

**RESOLUTION DECLARING THAT MADISON COUNTY WILL CONTRIBUTE THE REQUIRED EMPLOYER CONTRIBUTIONS TO THE PUBLIC EMPLOYEES RETIREMENT SYSTEM ON THE NET FEE INCOME FOR MADISON COUNTY CHANCERY CLERK, CIRCUIT CLERK AND CONSTABLES AND FOR OTHER PURPOSES**

WHEREAS, Madison County has previously voted, in accordance with MS Code of 1972 (Annotated) Sections 25-11-106 and 25-11-106.1, to fund and pay the employer portion of the PERS contribution on Net Fee Income for the Chancery Clerk, Circuit Clerk and Constables; and

WHEREAS, the aforementioned code sections require a vote on this matter with each new term of the Board of Supervisors; and

WHEREAS, this month marks the occurrence of the organizational meeting of this term of Board of Supervisors; and

WHEREAS, this vote is binding for the duration of such term.

THEREFORE, be it declared that Madison County, as allowed by MS Code of 1972 (Annotated) Sections 25-11-106 and 25-11-106.1, will henceforth contribute the employer's portion on net fee income as earned by the Madison County Chancery Clerk, Circuit Clerk and Constables.

Following the reading of the foregoing Resolution, Supervisor \_\_\_\_\_ did move for the adoption of the resolution, and Supervisor \_\_\_\_\_ did second the motion for its adoption. The matter was then put to a roll call vote, and the result was as follows:

|                         |       |
|-------------------------|-------|
| Supervisor Sheila Jones | _____ |
| Supervisor Trey Baxter  | _____ |
| Supervisor Gerald Steen | _____ |
| Supervisor David Bishop | _____ |
| Supervisor Paul Griffin | _____ |

The motion having received the affirmative vote of a majority of the members present, the President declared the motion carried and the resolution adopted this, the \_\_\_\_\_ day of January, 2016.

SO ORDERED this the \_\_\_\_\_ day of January, 2016.

*Miss. Code Ann. § 25-11-106*

MISSISSIPPI CODE of 1972

\*\*\* Current through the 2015 Regular Session \*\*\*

TITLE 25. PUBLIC OFFICERS AND EMPLOYEES; PUBLIC RECORDS  
CHAPTER 11. SOCIAL SECURITY AND PUBLIC EMPLOYEES' RETIREMENT AND DISABILITY  
BENEFITS

ARTICLE 3. ADDITIONAL STATE RETIREMENT AND DISABILITY BENEFITS

Miss. Code Ann. § 25-11-106 (2015)

§ 25-11-106. Counties responsible for employer contributions on direct payments to constables covered under Public Employees' Retirement System; constables responsible for employee contributions; county required to withhold percentage of gross fee income as estimated retirement contributions where constable responsible for both employer and employee contributions on net fee income; constables must make delinquent payments or elect not to and forfeit service credit

(1) (a) Any constable in office as of July 1, 2005, whose position is covered in the Public Employees' Retirement System by virtue of a plan submitted and approved under Section 25-11-105(f) will remain a member of the Public Employees' Retirement System.

(b) (i) The county is responsible for employer contributions on all direct payments to the constable from the county.

(ii) Except as otherwise provided in subparagraph (iii) of this paragraph, the constable is responsible for the employee contributions on direct payments to the constable from the county and both the employer and employee share of contributions on his or her net fee income.

(iii) For contributions required for calendar year 2014 and any calendar year thereafter, the county may elect, by majority vote of the board of supervisors spread upon its minutes, to be responsible for the employer share of contributions on the net fee income of its constables. If the county elects to be responsible for employer contributions under this provision, the election shall be irrevocable until the board of supervisors takes office for the next succeeding term of office at which time the board may elect whether to continue the election. Notice shall be given to the executive director of any election made under this subparagraph (iii) within five (5) days after the election is made.

(c) From and after January 1, 2006, in cases in which the constable is responsible for both the employer and employee contributions on net fee income, the county shall withhold from fee income due to the constable a percentage amount, as set by the board, of the gross fee income paid to the constable as estimated retirement contributions and shall remit that amount to the system. Not later than the date on which the annual report of earnings is due to be filed as provided in Section 7-3-45, the constable shall submit to the system a copy of the earnings record and make complete payment of any required contributions on net earnings from his or her office, but not less than the contributions due on the governmental treasuries paid by the county in the prior calendar year. If the constable fails to make full payment of contributions at the time required, the system shall certify the delinquency to the county and the county shall withhold any and all payments and fees due to the constable until such time as his or her retirement contributions are fully reported and made.

(2) Any current or former constable for whom appropriate employer and employee contributions and interest on all fees and county income from covered service before January 1, 2006, have not been made shall do one (1) of the following:

(a) Make the required payments or enter into an irrevocable agreement by not later than December 31, 2005, to make the payments for all calendar years before January 1, 2006. Contributions and interest due and owing for covered services before January 1, 2006, must be received by the system not later than April 15, 2007, or such date as set forth in the payment schedule mutually adopted by the member and the system.

