

Public Employees' Retirement System  
of Mississippi  
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# PERS Quarterly Employer Update

Issue Date April 28, 2006

*Distribute to all Administrative, Payroll, and Human Resource Personnel*



## Employer Contribution Rate Change

Previously, participating employers were notified by PERS that the employer contribution rate will increase from 10.75% to 11.30% effective July 1, 2006, and that the RET reporting program will be modified accordingly.

thus the employee and employer contribution fields must contain zeroes when this Wage Code is used. The Credit Flag for any record with an RW12 must be set to 00.

A new version of the RET Wage and Contribution Reporting System reflecting the 11.30% employer contribution rate and the new Wage Code (RW12) will be released to employers in time for submitting the July 2006 report of wages and contributions. We will provide employers with additional information at the time that we release the new version of RET.

### Change in Contribution Rate and Payment

Beginning July 1, 2006, each employer will pay contributions at the rate of 11.30% for wages paid for the month of July which will be reflected on the Wage and Contribution Report due from the employers in August.

Separate memos have been sent to all participating employers from the PERS Wage and Contribution Reporting Department regarding the rate increase and RET reporting changes.

### RET Reporting Changes

Also, a new Wage Code (i.e., RW12) will be added to RET that **employers must use to report** wages paid to a PERS retiree that are earned after retirement. This Wage Code will be used to report **post-retirement earnings** paid to a PERS retiree who is receiving a monthly retirement allowance from PERS and who is working for a covered employer after retirement under the limited reemployment provisions found in Miss. Code Ann. §25-11-127 and PERS Board Regulation 34, Reemployment After Retirement. No employee and employer contributions are due on wages lawfully earned under Miss. Code Ann. §25-11-127 by a PERS retiree after retirement,

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**Upcoming State Holiday**

**MEMORIAL DAY —**  
MONDAY, MAY 29, 2006





## SUMMARIES OF RECENT OPINIONS ISSUED BY THE OFFICE OF THE STATE ATTORNEY GENERAL

**November 18, 2005 (Billy V. Harvey)** Miss. Code Ann. §25-3-33, which set the salary for a number of appointed state officials, was removed from the statutes in the 2003 Legislative Session. However, other statutes remained, such as §25-3-37 and §25-3-38 which provided that the salary specified shall be total and complete salary and that it would be unlawful for any additional funds to be paid from any source, including general or private funds, to supplement such salaries. The question posed was whether in the absence of the statutorily set salary, an appointed official whose salary was previously specified in §25-3-33 could receive supplemental compensation from another source, including federal or private funds. The Opinion states that the remaining sections set forth a sound public policy that must be adhered to, i.e., that Mississippi public officials whose salaries were previously set by §25-3-33 should not be receiving supplemental compensation from private or federal funds regardless of the manner in which their salaries are set. Further, §25-9-101 and §25-9-103 contemplate that covered employees' obligations be only to the State of Mississippi and not be under any real or perceived obligation to any entity from which federal or private monies might be offered as a supplement to their state salaries.

**November 18, 2005 (Anthony Nowak)** A county is constitutionally prohibited from entering into a contract which provides that the terms of the contract shall be governed by the laws of another state and/or which provides that the venue for any contractual dispute will be in the foreign jurisdiction, since to do either would amount to a political subdivision of the state diminishing or relinquishing an obligation or claim held by the state. (Miss. Const. Art. 4, Section 100)

**November 18, 2005 (Kent Smith)** The Marshall County Industrial Development Authority (MCIDA) was created by Chapter 864, Local and Private Laws of 1984. Section 2 of the legislation requires members of the board of MCIDA to take the constitutional oath of office and to be bonded and that their expenses and mileage shall be reimbursed as authorized by law for state employees. Section 13 provides that the carrying out of the corporate purposes of the Authority is in all respects for the benefit of the people of Marshall County and is a public purpose and that the Authority would be performing an essential governmental function. A prior opinion stated that MCIDA had the authority to receive, deposit, account for, invest, control, and expend its funds in bank accounts separate and distinct from the County's treasury and to exercise such authority independent of the County. This Opinion concludes that MCIDA is a unit of county government and that an employee of such unit may be entitled to benefits accorded to county employees,

including participation in PERS if the MCIDA chooses to join the System.

