

Public Employees' Retirement System
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PERS

Quarterly Employer Update

Distribute to all Administrative, Payroll and Human Resource Personnel

December 5, 2008

PERS Employer Contribution Rate Will Increase to 12.00%

Due to unfavorable actuarial experience for FY 2008, the PERS Employer Contribution Rate will increase July 1 from 11.85% to 12.00%.

In 2005, Cavanaugh Macdonald Consulting, LLC, (CMC) recommended an employer contribution rate increase of 1.75%, taking the then 10.75% rate to 12.5%. In an effort to minimize the impact to employers, PERS, in conjunction with the leadership of the Senate and House, recommended a phased implementation of the increase in 0.55% increments over the subsequent four years with the understanding that increases would be reevaluated annually.

The employer rate increased as originally planned for the first two years; however, in conjunction with the FY 2006 actuarial report, the PERS Board of Trustees decided that the actuarial value of assets be "marked to market" to recognize all realized gains and losses that had occurred to date. This resulted in positive actuarial experience that set the Unfunded Accrued Liability (UAL) period at 29.3 years, just below the 30-year maximum period as prescribed by the Governmental Accounting Standards Board (GASB). Therefore, it was no longer necessary to continue to increase the employer contribution rate to meet the GASB requirement, so the Board, after consultation and in conjunction with advice from CMC, made the decision to maintain the employer contribution rate at 11.85% rate. This decision was made with the understanding that should the UAL period exceed 30 years in the future it would be necessary to increase the employer rate as had originally been recommended in 2005.

Unfortunately, due to unfavorable actuarial experience in FY 2008, the Board was compelled to increase the employer contribution rate. At the October Board meeting, CMC recommended the rate be increased by 0.15% to 12.0% to maintain the UAL at a period below 30 years. While the 12.0% employer contribution rate is less than the 12.5% recommended in 2005, employers should be aware that unless there is a significant market correction prior to June 30, 2009, contribution rates will be further impacted in future years.

Employer Contribution Rates

Fiscal Year Beginning	Percentage of Covered Payroll
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July 1, 2005	10.75%
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July 1, 2006	11.30%
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July 1, 2007	11.85%
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July 1, 2009	12.00%
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July 1, 2010	TBD
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Summaries of Recent Attorney General Opinions

March 14, 2008 (Greg Hardy)

The Pearl River Valley Water Supply District is a state agency (as noted in MCA Section 51-9-105) subject to the requirements of Section 11-46-1 et seq. and of Section 29-13-1 et seq. and is a body politic and corporate. It is not a political subdivision. As a state agency, it must comply with the Tort Claims Act.

March 14, 2008 (Charles Smith)

Counties and municipalities may adopt leave policies that authorize payment for leave upon termination or retirement. For purposes of determining unused leave for creditable service under PERS, such policies may not exceed the accrual rates and limitations provided in Section 25-3-91. Municipal governing authorities may also adopt leave policies that authorize payment for unused leave prior to termination or retirement, including payment at the end of a fiscal year. However, the policy may only apply prospectively and any such payments authorized thereby must be lawfully budgeted. Section 96 of the Mississippi Constitution of 1890 prohibits the retroactive application of such a policy. Thus, a municipality may pay municipal employees for accumulated leave at the end of a fiscal year, if the municipality has a previously adopted policy that authorized such payments and the payments have been lawfully budgeted.

March 28, 2008 (Albert G. Delgadillo)

The board of trustees of a community hospital may form a nonprofit corporate subsidiary to be wholly owned by the hospital for the purpose of operating medical clinics. The board may also provide public financial assistance and grants in the form of cash, loans, and/or in-kind support services to the nonprofit. The nonprofit would be subject to public records laws, but not open meetings or public purchasing laws.

Community hospitals may act as the sole member of a Mississippi nonprofit corporation organized to perform functions that the community hospital itself may perform.

The board of trustees of a community hospital may also form a nonprofit corporate subsidiary to be wholly owned by the community hospital for the purpose of holding the title to real estate for benefit of the community hospital. The board may merge the existing nonprofit subsidiary into the new nonprofit subsidiary in a statutory merger under Section 79-11-319. The new corporation will be a public entity performing governmental functions. Funds and property held by it will be public.

Employees of the new corporation will not be “state service” employees, based upon the definition of same in Section 25-11-103(z), for purposes of PERS. Likewise, the employees will not be part of “state service” or “nonstate service,” as defined in Section 25-9-107, and will not be county employees.

The hospital may make capital contributions to the nonprofit and advance funds to the nonprofit in the form of cash and/or real property, with said funds remaining public and subject to audit. The nonprofit subsidiary may negotiate and enter into loan transactions with commercial lenders, with such loans secured by deeds of trust on real property owned by the nonprofit and subject to the same restrictions that may be set by the board of supervisors on similar transactions undertaken by the hospital. The nonprofit would be subject to the public records laws, but not open meetings or public purchasing laws.

