

Public Employees' Retirement System
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PERS Quarterly Employer Update

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Distribute to all Administrative, Payroll, and Human Resource Personnel



GOVERNMENTAL PLAN PROVISIONS IN THE PENSION PROTECTION ACT OF 2006

The massive Pension Protection Act of 2006 (“PPA”) was signed by the President on August 17, 2006. The 907-page bill made significant changes to federal law affecting defined benefit plans, “hybrid” plans, and defined contribution plans. A number of analyses have been written which discuss those provisions most pertinent to governmental plans. Many of these provisions will require additional guidance from the Department of the Treasury. The specific provisions below have been identified as potentially affecting PERS and its members now or in the near future.

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FOR DISTRIBUTIONS ON AND AFTER AUGUST 17, 2006

The 10% early withdrawal penalty will not apply to a lump sum distribution from a governmental defined benefit plan made to a qualified **public safety employee** after separation from service and after the attainment of age 50. A **public safety employee** is defined as an “employee of a State or political subdivision who provides police protection, firefighting services, or emergency medical services within the jurisdiction.” Forms are being revised to allow employers and/or employees eligible for this tax benefit to identify themselves. **Please look for new forms and discontinue use of older ones. The latest versions of PERS forms may be found in our website’s Forms Library at: http://www.pers.state.ms.us/formslibrary/Form_Request.cfm**

FOR DISTRIBUTIONS ON AND AFTER JANUARY 1, 2007

Retired public safety officers may now have a tax exclusion for up to \$3,000 per year for health insurance premiums paid directly to the health insurance provider from the pension plan administrator, provided that a) the public safety officer **retired** after **normal retirement age**, or b) the public safety officer is **disabled**. This provision applies to individuals who retired as law enforcement officers, firefighters, fire or police chaplains, members of rescue squads or ambulance crews. **Official guidance from the Internal Revenue Service relative to the interpretation and implementation of certain provisions of the Pension Protection Act of 2006 is not yet available.** However, PERS will be sending out election forms in November for current retirees to make this election, and the election will be made available to future retiring members as well.

Designated non-spouse beneficiaries may rollover lump sum distributions from a participant’s account into a traditional (inherited) IRA (i.e., an IRA established specifically for the purpose of receiving such distributions). Amounts rolled over will be subject to the normal minimum distribution rules applicable to IRA beneficiaries (e.g., required beginning date of distributions is at beneficiary’s age 70 ½ and distributions must be paid out based on beneficiary’s life expectancy).

Beginning January 1, 2007, after-tax contributions from qualified plans can be directly rolled over to a defined benefit plan, defined contribution plan, traditional IRA, or 403(b) plan. A rollover to a 403(b) tax-sheltered annuity must be a direct trustee-to-trustee rollover, and the transferee plan must separately account for after-tax contributions and earnings thereon.

Frequently Asked Questions

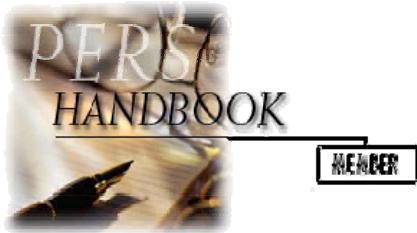
We had an employee quit last week and now she wants to withdraw her PERS account. What form do we need to fill out?

PERS Form 5, *Application for Refund of Accumulated Contributions to Member*, should be completed and submitted to PERS. Section 7 of the form must be completed by the employer; the rest of the form is the responsibility of the refunding member. The employer should submit the completed form to PERS.

What exactly is a “lump sum leave payment,” as requested on the 9A SRVC form (*Pre-Application for Service Retirement Benefits*)?

A “lump sum leave payment” is the payment that the employer makes to the retiring employee, when applicable, for up to 30 days leave. For retiring employees of public schools, the payment is 1) the daily substitute teacher rate of pay for employees in positions that require licensure or 2) the hourly minimum wage rate for employees in positions where licensure is not required. State employees may be paid for up to 30 days (240 hours) of unused leave. Other agencies may pay according to a lawfully adopted policy that for purposes of retirement does not exceed the state leave law of 30 days.

Download handbook from PERS website



The PERS Member Handbook is available for downloading from the PERS website at www.pers.state.ms.us. The handbook provides members with a comprehensive source of information on the Retirement System and its benefits. Click on “Member Services” and “Member Handbook,” then the July 2005 edition of the handbook.

An updated handbook will be printed in the near future and will be available on the website.

PERS will be closed for the following Upcoming State Holidays:

VETERANS' DAY
MONDAY, NOVEMBER 13, 2006

CHRISTMAS
MONDAY, DECEMBER 25, 2006, &
TUESDAY, DECEMBER 26, 2006

THANKSGIVING
THURSDAY, NOVEMBER 23, 2006, AND
FRIDAY, NOVEMBER 24, 2006

NEW YEAR'S
MONDAY, JANUARY 1, 2007



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

★**April 7, 2006 (Steven Kohnke)** The law does not authorize the enactment of policies which authorize payment of overtime or compensatory time for holidays on which a public safety employee does not work, i.e., where a public safety employee's regular day off falls on a holiday. However, a municipality may, in its discretion, adopt a policy tailored to ensure public safety employees have the benefit of the same number of paid holidays as other municipal employees without violating Section 96 of the Mississippi State Constitution, provided that the policy is enacted prior to the award of any additional leave.