**November 23, 2005 (Lindsey Roberts, Jr.)** The board of supervisors of Montgomery County passed a resolution to increase the salaries of the board members in accordance with Miss. Code Ann. §25-3-13. Later, the board passed another resolution rescinding the increase and reducing the salary to an amount less than that provided by such section. A prior opinion stated that salaries of members of the board of supervisors may not be reduced to an amount less than that provided by Miss. Code Ann. §25-3-13. Thus, once the resolution was passed putting the salaries established under §25-3-13 into effect, said salaries were thereafter "fixed" pursuant to the statute. If there are members who wish to reduce their salaries back to the level provided in §25-3-13 prior to the enactment of Senate Bill 2647 (2004 Reg. Session), they may do so by donating the salary increase to the county.

**December 27, 2005 (Andrew Dulaney)** If a governing body enacts a policy granting extra leave for employees whose regular or scheduled day off falls on a holiday, that leave should not be categorized as "comp time" but as a special category of personal leave; governing bodies may enact as part of the policy that such special personal leave must be used within the year and that leave provided under that policy is not eligible for carry-over or pay-out. (Note that Miss. Code Ann. §21-17-5 provided that a municipal governing authority could pay any municipal employee not to exceed double his ordinary rate of pay or award any municipal employee not to exceed double his ordinary rate of compensatory time for work performed in his capacity as a municipal employee on legal holidays. During the 2006 Legislative Session, the following language was added to that section: "**The governing authority of any municipality, in its discretion, may enact leave policies to ensure that public safety employees receive the same holiday benefits as other municipal employees when the public safety employee's regular day off occurs on a legal holiday.**")

**December 27, 2005 (Jamie Jacks)** A school board policy that grants a bonus day of personal leave for perfect attendance for both licensed and non-licensed employees may be permissible under Miss. Code Ann. §37-7-307 and would not violate Section 96 of the MS Constitution of 1890, as long as the extra leave does not cause the total amount of leave granted to the employees to exceed the limitations of Miss. Code Ann. §37-7-307 (9) (which provides that a school board may not grant vacation/personal leave and sick leave that exceeds the combination of personal leave and sick leave provided for state employees).

## FOR YOUR INFORMATION...

### IRS Updates Federal-State Reference Guide

On December 5, 2005, the Internal Revenue Service (IRS) announced an update of Publication 963, the *Federal-State Reference Guide*, providing guidelines for state and local governments regarding Social Security and Medicare coverage and related payroll tax withholding for state, local, and Indian tribal government employees. Publication 963 is available on the IRS's website at: <http://www.irs.gov/pub/irs-pdf/p963.pdf>

### DOL Issues Final USERRA Regulations

On December 19, 2005, the U.S. Department of Labor (DOL) finalized regulations implementing the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). USERRA is a federal law that establishes employment and reemployment rights for employees who voluntarily or involuntarily leave their civilian jobs to perform military service. The final rule covers both pension and group health plans as defined in the Employee Retirement Income Security Act (ERISA). Generally, employees who return to their jobs after military service have the right to the same seniority, status, pay, and benefits they would have attained had they not been on military leave, provided certain criteria are met. Under USERRA, employers are prohibited from discriminating against employees on the basis of veteran status, military service, or application for military service.

Additionally, the DOL published final regulations requiring employers to provide employees with notice of USERRA's rights, benefits, and obligations to be posted where employers normally place notices for employees. Both regulations became effective on January 18, 2006.

The final USERRA regulations and Notice of USERRA Rights and Benefits for use by private sector and state government employers are available respectively on the DOL's website at: [http://www.dol.gov/vets/regs/fedreg/final/USERRA\\_Final\\_Rule.pdf](http://www.dol.gov/vets/regs/fedreg/final/USERRA_Final_Rule.pdf) and [http://www.dol.gov/vets/programs/userra/USERRA\\_Private.pdf](http://www.dol.gov/vets/programs/userra/USERRA_Private.pdf)

Information provided by Gabriel, Roeder, Smith & Company Consultants & Actuaries

## New Agency Agreements for PERS Coverage

- **Madison County  
Economic  
Development  
Authority**

(Agency #8041-000)

Retirement & Social  
Security Coverage,  
effective 11/01/2005  
approved by PERS  
Board of Trustees  
04/18/2006.

## PERS AFTER HOURS

The PERS Pre-Retirement Education Program has added the following "After Hours Sessions" to its schedule. Such sessions are held in the evening, throughout the state, at local facilities, such as community colleges, public schools, libraries, and courthouses to provide seminar opportunities to members who are unable to take time off from their jobs during the day or are unable to attend a Pre-retirement seminar because they fill so quickly.