April 18, 2008 (Jessie J. Edwards)

A mayor may expressly approve an action of the board of aldermen, veto the action within the statutory period, or permit the action to become effective without the mayor’s express approval. This opinion cites MCA Section 21-3-15, which provides:

(1) The mayor shall preside at all meetings of the board of aldermen and, in case there shall be an equal division, shall give the deciding vote. The mayor's authority is executive, and the mayor shall have the superintending control of all the officers and affairs of the municipality and shall take care that the laws and ordinances are executed.

(2) (a) The authority of the board of aldermen is legislative and is executed by a vote within a legally called meeting. No member of the board of aldermen shall give orders to any employee or subordinate of a municipality other than the alderman's personal staff. (b) Ordinances adopted by the board of aldermen shall be submitted to the mayor. The mayor shall, within ten (10) days after receiving any ordinance, either approve the ordinance by affixing his signature thereto or return it to the board of aldermen by delivering it to the municipal clerk together with a written statement setting forth his objections thereto or to any item or part thereof. No ordinance or any item or part thereof shall take effect without the mayor's approval, unless the mayor fails to return an ordinance to the board of aldermen prior to the next meeting of the board, but no later than fifteen (15) days after it has been presented to him, or unless the board of aldermen, upon reconsideration thereof on or after the third day following its return by the mayor, shall by a vote of two-thirds (2/3) of the members of the board, resolve to override the mayor's veto.

(3) The term "ordinance" as used in this section shall be deemed to include ordinances, resolutions and orders.

May 2, 2008 (Joe C. Griffin)

The board of supervisors may employ as its board attorney an attorney who is retired under the Public Employees' Retirement System. However, the retiree may not continue to receive retirement benefits during the period of reemployment, unless the reemployment meets the requirements of Section 25-11-127 and PERS Regulation 34. Reemployment after retirement requires a minimum separation period of forty-five (45) days. Reemployment may not be guaranteed by the employer.

May 2, 2008 (Dolton W. McAlpin)

Full-time Park Commission employees paid directly from the municipality can be provided health insurance by the municipality, in accordance with Sections 25-15-101 and 25-15-103, and may be covered by a general liability insurance policy purchased by the municipality for its employees. Assuming that the Park Commission employees are qualified employees, as contemplated in Section 25-11-103, the city would include these employees in PERS.

May 2, 2008 (Thomas M. Matthews, Jr.)

Employees of the Stone County Economic Development Partnership (Partnership) are employees of a nonprofit corporation and would not be considered employees of the county. The county may not employ an individual and then "assign" his or her duties to the Partnership even where the Partnership agrees to reimburse the county for the salary of such employee. The enabling legislation sets the Partnership up as a nonprofit corporation whose employees are appointed by the Partnership's Board of Directors. Employees of a nonprofit corporation would not be considered employees of the state, its agencies, or subdivisions. Even where a "work around" is instituted in which the Partnership agrees to reimburse the county for the salary of the employee, it is our opinion this law does not contemplate that the Partnership's employees can be classified as county employees whose duties are thereafter assigned to the Partnership.

May 9, 2008 (Jeffrey J. Turnage)

Questions concerning the workings of a special charter municipality should be answered by reference to the special provisions of that charter. Provisions of a special charter that are contrary to general statutory provisions are viewed as exceptions to the statutory provisions, except where the general statutes expressly provide otherwise. In the event that a special charter is silent on a matter, general statutory provisions would apply.

May 23, 2008 (M. James Chaney, Jr.)

Pursuant to Section 37-7-307, a licensed employee and teacher assistant may be entitled to receive donated leave from another employee for a catastrophic injury or illness as soon as the injured or ill employee has exhausted all of his or her earned and available leave (sick, vacation/personal, accumulated or converted leave). Section 37-7-307 (2)(d) does not grant an additional ten (10) days of sick leave to the employee and need not be utilized in order to receive donated leave. (The law provides that after an employee exhausts his leave, for the first ten (10) days of absence of a licensed employee because of illness, in excess of the sick leave allowance credited to him or her, the school district may deduct from the pay of the licensed employee the established substitute teacher amount the school must pay because of the licensed employee's absence.)

May 30, 2008 (Brandon Presley)

A private, nonprofit rural water association is a "public utility" and thus comes within the jurisdiction of the PSC, except as to the setting of rates. (Note, however, employees of private, nonprofit corporations/associations are not eligible to participate in PERS.)

Maximum Reportable Earned Compensation

The Maximum Reportable Earned Compensation for retirement purposes will increase from \$230,000 to \$245,000 per state fiscal year and proportionately for less than one year of service effective July 1, 2009. This increase coincides with the Internal Revenue Service (IRS) limit.

