



Employer Update

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Distribute this Publication to all Administrative, Payroll, and Human Resource Personnel

Employer contribution rate to increase July 1

Effective July 1, the employer contribution rate will increase for the Public Employees' Retirement System of Mississippi (PERS) from 12.93 to 14.26 percent and the Mississippi Highway Safety Patrol Retirement System from 35.21 to 37.00 percent. (See table below.) Employers using a vendor or third party to manage payroll should alert the appropriate entity to the rate change as soon as possible.

Despite 2010 and 2011 investment earnings exceeding expected returns, the rate increase is needed to keep the

anticipated unfunded accrued liability payment period within the 30 years prescribed by the Governmental Accounting Standards Board (GASB).

This increase was recommended by PERS actuary, Cavanaugh Macdonald Consulting, LLC, and adopted by the PERS Board of Trustees at its December meeting. The Board is continuing to study PERS' existing funding policy, but employers should be aware that the actuary has projected the need for an additional increase next year.

2012-2013 Employer and Member Contribution Rates

From	To	Employer	Member	Maximum Covered Earnings
Public Employees' Retirement System of Mississippi				
January 1, 2012	June 30, 2012	12.93%	9.00%	\$245,000 annually
July 1, 2012	June 30, 2013	14.26%	9.00%	\$250,000 annually
July 1, 2013	June 30, 2014	TBD*	TBD*	TBD*
Mississippi Highway Safety Patrol Retirement System				
January 1, 2012	June 30, 2012	35.21%	7.25%	**
July 1, 2012	June 30, 2013	37.00%	7.25%	**
July 1, 2013	June 30, 2014	TBD*	TBD*	**
Supplemental Legislative Retirement Plan				
January 1, 2012	June 30, 2013	7.40%	3.00%	Same as PERS
July 1, 2013	June 30, 2014	TBD*	TBD*	Same as PERS

* To be determined

** Not to exceed the annual salary of the Commissioner of Public Safety

PERS maximum reportable earnings change

The maximum annual covered earnings that can be reported to the Public Employees' Retirement System (PERS) is increasing from \$245,000 to \$250,000. (See table at left.)

The Commissioner of the Internal Revenue Service (IRS) has announced that the annual compensation limit for calendar 2012 has increased to \$250,000; therefore, the maximum earned compensation for retirement purposes will increase to \$250,000 per state fiscal year, and proportionately for less than one year of service, through June 30, 2013.

Please contact Employer Reporting, 800-444-7377, if you have questions.



House Bill 517/Senate Bill 2218 Summary

PERS 2012 Housekeeping/Technical Amendments Bills

*This is a summary of the **pending** legislative package adopted by PERS Board of Trustees December 20, 2011. This legislation, House Bill 517 and Senate Bill 2218, primarily serves to clarify existing statutory language and, if passed, would not reduce or eliminate accrued benefits for members and retirees of the retirement plans administered by PERS.*

Definition of Earned Compensation

Amend Miss. Code Ann. §25-11-103(k) to prospectively exclude the value of maintenance from earned compensation effective July 1, 2012; to clarify that employer-paid health and life insurance premiums for an employee are not earned compensation, whether taxable or nontaxable to the employee; to prospectively exclude performance-based incentive payments from earned compensation effective July 1, 2012; and to clarify that in-kind benefits are not reportable as earned compensation.

Creditable Service

Amend Miss. Code Ann. §25-11-109(2) to prospectively change the method of granting service credit for members of PERS from quarterly to monthly increments effective for periods of time after July 1, 2013; and to clarify that leave credit for elected officials who are members of PERS is in lieu of, not in addition to, leave earned while simultaneously employed in a non-elected position.

Death and Disability Benefits

Amend Miss. Code Ann. §25-11-113 (1) to provide that a member of PERS who applies for a disability retirement allowance must provide sufficient objective medical evidence in support of his or her claim and to define “objective medical evidence” in support of a claim for

disability retirement benefits as currently prescribed in PERS Board Regulation 45A, *Administration of Disability Benefits under PERS*.

Amend Miss. Code Ann. §25-11-114 to clarify that, for death and disability benefits to be payable, the death or disability must have been as a direct result of a physical injury sustained from an accident or a traumatic event caused by external violence or physical force occurring in the performance of duty. This conforms to long-standing agency practice in the determination of duty-related benefits as opined by Attorney General Opinion (1994).

Investments

Amend Miss. Code Ann. §25-11-121 to clarify language consistent with the current investment environment and to update the investment opportunity set to allow PERS to take advantage of additional investment options.