Any PERS member (and spouse or guest) is eligible to attend these sessions. There is no charge, and pre-registration is not required. If further information is needed, you may contact PERS at 1-800-444-7377 or 601-359-3589, or visit our website: [www.pers.state.ms.us](http://www.pers.state.ms.us)

<u>Date</u>	<u>Location</u>	<u>Time</u>
May 25	George Co. High School Cafetorium <b>Lucedale</b>	6 - 9 pm
June 1	NWMCC's Haraway Center (Alumni Drive) <b>Senatobia</b>	6 - 9 pm
June 15	Co-Lin's Career Tech Center's Multi-Purpose Room <b>Natchez</b>	6 - 9 pm
June 29	Coahoma Community College's Whiteside Hall <b>Clarksdale</b>	6 - 9 pm
August 10	Holmes Community College's Industrial Technology Complex <b>Grenada</b>	6 - 9 pm
August 17	West Marion High School Library <b>Foxworth</b>	6 - 9 pm
October 26	Forrest County's Multi-Purpose Center/ MSU Extension Service <b>Hattiesburg</b>	6 - 9 pm



## Election News

### STATE REPRESENTATIVE

Ballots were counted on February 10th, and the PERS Board of Trustees approved the election results February 28, 2006. Mr. John L. Mulholland, Deputy Director of the State Personnel Board, with 6,387 votes was elected to fill the unexpired six-year term ending June 30, 2008, for the State Employee Representative to the Board of Trustees. Mr. Mulholland replaces Mrs. Jan Larsen who retired from state service last year.

### MUNICIPAL REPRESENTATIVE

Ballots were counted on February 15th, and the PERS Board of Trustees approved the election results February 28, 2006. Mr. Thomas J. Lariviere, Fire Chief for the City of Madison, with 2,406 votes was elected to fill the unexpired six-year term ending December 31, 2008, for the Municipal Employee Representative to the Board of Trustees. Mr. Lariviere replaces Mr. Doug Hague who resigned from the Board last year.

*For further  
information on any  
of the information in  
this newsletter or on  
other PERS topics,  
call us at  
1-800-444-7377  
or visit our  
website at  
[www.pers.state.ms.us](http://www.pers.state.ms.us)*



## **PERS-Related Legislation**

**Please note that Senate Bill 2689, which would have changed retirement eligibility requirements for future PERS enrollees, died in conference 03/27/2006.** Other bills that passed during the Mississippi Legislature's 2006 Regular Legislative Session include:

**House Bill 392** — Bill to clarify the manner in which funds received by PERS in July 2005 from a settlement payment with MCI are used by PERS as a credit against the 1% increase in employer contributions implemented effective July 1, 2005. For state agencies, the credit shall be against the increase attributable to general fund employer contributions only. For universities, community and junior colleges, and public school districts, the credit shall be against the increase attributable to funds from all sources except federal funds. **Effective from and after passage on 03/15/2006.**

**Senate Bill 2323** — Bill to clarify that the PERS Board of Trustees may invest in a separate account managed by a Securities & Exchange Commission registered investment advisory firm retained as an investment manager by the Board or in limited partnership or commingled funds. **Effective from and after passage on 03/20/2006.**

**Senate Bill 2583** — Bill to amend Miss. Code Ann. §25-11-106 to provide that any current or former constable who elected by December 31, 2005, to retain coverage, making payments to cover delinquent employer and employee contributions and interest on all fee and county income must make such payments to PERS by no later than April 15, 2007, or such other date specified. **Effective from and after passage on 03/13/2006.**

**Senate Bill 2589** — Bill to direct PERS to transfer from the Administrative Expense Account to the Budget Contingency Fund no later than August 31, 2006, any remaining balance calculated as of June 30, 2006, of the \$50 million employer contribution prepayment made to PERS in July 2005. **Effective from and after passage on 04/05/2006.**

**House Bill 1112** — Bill to create the Uniform Prudent Investor Act. Bill amends the PERS investment law to provide that the standard of care for the PERS trustees in the investment of the plan assets is that of a prudent "investor." **Effective from and after 07/01/2006.**

**Senate Bill 2581** — Bill to require that state agencies include certain information on individuals hired as contract workers/employees in their annual budget requests, including whether such individuals are retired members of PERS. **Effective from and after 07/01/2006.**

**Senate Bill 2917** — Bill to amend Miss. Code Ann. §21-17-5 to authorize municipalities to enact leave policies to ensure that public safety employees receive the same holiday benefits as other municipal employees when the public safety employee's regular day off occurs on a legal holiday. **Effective from and after passage on 03/15/2006.**