As reported in the June 2008 *Employer Update*, the increase in the maximum reportable earned compensation is pursuant to House Bill No. 833, which amended the

definition of earned compensation to coincide with the compensation limit set pursuant to Section 401(a)(17) of the Internal Revenue Code. The Commissioner of the IRS has announced that effective Jan. 1 the maximum employee compensation for calendar year 2009 will be \$245,000. Pursuant to House Bill No. 833, the employee compensation limit as set by the IRS will become the maximum reportable earned compensation effective July 1 of that same calendar year.

Date		Employer Rate	Employee Rate	Maximum Covered Earnings
From	To			
07/01/2007	06/30/2008	11.85%	7.25%	\$150,000
07/01/2008	06/30/2009	11.85%	7.25%	\$230,000
07/01/2009	06/30/2010	12.00%	7.25%	\$245,000
07/01/2010	06/30/2011	To Be Determined (TBD)	TBD	TBD

PERS Board of Trustees Adopts Regulation 57 *Release of Member Information to Participating Employers*

The PERS Board of Trustees took final action on August 26, 2008, to adopt PERS Board Regulation 57, Release of Member Information to Participating Employers, which went into effect October 1, 2008. During the 2008 legislative session, PERS law was amended to give the PERS Board of Trustees the authority to disclose certain member information without the prior written consent of the individual to whom the record pertains. This legislative authority allows the Board of Trustees to provide by regulation what information can be disclosed, as well as the circumstances and conditions of such disclosure. Any participating employer in PERS who wishes to obtain certain limited information

about said employer's current or former employees from PERS must complete PERS Form - *Employer Request for Member Information Regulation 57*. Only the chief administrative/executive officer of the participating employer may make the request for information, and the employer must agree to protect the information from further disclosure. PERS will review each request when properly submitted and determine within the authority of the Regulation whether the release of requested information will be granted.

The full text of this Regulation is available at www.pers.state.ms.us.

New PERS Board Member Begins Service

Paul Hurst, Chief of Staff, Office of the Governor, has joined the PERS Board of Trustees as the gubernatorial appointee.

Replacing retired gubernatorial appointee Charlie Williams, Hurst's term will run through June 30, 2009.

A native of St. Joseph, MO, Hurst has a political science degree from Vanderbilt University and a jurisprudence degree from the University of Mississippi School of Law.



Paul Hurst

Prior to joining the Governor's staff as chief counsel at the beginning of the administration in January 2004, Hurst worked as an attorney at the Jackson law firms of Butler, Snow, O'Mara, Stevens and Cannada (1999-2004) and McCoy, Wilkins, Stephens and Tipton (1996-1999). From 1995-1996, he was judicial clerk to the Honorable L.T. Senter, Jr., chief judge, U.S. District Court for the Northern District of Mississippi.

Full Day Seminar Schedule

January - June 2009

All seminars are held from 9 a.m. to 3:30 p.m. Participants are asked to arrive by 8:30 a.m. for sign-in and packet allocation. To register, visit PERS online at www.pers.state.ms.us.

Date	City
January 14	Natchez
January 28	Booneville
February 11	Jackson
February 18	Meridian
February 25	Ocean Springs
March 04	Greenville
March 18	Hattiesburg
March 25	Senatobia
April 15	Vicksburg
April 29	Summit
May 6	Mississippi State
May 13	Ocean Springs
May 20	Meridian
June 3	Jackson
June 17	Hattiesburg
June 24	Oxford

PERS Communications Department Created

Keeping PERS stakeholders informed on agency benefits, education resources, programs, policies and initiatives is of the utmost importance. To more effectively manage these tasks, PERS has created a central communications and information department.

PERS Communications will oversee, develop, and maintain both the agency's internal and external communications, including all newsletters, handbooks, annual reports, and other printed material. The department also will oversee the eventual update of the PERS website, as well as handle media relations.

The new Communications director is Shelley Powers. A 1992 graduate of Mississippi State University, Powers previously worked as an editor/graphic designer for JBHM Education Group in Jackson. Prior to that, she was public relations director for the Mississippi Arts Commission, communications specialist for the Mississippi Department of Employment Security, assistant editor for *Coast Magazine/Coast Business Journal* in Biloxi and a reporter for *The Mississippi Press* in Jackson County.



Shelley Powers

To reach PERS Communications, call 601-359-9431 or e-mail spowers@pers.ms.gov.

Employing a Retiree: What Should an Employer Do?

Are you thinking of hiring a retiree to fill your vacant position or possibly just to help out around the office? If so, there are rules that must be followed.

