agencies, counties, municipalities, or other political
166 subdivisions of the State of Mississippi. * * * A deferred
167 compensation program established by this chapter shall not
168 supersede, make inoperative, or reduce any benefits provided by
169 the Public Employees' Retirement System of Mississippi, * * * by
170 programs established under the general municipal employees'



171 retirement act, or by any other retirement, pension, or benefit
172 program established by law.

173 **SECTION 6.** Section 25-14-13, Mississippi Code of 1972, is
174 amended as follows:

175 25-14-13. Notwithstanding any other provision of law to the
176 contrary, any compensation deferred under this chapter shall be
177 considered part of an employee's compensation for purposes of any
178 other employee retirement, pension, or benefit * * * plan. No
179 deferral of income under the deferred compensation * * * plan
180 shall effect a reduction of any retirement, pension, or other
181 benefit * * * plan provided by law.

182 **SECTION 7.** Section 25-14-15, Mississippi Code of 1972, is
183 amended as follows:

184 25-14-15. Except as provided in Section 25-14-5(4) and
185 notwithstanding any other provision of this chapter or any other
186 provision of law to the contrary, any sum deferred under * * * a
187 deferred compensation * * * plan established by this chapter,
188 shall not be included for the purposes of computation of any taxes
189 withheld on behalf of any employee.

190 **SECTION 8.** This act shall take effect and be in force from
191 and after July 1, 2016.