PERS posts pending legislation online

To help members, retirees, and employers remain aware of PERS-related legislation before the 2012 Mississippi Legislature, we have added a link on our home page to a new web page titled 2012 PERS Legislation Watch, www.pers.state.ms.us/2012Legislation.html.

We will update this web page when new PERS-related legislation is introduced and when significant action is taken on PERS-related bills.

If you have questions, please contact us at 800-444-7377 or 601-359-3589.

Employers responsible for accurate reporting of employees

For accuracy in awarding service credit, PERS relies on covered employers to determine service credit eligibility of employees and to properly report earnings paid to employees in covered positions.

In awarding creditable service, PERS must adhere to Mississippi statutes and PERS Board of Trustees Regulations through an objective analysis of information received from employers. According to Miss. Code Ann. §25-11-109(2) (Rev. 2010), no service credit may be awarded under PERS when service performed is less than half the normal workload and wages paid are less than half the normal wages for the full-time equivalent position. PERS Board Regulation 25, *Eligibility of Part-time Employees for State Retirement Annuity Service Credit*, provides that “[p]ersons working the equivalent of one-half, or more, of a normal work load for their

positions and receiving one-half, or more, of normal wages for that position, may receive full service credit for such work.”

PERS and its covered employers must adhere to the laws and guiding regulations that were put in place to help ensure that membership in PERS is extended only to those employees who are eligible to participate. When an error is detected in a member’s account, PERS is obligated by law to correct the error, which could mean that an employee does not receive the service credit anticipated from earlier reporting. Therefore, accurate initial reporting is crucial.

If you have a question about determining whether you should report an employee, please call PERS at 800-444-7377 or 601-359-2090.

Summary of Recent Attorney General Opinions

Below is a summary of recent Attorney General Opinions that affect PERS.

April 15, 2011 - Smith

A retiree who is reemployed under the provisions of Miss. Code Ann. §25-11-127 must pay the full cost of the retiree’s health insurance premium.

April 22, 2011 - Diamond

The Pearl River County Utility Authority as a political subdivision of the state is authorized, but not required, to seek coverage for its employees under PERS.

September 30, 2011 - Robertson

The question of whether payments made by an employer to its employees are lawful performance-based incentive payments is one that must initially be made by employer. PERS may require additional certification or other substantiation from the

employer regarding such payments in order to determine the proper reporting of same as earned compensation for retirement purposes. Performance-based incentive payments paid to employees under an employer-adopted plan or policy that continue from year to year and that are 1) contracted for by the employer and the employee before the date when services are performed by the employee, 2) determined in accordance with objective standards of measurement, and 3) earned by personal services performed by the employee would be earned compensation as that term is defined in Miss. Code Ann. §25-11-103(k) (1972, as amended).

November 18, 2011 - Johnson

Miss. Code Ann. §25-15-103 requires a retired municipal employee, regardless of reemployment status under Miss. Code Ann. §25-11-127, to pay the entire cost of premiums for health insurance.

PERS Board of Trustees

Regulatory Changes

These amendments and additions to existing regulations were recently approved by the PERS Board of Trustees. To see all PERS Board of Trustees Regulations, visit PERS online at www.pers.state.ms.us/employerservices/selectedregulations.html.

Regulation 30 (*amended*)

Minimum Monthly Retirement Allowance

Effective date August 1, 2011

- Amendments reflect the change in the retirement formula made by S.B. 2439 of the 2011 Legislative Session, which provides that there will be no minimum monthly retirement allowance for any member of PERS who becomes a member on or after July 1, 2011.

Regulation 35 (*amended*)

Filing an Application for Monthly Benefits and Establishing an Effective Date of Retirement

Effective date August 1, 2011

- Amendments reflect the changes in H.B. 859 of the 2011 Legislative Session to add Option 4, the 75 percent joint-and-survivor annuity, to the Pop-Up and Pop-Down provisions.
- In addition, applicable sections of the Regulation have been modified to clarify what documentation is required to verify proof of dependent child status for survivor and disability retirement benefits, as applicable. Further, new

subsections were added 1) to clarify the effect of death on a disability retirement application and 2) to clarify what documentation is required to verify proof of age for any benefit applicant.

Regulation 36 (*amended*)

Eligibility for Membership in PERS

Effective date August 1, 2011

- Amendments were made to clarify eligibility for coverage and membership service credit in PERS by incorporating various provisions of law and practice that were not previously incorporated into a regulation.

Regulation 65 (*new*)

Earned Compensation for PERS

Effective date August 1, 2011

- Regulation clarifies earned compensation for purposes of reporting compensation for retirement. Incorporates various provisions of law and practice that were not previously incorporated into a regulation.