If your agency has employed or plans to employ a PERS service retiree to fill a vacant position, please complete and submit to PERS within five days of reemployment one of the following two forms:

- **PERS Form 4B**, *Certification/Acknowledgement of Reemployment of PERS Service Retiree* or
- **PERS Form 9C**, *Local County or Municipal Elected Official Reemployment Acknowledgement and Election*.

As noted on the forms, if a service retiree elects to continue receiving a monthly retirement benefit after the required 45-day separation period, he or she is limited to either:

- working up to half the time of a full-time equivalent position at half the salary or
- working an unlimited amount of time and earn up to 25% of his or her average compensation.

However, if the retiree is employed as a local elected official, he or she may either waive his or her salary or earn up to 25% of the average compensation.

It is the employer's responsibility to file the appropriate form each fiscal year and to ensure that the retiree adheres to the guidelines set forth by the completed PERS Forms 4B or 9C. Please review each form for additional guidelines that apply to re-employment after retirement. Contact PERS with any questions.

The forms may be downloaded from the PERS website at www.pers.state.ms.us.

For further information on any of the information in this newsletter or on other PERS topics, call 1.800.444.7377 or visit PERS online at www.pers.state.ms.us.

Welcome New PERS Agencies and Members

Sebastopol Natural Gas District

Agency 8037-000

Retirement Coverage, effective 9/01/2008,
approved by PERS Board of Trustees 8/26/2008

NRoute Transit Commission

Agency 8039-000

Social Security and Retirement Coverage, effective
10/31/2008 and 11/01/2008, respectively, approved
by PERS Board of Trustees 10/28/2008

Town of Cary

Agency 0841-000

Retirement Coverage, effective 7/01/2008,
approved by PERS Board of Trustees 6/24/2008

Webster County Board of Supervisors

Agency 0400-000

Retirement Coverage for Constables, effective
7/01/2008, approved by PERS Board of Trustees
6/24/2008



About Retirement Coverage

- Q. When would an employee need to complete a PERS Form 4A, *Noncovered Employment Acknowledgement*?
- A. Each and every time that an employee is hired into a non-covered position, a Form 4A should be completed and filed with PERS.
- Q. Why would an employee need to complete a revised PERS Form 4A?
- A. A revised Form 4A should be completed and filed with PERS any time the information previously certified by either the employee or the employer needs to be amended or corrected. For example, if the position or date of employment listed on the original form was incorrect, a revised form would need to be filed.
- Q. What is the distinction between a covered and a non-covered position?
- A. For retirement purposes, an employee is considered in a non-covered position if he or she does not regularly work 80 or more hours per month. If an employee regularly (i.e. more often than not) works 80 hours or more per month and is anticipated to be employed for more than 4 1/2 months, the employee is considered to be in a covered position for retirement.
- Q. If an employee is working for multiple covered employers, must all compensation be reported to PERS?
- A. Yes. If an employee is working at least 80 hours per month for one of the employers, all compensation must be reported.
- Q. Should sporadic or intermittent employment with a PERS-covered employer be reported?
- A. No.
- Q. If an individual who previously worked in a covered position is later hired in a non-covered position, must this employee's earnings continue to be reported to PERS because of his or her past employment in a covered position?
- A. No.
- Q. What is considered part-time employment?
- A. Employees who receive compensation for less than 80 hours per month or school personnel who receive compensation for less than half the academic year are considered part time and their earnings do not need to be reported to PERS.
- Q. Should part-time summer employees be reported to PERS?
- A. Any employee who is anticipated to be employed less than 4 1/2 months is not eligible for retirement coverage and their respective earnings should not be reported to PERS.

For further details on retirement coverage, refer to Board Regulation 36: Clarification of Covered Position for Membership Purposes at www.pers.state.ms.us/pdf/regulations/Reg36.pdf.

To find answers to additional Frequently Asked Questions about PERS, visit www.pers.state.ms.us.

Key Reminders

Statewide Payroll and Human Resource System (SPAHRS) Employers and Employers that have converted from RET to WEB-ERS

With the new WEB-ERS reporting system, an employee must submit the PERS Form 1C, *Change of Information*, directly to the employer rather than to PERS.

Should an employee have a change in his or her name and/or address, the employer will make the necessary changes on the monthly wage and contribution report. If the change is other than the employee's name and/or address (i.e., family information or marital status), the employer should forward the completed PERS Form 1C to PERS.

FOCUS Sessions

For employees seeking to retire, PERS provides for its members informative small group discussions about the retirement process, options available and member-specific benefits. The sessions are held at the PERS main office at the times listed below.

- Every Tuesday, 9:30 a.m.
- Every Thursday, 2 p.m.

Register online at www.pers.state.ms.us.

Upcoming State Holidays

The PERS Offices will be closed on the following dates:

Christmas
Thursday and Friday
December 25-26, 2008

New Year's
Thursday and Friday
January 1-2, 2009

Happy Holidays

Peace, Prosperity and Good Will to All