(b) Elect, before December 31, 2005, not to pay delinquent employee and employer contributions and applicable interest for service as a constable before January 1, 2006. By making this election, the current or former constable shall irrevocably forfeit that service credit so as to be relieved of the liability for additional employer and employee contributions and applicable interest.

(3) Where a current or former constable fails to make required contributions as provided in subsection (2)(a) of this section, or where a current or former constable irrevocably elects to forfeit service credit as provided in subsection (2)(b) of this section, all employer and employee contributions previously paid on that service shall be credited to the county as the reporting entity to be distributed as appropriate between the county and the constable or former constable. No further contributions shall be due on that past service and any credit on that past service shall be removed from the member's record and may not be reinstated at any time in the future.

**HISTORY:** SOURCES: Laws, 2005, ch. 439, § 1; Laws, 2006, ch. 357, § 1; Laws, 2013, ch. 488, § 1, eff from and after Oct. 1, 2013.



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*Miss. Code Ann. § 25-11-106.1*

MISSISSIPPI CODE of 1972

\*\*\* Current through the 2015 Regular Session \*\*\*

TITLE 25. PUBLIC OFFICERS AND EMPLOYEES; PUBLIC RECORDS  
CHAPTER 11. SOCIAL SECURITY AND PUBLIC EMPLOYEES' RETIREMENT AND DISABILITY  
BENEFITS  
ARTICLE 3. ADDITIONAL STATE RETIREMENT AND DISABILITY BENEFITS

Miss. Code Ann. § 25-11-106.1 (2015)

§ 25-11-106.1. Counties responsible for employer contributions on direct payments to chancery or circuit clerks covered under Public Employees' Retirement System; chancery or circuit clerks responsible for employee contributions; chancery or circuit clerk delinquent contributions; irrevocable forfeiture of service credit for any period for which appropriate employee and employer contributions not made

(1) Any chancery or circuit clerk in office as of January 1, 2011, whose position is covered in the Public Employees' Retirement System by virtue of a plan submitted and approved under Section 25-11-105(f) will remain a member of the Public Employees' Retirement System.

(2) (a) (i) The county is responsible for employer contributions on net income attributable to direct treasury or county payroll income paid to the chancery or circuit clerk from the county.

(ii) Except as otherwise provided in this subsection (2), the chancery or circuit clerk is responsible for the employee contributions on net income attributable to direct treasury or county payroll income paid to the clerk and both the employee and employer share of contributions on the proportionate share of net income attributable to fees.

(iii) For contributions required for calendar year 2011 and any calendar year thereafter, the county may elect, by majority vote of the board of supervisors spread upon its minutes, to be responsible for the employer share of contributions on the proportionate share of net income of the chancery and circuit clerk attributable to fees. If the county elects to be responsible for employer contributions under this provision, the election shall be irrevocable until the board of supervisors takes office for the next succeeding term of office at which time the board may elect whether to continue the election. Notice shall be given to the executive director of any election made under this subparagraph (iii) within five (5) days after the election is made.

(b) Not later than the date on which the annual report of earnings is due to be filed with the Office of the State Auditor, the chancery or circuit clerk shall submit to the system a copy of the earnings record and make complete payment of required contributions on net income from his or her office; however, in no event shall the contributions be less than the contributions due on the governmental treasuries paid by the county in the prior calendar year.

(c) If the chancery or circuit clerk fails to make full payment of contributions as required for calendar year 2010 or any calendar year thereafter, the system shall certify the delinquency to the county and the county shall withhold any and all payments and fees, including accrued interest, due to the chancery or circuit clerk in a manner as prescribed by board regulations until such time as the total amount of his or her delinquent contributions are withheld and pay the amount so withheld to the system.

(3) Any current or former chancery or circuit clerk for whom appropriate employee and employer contributions and interest on all fees and county income from covered service before January 1, 2010, have not been made shall do one (1) of the following:

(a) Pay to the system the required contributions and interest by not later than December 31, 2011. Failure to pay the required contributions and interest by December 31, 2011, shall constitute an irrevocable election to forfeit service credit for any period for which contributions are delinquent. Upon such forfeiture, the chancery or circuit clerk shall be relieved of the liability for additional employee and employer contributions and applicable interest for covered service before January 1, 2010.

(b) Elect, before December 31, 2011, not to pay delinquent employee and employer contributions and applicable interest for service as a chancery or circuit clerk before January 1, 2010. By making this election, the current or former chancery or circuit clerk shall irrevocably forfeit service credit for any period for which contributions are delinquent and shall not be liable for employee and employer contributions and applicable interest for covered service before January 1, 2010.

(4) If a current or former chancery or circuit clerk fails to make required contributions as provided in subsection (3)(a) of this section or elects to forfeit service credit as provided in subsection (3)(b) of this section, all employee and employer contributions previously paid on that service shall be credited to the county as the reporting entity to be distributed as appropriate between the county and the chancery or circuit clerk or former chancery or circuit clerk. No further contributions shall be due on that past service and any credit on that past service shall be removed from the member's record and may not be reinstated at any time in the future.

**HISTORY:** SOURCES: Laws, 2011, ch. 402, § 1, eff from and after passage (approved Mar. 14, 2011.)