MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Clark To: Appropriations

# HOUSE BILL NO. 237

AN ACT TO AMEND SECTION 25-11-127, MISSISSIPPI CODE OF 1972, TO AUTHORIZE RETIRED MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO BE EMPLOYED AS A TEACHER IN A SCHOOL DISTRICT WITHIN A GEOGRAPHICAL AREA OF THE STATE WHERE THERE EXISTS A CRITICAL SHORTAGE OF TEACHERS AND DRAW THE FULL AMOUNT OF THE RETIREMENT ALLOWANCE, FOR A PERIOD NOT EXCEEDING THREE YEARS, DURING WHICH TIME THE RETIREE MAY WORK THE FULL NUMBER OF NORMAL WORKING DAYS FOR THE POSITION AND RECEIVE THE FULL AMOUNT OF THE SALARY IN EFFECT FOR THE POSITION AT THE TIME OF EMPLOYMENT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

**SECTION 1.** Section 25-11-127, Mississippi Code of 1972, is amended as follows:

25-11-127. (1) (a) No person who is being paid a retirement allowance or a pension after retirement under this article shall be employed or paid for any service by the State of Mississippi, including services as an employee, contract worker, contractual employee or independent contractor, until the retired person has been retired for not less than ninety (90) consecutive days from his or her effective date of retirement. After the person has been retired for not less than ninety (90) consecutive days from his or her effective date of retirement or such later

date as established by the board, he or she may be reemployed while being paid a retirement allowance under the terms and conditions provided in this section.

(b) No retiree of this retirement system who is reemployed or is reelected to office after retirement shall continue to draw retirement benefits while so reemployed, except as provided in this section.

(c) No person employed or elected under the exceptions provided for in this section shall become a member under Article 3 of the retirement system.

(2) Any person who has been retired under the provisions of Article 3 and who is later reemployed in service covered by this article shall cease to receive benefits under this article and shall again become a contributing member of the retirement system. When the person retires again, if the reemployment exceeds six (6) months, the person shall have his or her benefit recomputed, including service after again becoming a member, provided that the total retirement allowance paid to the retired member in his or her previous retirement shall be deducted from the member's retirement reserve and taken into consideration in recalculating the retirement allowance under a new option selected.

(3) The board shall have the right to prescribe rules and regulations for carrying out the provisions of this section.

(4) The provisions of this section shall not be construed to prohibit any retiree, regardless of age, from being employed and drawing a retirement allowance either:

(a) For a period of time not to exceed one-half (1/2) of the normal working days for the position in any fiscal year during which the retiree will receive no more than one-half (1/2) of the salary in effect for the position at the time of employment, or

(b) For a period of time in any fiscal year sufficient in length to permit a retiree to earn not in excess of twenty-five percent (25%) of retiree's average compensation.

To determine the normal working days for a position under paragraph (a) of this subsection, the employer shall determine the required number of working days for the position on a full-time basis and the equivalent number of hours representing the full-time position. The retiree then may work up to one-half (1/2) of the required number of working days or up to one-half (1/2) of the equivalent number of hours and receive up to one-half (1/2) of the salary for the position. In the case of employment with multiple employers, the limitation shall equal one-half (1/2) of the number of days or hours for a single full-time position.

Notice shall be given in writing to the executive director, setting forth the facts upon which the employment is being made, and the notice shall be given within five (5) days from the date

of employment and also from the date of termination of the employment.

(5) The provisions of this section shall not be construed to prohibit any retiree, regardless of age, from being employed as a teacher in a school district within a geographical area of the state where there exists a critical shortage of teachers, as designated by the State Department of Education, and drawing the full amount of the retiree's retirement allowance, for a period not exceeding three (3) years, during which time the retiree may work the full number of normal working days for the position and receive the full amount of the salary in effect for the position at the time of employment.

( * * *6) Except as otherwise provided in subsection ( * * *7) of this section, the employer of any person who is receiving a retirement allowance and who is employed in service covered by subsection (4) or (5) of this section as an employee or a contractual employee shall pay to the board the full amount of the employer's contribution on the amount of compensation received by the retiree for his or her employment in accordance with regulations prescribed by the board. The retiree shall not receive any additional creditable service in the retirement system as a result of the payment of the employer's contribution. This subsection does not apply to persons who are receiving a retirement allowance and who contract with an employer to provide

services as a true independent contractor, as defined by the board through regulation.

( * * *7) (a) A member may retire and continue in municipal or county elective office provided that the member has reached the age and/or service requirement that will not result in a prohibited in-service distribution as defined by the Internal Revenue Service, or a retiree may be elected to a municipal or county office, provided that the person:

(i) Files annually, in writing, in the office of the employer and the office of the executive director of the system before the person takes office or as soon as possible after retirement, a waiver of all salary or compensation and elects to receive in lieu of that salary or compensation a retirement allowance as provided in this section, in which event no salary or compensation shall thereafter be due or payable for those services; however, any such officer or employee may receive, in addition to the retirement allowance, office expense allowance, mileage or travel expense authorized by any statute of the State of Mississippi; or

(ii) Elects to receive compensation for that elective office in an amount not to exceed twenty-five percent (25%) of the retiree's average compensation. In order to receive compensation as allowed in this subparagraph, the retiree shall file annually, in writing, in the office of the employer and the office of the executive director of the system, an election to

receive, in addition to a retirement allowance, compensation as allowed in this subparagraph.

(b) The municipality or county in which the retired person holds elective office shall pay to the board the amount of the employer's contributions on the full amount of the regular compensation for the elective office that the retired person holds.

(c) As used in this subsection, the term "compensation" does not include office expense allowance, mileage or travel expense authorized by a statute of the State of Mississippi.

**SECTION 2.** This act shall take effect and be in force from and after July 1, 2021.