★**April 28, 2006 (Kenneth Mayfield)** There is no authority which grants special privileges to allow a school district employee, who is also the elected County Coroner, to take off to tend to the business of the Coroner's office by merely advising his supervisor at the school district that he needs to take care of his public business. The employee is subject to the same policies and guidelines as other school district employees and is not entitled to any special privileges.

★**April 28, 2006 (Joe Gay)** There is no general statutory prohibition against one individual being employed by two different public entities. The same general rule would apply to an appointive municipal officer serving both the municipality and another public entity. The employee/officer cannot, however, work and be paid by both for the same time. The employee/officer can only work for one entity at a time. Care should be exercised in the development of a work schedule to ensure that the municipality is not paying an employee/officer while he or she is performing services for the other entity.

★**May 19, 2006 (Willie Perkins)** A county employee may not continue to accrue sick and personal leave during any period of time in which the employee is not working and is not taking sick or personal leave. Further, a county is not obligated to pay health insurance or other benefits for an employee that is not working and is not taking sick or personal leave.

★**May 19, 2006 (Randy Cowgill)** The governing authorities of municipalities may enact such leave policies as they deem necessary and proper. The granting of leave or additional compensation to employees absent a policy providing for such has been determined to be in violation of Section 96 of the Mississippi Constitution of 1890. Section 96 prohibits payment of any salary or benefits to employees in excess of the established salary. Granting of additional

leave without a duly enacted policy would also constitute a violation of Section 66 of the MS Constitution of 1890, which prohibits donations which are not specifically authorized by law.

A municipality may enact a policy which provides for leave to employees under certain circumstances (such as inclement weather). Such a policy must operate prospectively only. Any leave granted from and after the effective date of that policy would not be considered a donation, and would be considered part of the benefits afforded to municipal employees. A policy granting paid leave to employees sent home due to inclement weather is a valid exercise of municipal authority pursuant to Miss. Code Ann. §25-11-103(i). The AG's office has recognized the authority of municipal governing authorities to enact leave policies which provide leave for shift employees whose regularly scheduled day off falls on a legal holiday. Municipalities may enact leave policies which recognize the differences in work schedules and duties of employees.

A policy which provides that essential municipal employees are to be granted additional leave for working during any time in which non-essential municipal employees are granted leave with pay would be a valid exercise of municipal power. Any such policy should require sufficient record-keeping to avoid abuse. Any leave reported to the Retirement System cannot exceed benefits afforded at the state level for the purpose of computing retirement benefits.

★**July 21, 2006 (Pat Robertson)** The determination of whether a county has established an office of public defender in accordance with Miss. Code Ann. §25-32-1 can be made by examining the minutes of the board of supervisors, as such board acts only through its minutes. There is no other statutory method for establishing an office of public defender in a county. There is no requirement that a county register its office of public defender with a central organization, association or agency.

Once a county has established an office of public defender in accordance with Miss. Code Ann. §25-32-1 *et seq.*, a duly appointed public defender would be considered an appointed county officer. Assistant public defenders, appointed in accordance with §25-32-3, who are paid a regular salary by the county, monthly or otherwise, would be considered county employees (who *may be* PERS participants if the employment meets eligibility requirements.).



PERS Election News

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

Edwin C. LeGrand III has been re-elected to a six-year term on the PERS Board of Trustees representing state employees. Mr. LeGrand, Deputy Executive Director of the Mississippi Department of Mental Health, received 8,666 of 16,409 votes cast by state employees. Because he received more than half of the votes, there will not be a runoff election.

Other candidates in the election were Carrie K. Coggins, an Area Social Work Supervisor in Lee and Itawamba counties for the Department of Human Services; Sandra S. Kelly, Division Director of School Programs for the Division of Medicaid; Ben Mokry, Senior Vice President of Research and Development for the Mississippi Home Corporation; Joe D. Moore, a Vocational Special Education Instructor for the Department of Corrections; Jelisa Proby, an Eligibility Worker for the Department of Human Services; and Angela Wren, a Child Support Enforcement Officer for the Department of Human Services.

EMPLOYER CONTRIBUTION RATES

Fiscal Year Beginning	Percentage of Covered Payroll
July 1, 2006	11.30%
July 1, 2007	11.85%
July 1, 2008	12.25%*
July 1, 2009	to be determined

*The percentage shown here is anticipated and may or may not represent the percentage that will be required based on actual experience.

2006 Agency Training

Five hundred nine (509) representatives of member agencies attended six Agency Training Sessions during September. The sessions were conducted by PERS in conjunction with the Mississippi Department of Finance and Administration and Systematized Benefits Administrators, Inc., to provide agency personnel with important information concerning administration of retirement and insurance benefits.

Seminar materials are available for downloading from the PERS website. Click on "Employer Services" and "Employer Seminars."

Of the 331 participants who completed evaluations, 99% said they were either "satisfied" or "very satisfied" with the seminars.

New Agency Agreements for PERS Coverage

- **Town of Crowder**
(Agency #5010-000)
Retirement Coverage & Social Security Coverage, effective 09/01/2006, retroactive to 01/01/1992, approved by PERS Board of Trustees 08/22/2006
- **Lawrence County Board of Supervisors**
(Agency #0271-000)
Retirement Coverage for Constables, effective 09/01/2006, approved by PERS Board of Trustees 08/22/2006
- **Town of Woodland**
(Agency #5011-000)
Retirement Coverage & Social Security Coverage, effective 06/01/2006, approved by PERS Board of Trustees 08/22/2006