Use of agency vehicles not part of earned compensation

Official use of agency vehicles is necessary for many individuals in PERS-covered jobs. However, because personal or non-official use of these vehicles is unlawful, such use is not reportable to PERS as part of earned compensation, regardless of any Internal Revenue Service (IRS) reporting requirements to the contrary.

According to Miss. Code Ann. §25-1-79 (Rev. 2010), use or authorizing the use of any vehicle owned by the State for any purpose other than official business is unlawful.

PERS Board Regulation 33, *Value of Maintenance*, provides that “the imputed taxable income reported to the Internal Revenue Service by an employer for an employee’s personal or commuting use of a government-provided vehicle shall not be reported to PERS as maintenance or as earned compensation.”



Additionally, PERS Board Regulation 65, *Earned Compensation for the Public Employees’ Retirement System of Mississippi*, states that “the term ‘earned compensation’

does not include [...] payments not authorized by law including, but not limited to: the value of personal use of automobile or automobile allowance.”

Because the personal use of an agency vehicle is not authorized by law, the value of any personal use of such vehicle attributed to an employee, even though required to be reported to the IRS for federal income tax purposes is not reportable to PERS as “earned compensation” or “maintenance” for the purposes of PERS.

How to certify leave for additional service credit

Lawfully accumulated, uncompensated unused personal and major medical leave may only be certified for additional service credit to PERS upon an employee's termination from employment.

Leave can be certified when:

- The employee terminated employment on or after May 15, 1984 (July 1, 1984, for former state and university employees);
- The personal and major medical leave was accumulated by the employee and available for use by the employee under a lawfully adopted leave policy where such policy was not adopted or applied retroactively and where such leave was not awarded retroactively;
- Records exist with the employer at the time of certification to support accumulated leave; and
- The accumulated leave did not exceed the personal and major medical leave that could have been accrued under the state’s leave law,

Miss. Code Ann. §25-3-93 and §25-3-95.

Leave cannot be certified when:

- The employee has been compensated for the leave;
- Leave will be or has been transferred to another employer;
- Leave is for reasons other than personal and major medical leave;
- Leave is donated from a fellow employee; or
- Leave has expired and is not actually available for use by the employee.

Visit PERS at www.pers.state.ms.us to view PERS Board Regulation 51, *Administration of Certification of Accumulated Unused Leave for Service Credit and Lump Sum Payments of Leave at Termination/ Retirement*, or to download PERS Form 18, *Employer Certification of Termination and Accumulated Unused Leave*.

Clearing the confusion regarding third-party reemployment

Understanding when to pay employer contributions for PERS retirees who return to work through a third-party employer can be a bit confusing. The following provides general guidance; for specific questions, you may contact PERS.

Mississippi law provides that any employer who hires a PERS retiree as an employee or a contractual employee shall pay the full amount of the employer contribution on the amount of the retiree's compensation (Miss. Code Ann. §25-11-127 [5], effective July 1, 2011).

However, when that retiree is employed through a third party, the question of whether to pay employer contributions depends on the following Internal Revenue Service (IRS) factors: the extent to which control is exercised over details of the work by the retiree; whether or not the retiree is engaged in a distinct occupational

business; the skill required in the occupation; whether the employer supplies the tools and place of work; the length of time for which the retiree is employed; the method of payment; and whether the work involved is part of the employer's usual business.

Only after reviewing these IRS factors regarding specific reemployment situations can PERS determine whether a retiree has been employed directly or indirectly, and thus, whether employer contributions should be paid.

The examples below may help further clarify when employer contributions should be paid on reemployed PERS retirees.

If you need help clarifying when you should pay employer contributions on a PERS retiree who has returned to work, contact PERS at 800-444-7377 or 601-359-2090.

Example: When to pay employer contributions

While PERS Board Regulation 36, *Eligibility of Membership in the Public Employees' Retirement System of Mississippi (PERS)*, exempts substitute teachers from membership in PERS, the regulation does not apply to reemployment of PERS retirees, even if those retirees are hired through third-party employers.

School districts often hire substitute teachers through third-party employers (e.g., Kelly Services). However, while those substitute teachers are working in the classroom, they must answer to the respective school district regarding the work they do. Because the school district exercises control over their work, the district is required to pay employer contributions on these substitutes if the substitutes are PERS retirees.

Furthermore, §110 of PERS Board Regulation 34, *Reemployment after Retirement*, stipulates that employers cannot circumvent limitations imposed by law (like having to pay employer contributions) by employing a PERS retiree through a third party.

