



### MAJOR POLICY SHIFTS

#### 2007

**H.B. 1016**

For new hires, the Mississippi Legislature increased the vesting period from 4 to 8 years and increased the years of service required for retirement at age 60 from 4 to 8 years.

#### 2010

**H.B. 1**

For active employees, the Mississippi Legislature increased the employee contribution rate from 7.25% to 9%, while offsetting benefits to employees.

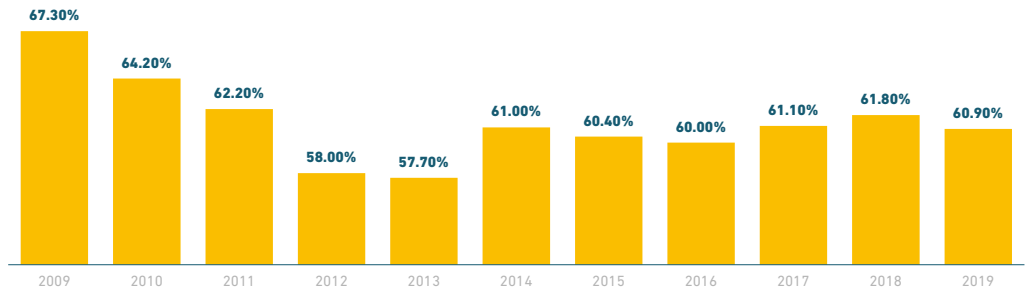
#### 2011

**S.B. 2439**

For new hires, the Mississippi Legislature (1) revised the retirement multiplier to 2% of final salary for the first 30 years of service plus 2.5% for each additional year; (2) increased the retirement age from 60 to 65 and the years of service required before (non-early) retirement from 25 to 30; and (3) increased the age at which retiree's cost-of-living adjustment (COLA) converts from simple to compounded from 55 to 60.

### FUNDED RATIO

The graphic below covers the Public Employees' Retirement System of Mississippi (PERS).

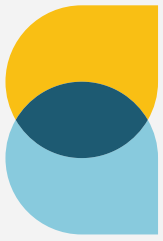


### LEGAL ENVIRONMENT FOR FUTURE POLICY EFFORTS

Legislative efforts confined to new hires are excluded from analysis because they rarely face significant legal challenges.

What are some policy options?	Were there relevant policy shifts for active employees or retirees?	Have there been legal challenges?	What are the legal prospects for future changes?*
<b>INCREASE EMPLOYEE CONTRIBUTIONS</b>	YES H.B. 1 (2010)	NO	<ul style="list-style-type: none"> <li><b>FAVORABLE</b> as to active employees only if there is an offsetting benefit</li> <li><b>N/A</b> as to retirees</li> </ul>
<b>DECREASE OR ELIMINATE COST-OF-LIVING ADJUSTMENTS</b>	NO	NO	<ul style="list-style-type: none"> <li><b>UNFAVORABLE</b> as to active employees only if there is an offsetting benefit</li> <li><b>UNFAVORABLE</b> as to retirees unless there is an offsetting benefit</li> </ul>
<b>CHANGE VESTING PERIOD</b>	NO	NO	<ul style="list-style-type: none"> <li><b>UNFAVORABLE</b> as to active, unvested employees unless there is an offsetting benefit</li> <li><b>N/A</b> as to active, vested employees and retirees</li> </ul>
<b>CHANGE BENEFIT CALCULATION</b>	NO	NO	<ul style="list-style-type: none"> <li><b>UNFAVORABLE</b> as to active employees unless there is an offsetting benefit</li> <li><b>UNFAVORABLE</b> as to retirees unless there is an offsetting benefit</li> </ul>

\* **FAVORABLE** indicates that the issue survived litigation in the past and/or there is a permissive legal environment for the change.  
 \* **UNFAVORABLE** indicates that the issue did not survive litigation in the past and/or there is a non-permissive legal environment the change.  
 \* **UNDEVELOPED** indicates that the issue has not been litigated and/or the current legal environment is unclear as to what the outcome would be.



## MISSISSIPPI STATE LAW CONTEXT

### State Provisions

**ARTICLE III, SECTION 16 OF THE MISSISSIPPI CONSTITUTION:** "Ex post facto laws, or laws impairing the obligation of contracts, shall not be passed."

### Key Opinions

**PUBLIC EMPLOYEES RET. SYS. V. PORTER, 763 SO.2D 845 (MISS. 2000)**

The sister of a retired employee challenged the constitutionality of a "statute that mandated that the pre-retirement death benefits of a PERS member shall go to the member's surviving spouse, regardless of whom the member has duly designated as his or her beneficiary." *Public Employees Ret. Sys. v. Porter*, 763 So. 2d at 846. The law in existence when the claimant designated his sister as beneficiary allowed retirement benefits to go to the designated beneficiary. The court held that the later statute was unconstitutional as to the plaintiff because it "impaired the decedent's right to designate his beneficiary without conferring a comparable right upon the decedent." *Id.* at 846. Applying standard contracts doctrine to pension benefits conferred by statute, the court also ruled that "[t]he obligation of a contract, in the meaning of [the state constitution] depends on the law in existence when the contract is made . . ." *Id.* at 849 (quoting *Tucker Printing Co. v. Board of Supervisors*, 158 So. 336, 338 (1934)).

**RE: PERS-INCREASE OF EMPLOYEE CONTRIBUTION, OP. ATT'Y GEN. NO. 2010-00039 (2010)**

The Executive Director of PERS requested an opinion as to the constitutionality of increasing the employee contribution rate for active employees. In response, the Attorney General, applying the holding in *Public Employees Ret. Sys. v. Porter*, concluded that "[t]he PERS Board is not authorized to increase the member contribution rate . . . [s]uch an increase would constitute an impermissible impairment of a contractual obligation. . ." Page 1. The Attorney General explained that "the Legislature may change a retirement system member's contractual rights, but if the change results in a substantial disadvantage to the member, a substantial new advantage must also be conferred in order for the change to be constitutional. Without denominating it as such, the Court in *Porter* adopted the California Rule." Page 4.

### FOR MORE INFORMATION

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