

By: Representative Robinson (63rd)

To: Appropriations

HOUSE BILL NO. 1226

1 AN ACT TO AMEND SECTION 25-11-127, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT NO PERSON WHO IS RECEIVING A RETIREMENT ALLOWANCE
3 UNDER THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM SHALL BE REEMPLOYED
4 OR PAID FOR ANY SERVICE BY THE STATE OF MISSISSIPPI OR ANY OF ITS
5 AGENCIES OR SUBDIVISIONS PARTICIPATING IN THE RETIREMENT SYSTEM,
6 EXCEPT AS AN INDEPENDENT CONTRACTOR; TO PROVIDE THAT THE BOARD OF
7 TRUSTEES OF THE RETIREMENT SYSTEM SHALL PRESCRIBE THE CRITERIA
8 THAT MUST BE MET BY A RETIRED MEMBER TO PERFORM SERVICES FOR A
9 COVERED EMPLOYER AS AN INDEPENDENT CONTRACTOR WHILE CONTINUING TO
10 RECEIVE A RETIREMENT ALLOWANCE; TO AMEND SECTION 25-9-120,
11 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING
12 PROVISION; AND FOR RELATED PURPOSES.

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

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

16 25-11-127. No person who is being paid a retirement
17 allowance or a pension after retirement under this article shall
18 be employed or reemployed or paid for any service by the State of
19 Mississippi or any of its departments, agencies or subdivisions
20 that are participating in the Public Employees' Retirement System,
21 except as an independent contractor. This section applies to all
22 retired members of the system employed or reemployed by any
23 covered employer as (a) an employee, (b) a contractual employee or
24 worker, or (c) any other contract personnel who does not meet the
25 criteria of an independent contractor, as determined by the board
26 of trustees of the system. The board of trustees of the system
27 shall prescribe by regulation the criteria that must be met by a
28 retired member to perform services for a covered employer as an
29 independent contractor while continuing to receive a retirement
30 allowance under this article.

31 Any person who has been retired under the provisions of

32 Articles 1 and 3 and who is later reemployed in service covered by
33 this article shall cease to receive benefits under this article
34 and shall again become a contributing member of the retirement
35 system with contributions paid by both the employer and the
36 employee. When any such person retires again, if his reemployment
37 exceeds six (6) months, he shall have his benefit recomputed,
38 including service after again becoming a member. * * * The total
39 retirement allowance paid to the retired member in his previous
40 retirement shall be deducted from his retirement reserve and taken
41 into consideration in recalculating the retirement allowance under
42 a new option selected. * * *

43 The board of trustees of the retirement system may prescribe
44 rules and regulations for * * * carrying out the provisions of
45 this section.

46 * * *

47 SECTION 2. Section 25-9-120, Mississippi Code of 1972, is
48 amended as follows:

49 25-9-120. (1) Contract personnel, whether classified as
50 contract workers or independent contractors shall not be deemed
51 state service or nonstate service employees of the State of
52 Mississippi, and shall not be eligible to participate in the
53 Public Employees' Retirement System, or the state employee health
54 plan, nor be allowed credit for personal and sick leave and other
55 leave benefits as employees of the State of Mississippi,
56 notwithstanding Sections 25-3-91 through 25-3-101; 25-9-101
57 through 25-9-151; 25-11-1 through 25-11-126; 25-11-128 through
58 25-11-131; 25-15-1 through 25-15-23 and for the purpose set forth
59 herein. * * *

60 (2) There is hereby created the Personal Service Contract
61 Review Board, which shall be composed of the State Personnel
62 Director, the Executive Director of the Department of Finance and
63 Administration, or his designee, the Commissioner of Corrections,
64 or his designee, the Executive Director of the Mississippi

65 Department of Wildlife and Fisheries, or his designee, and the
66 Executive Director of the Department of Environmental Quality, or
67 his designee. The State Personnel Director shall be chairman and
68 shall preside over the meetings of the board. The board shall
69 annually elect a vice-chairman, who shall serve in the absence of
70 the chairman. No business shall be transacted, including adoption
71 of rules of procedure, without the presence of a quorum of the
72 board. Three (3) members shall be a quorum. No action shall be
73 valid unless approved by the chairman and two (2) other of those
74 members present and voting, entered upon the minutes of the board
75 and signed by the chairman. Necessary clerical and administrative
76 support for the board shall be provided by the State Personnel
77 Board. Minutes shall be kept of the proceedings of each meeting,
78 copies of which shall be filed on a monthly basis with the
79 Legislative Budget Office.

80 (3) The Personal Service Contract Review Board shall have
81 the following powers and responsibilities:

82 (a) Promulgate rules and regulations governing the
83 solicitation and selection of contractual services personnel
84 including personal and professional services contracts for any
85 form of consulting, policy analysis, public relations, marketing,
86 public affairs, legislative advocacy services or any other
87 contract that the board deems appropriate for oversight, with the
88 exception of any personal service contracts entered into for
89 computer or information technology-related services governed by
90 the Mississippi Department of Information Technology Services, any
91 personal service contracts entered into by the Mississippi
92 Department of Transportation, and any contract for attorney,
93 accountant, auditor, physician, dentist, architect, engineer,
94 veterinarian and utility rate expert services. Any such rules and
95 regulations shall provide for maintaining continuous internal
96 audit covering the activities of such agency affecting its revenue
97 and expenditures as required under Section 7-7-3(6)(d).

98 (b) Approve all personal and professional services
99 contracts involving the expenditures of funds in excess of One
100 Hundred Thousand Dollars (\$100,000.00);

101 (c) Develop standards with respect to contractual
102 services personnel which require invitations for public bid,
103 requests for proposals, record keeping and financial
104 responsibility of contractors. The Personal Service Contract
105 Review Board may, in its discretion, require the agency involved
106 to advertise such contract for public bid, and may reserve the
107 right to reject any or all bids;

108 (d) Prescribe certain circumstances whereby agency
109 heads may enter into contracts for personal and professional
110 services without receiving prior approval from the Personal
111 Service Contract Review Board. The Personal Service Contract
112 Review Board may establish a pre-approved list of providers of
113 various personal and professional services for set prices with
114 which state agencies may contract without bidding or prior
115 approval from the board.

116 (e) To provide standards for the issuance of requests
117 for proposals, the evaluation of proposals received, consideration
118 of costs and quality of services proposed, contract negotiations,
119 the administrative monitoring of contract performance by the
120 agency and successful steps in terminating a contract;

121 (f) To present recommendations for governmental
122 privatization and to evaluate privatization proposals submitted by
123 any state agency;

124 (g) To authorize personal and professional service
125 contracts to be effective for more than one (1) year provided a
126 funding condition is included in any such multiple year contract;

127 (h) To request the State Auditor to conduct a
128 performance audit on any personal or professional service
129 contract;

130 (i) Prepare an annual report to the Legislature

131 concerning the issuance of personal service contracts during the
132 previous year, collecting any necessary information from state
133 agencies in making such report.

134 (4) No member of the Personal Service Contract Review Board
135 shall use his official authority or influence to coerce, by threat
136 of discharge from employment, or otherwise, the purchase of
137 commodities or the contracting for personal or professional
138 services under this section.

139 SECTION 3. This act shall take effect and be in force from
140 and after July 1, 1999.