Example: When not to pay employer contributions

School districts have the statutory authority to outsource school bus transportation. However, the districts do not pay employer contributions on bus drivers hired by these private firms, regardless of whether the drivers are PERS retirees, because these individuals answer to the outsourced employer—not the school districts—regarding the work they do. Because the district has no right to exercise control over these individuals, the district is exempt from having to pay employer contributions to PERS for these individuals.

Another common example where a covered employer does not pay employer contributions on reemployed PERS retirees is when a school district works with a consultant employed by a school improvement company (e.g., JBHM Education Group). Though these consultants work in the classroom, they are not teaching students. Instead, they are assessing staff, training staff, modeling lessons, etc., and they answer to the school improvement company for the work they do. Therefore, regardless of whether these individuals are PERS retirees, the district does not pay employer contributions on them.

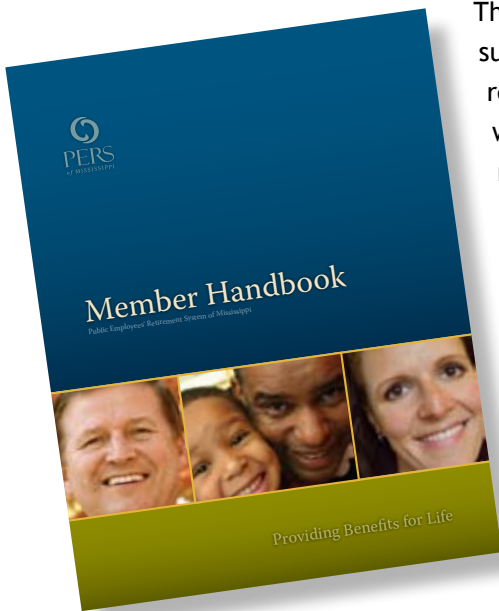
PERS Member Handbook updated, online

The PERS Member Handbook has been revised to incorporate legislative and regulatory changes enacted since its last revision.

To minimize cost, PERS has printed a limited number of handbooks and is encouraging those we serve to reference the online version at www.pers.state.ms.us/pdf/memberservices/handbooks/Member_Handbook_2011.pdf. However, if hard copies are needed, we will gladly provide a limited quantity.

Earlier versions of the Member Handbook should be discarded or deleted as some information may be outdated.

The handbook is subject to periodic revision; therefore, we will note the most recent revision date next to the handbook link online for your reference.



New Agency Joinder Agreements

Grenada County Soil & Water Conservation District

- Social Security Coverage
 - August 31, 2011
- Retirement Coverage
 - September 1, 2011

Covington County Library System

- Social Security Coverage
 - August 31, 2011
- Retirement Coverage
 - September 1, 2011

Board News



Fitch

Having been sworn in as Mississippi Treasurer January 5, Lynn Fitch has joined the PERS Board of Trustees. Her term runs from January 2012 to January 2016. She succeeds Tate Reeves, who served on the Board ex officio from 2004 to 2012. Fitch previously served as executive director of the Mississippi State

Personnel Board and as deputy executive director of External Affairs and Support Services at the Mississippi Department of Employment Security.



Benson

Bill Benson of Shannon was elected June 28 to serve as chairman of the PERS Board of Trustees for fiscal year 2012, which began July 1. He succeeds Thomas J. Lariviere.

Benson is Lee County chancery clerk and represents county employees on the PERS Board. He

was first elected to the Board effective January 1, 2008.

The chairman presides at Board meetings, appoints members of Board committees, and can call special meetings.

PERS Study Commission: A Response

The PERS Study Commission, created by former Governor Haley Barbour, released its report with recommendations in mid-December. The Governor formed the Commission in August to study the “financial, management, and investment structure of PERS.”

To read a letter from Executive Director Pat Robertson to our members and retirees concerning the PERS Study Commission visit the PERS website at www.pers.state.ms.us.

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Disclosure

This newsletter contains general information about your retirement system and is not a legal reference. For detailed explanations about all PERS retirement systems, call the PERS office or visit us online.

Get the latest PERS news straight to your e-mail inbox

In an effort to provide our employers with the most up-to-date information, PERS sends Employer eUpdates via e-mail regarding legislative and/or administrative changes that affect the retirement plans administered by PERS.

To view the archive of past eUpdates or to subscribe to this free service, visit the PERS eUpdates page online at www.pers.state.ms.us/employerservices/employereupdates.cfm and submit your e-mail address.



Providing Benefits for Life

Upcoming Holidays

Confederate Memorial Day Monday, April 30, 2012

National Memorial Day/

Jefferson Davis' Birthday..... Monday, May 28, 2012