

By: Representatives Boyd, Criswell, Eubanks, Hopkins To: Appropriations

HOUSE BILL NO. 902

1 AN ACT TO AMEND SECTION 25-11-127, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT NO PERSON WHO IS RETIRED UNDER PUBLIC EMPLOYEES'
3 RETIREMENT SYSTEM (PERS) SHALL BE PAID A RETIREMENT ALLOWANCE OR A
4 PENSION FROM PERS DURING ANY PERIOD OF TIME THAT THE PERSON IS
5 PERFORMING SERVICES AS A CONSULTANT OR ADVISOR TO AN AGENCY OF THE
6 STATE OF MISSISSIPPI FOR COMPENSATION UNDER A CONTRACT WITH THE
7 AGENCY AS A CONTRACT EMPLOYEE OR AS AN INDEPENDENT CONTRACTOR; AND
8 FOR RELATED PURPOSES.

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

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

12 25-11-127. (1) (a) No person who is being paid a
13 retirement allowance or a pension after retirement under this
14 article shall be employed or paid for any service by the State of
15 Mississippi, including services as an employee, contract worker,
16 contractual employee or independent contractor, until the retired
17 person has been retired for not less than ninety (90) consecutive
18 days from his or her effective date of retirement. After the
19 person has been retired for not less than ninety (90) consecutive
20 days from his or her effective date of retirement or such later
21 date as established by the board, he or she may be reemployed



22 while being paid a retirement allowance under the terms and
23 conditions provided in this section.

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

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

31 (d) No person who is retired under this article shall
32 be paid a retirement allowance or a pension under this article
33 during any period of time that the person is performing services
34 as a consultant or advisor to an agency of the State of
35 Mississippi for compensation under a contract with the agency as a
36 contract employee or as an independent contractor, if the services
37 being performed by the person as a consultant or advisor: (i) are
38 not an integral part of the agency's work and are not typically
39 performed by a regular employee of the agency, and/or (ii) were
40 previously performed by the person as an employee of the agency or
41 by another employee of the agency.

42 (2) Any person who has been retired under the provisions of
43 Article 3 and who is later reemployed in service covered by this
44 article shall cease to receive benefits under this article and
45 shall again become a contributing member of the retirement system.
46 When the person retires again, if the reemployment exceeds six (6)



47 months, the person shall have his or her benefit recomputed,
48 including service after again becoming a member, provided that the
49 total retirement allowance paid to the retired member in his or
50 her previous retirement shall be deducted from the member's
51 retirement reserve and taken into consideration in recalculating
52 the retirement allowance under a new option selected.

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

55 (4) Except as otherwise provided in subsection (1)(d), the
56 provisions of this section shall not be construed to prohibit any
57 retiree, regardless of age, from being employed and drawing a
58 retirement allowance either:

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

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

67 To determine the normal working days for a position under
68 paragraph (a) of this subsection, the employer shall determine the
69 required number of working days for the position on a full-time
70 basis and the equivalent number of hours representing the
71 full-time position. The retiree then may work up to one-half



72 (1/2) of the required number of working days or up to one-half
73 (1/2) of the equivalent number of hours and receive up to one-half
74 (1/2) of the salary for the position. In the case of employment
75 with multiple employers, the limitation shall equal one-half (1/2)
76 of the number of days or hours for a single full-time position.

77 Notice shall be given in writing to the executive director,
78 setting forth the facts upon which the employment is being made,
79 and the notice shall be given within five (5) days from the date
80 of employment and also from the date of termination of the
81 employment.

82 (5) Except as otherwise provided in subsection (6) of this
83 section, the employer of any person who is receiving a retirement
84 allowance and who is employed in service covered by subsection (4)
85 of this section as an employee or a contractual employee shall pay
86 to the board the full amount of the employer's contribution on the
87 amount of compensation received by the retiree for his or her
88 employment in accordance with regulations prescribed by the board.
89 The retiree shall not receive any additional creditable service in
90 the retirement system as a result of the payment of the employer's
91 contribution. This subsection does not apply to persons who are
92 receiving a retirement allowance and who contract with an employer
93 to provide services as a true independent contractor, as defined
94 by the board through regulation.

95 (6) (a) A member may retire and continue in municipal or
96 county elective office provided that the member has reached the



97 age and/or service requirement that will not result in a
98 prohibited in-service distribution as defined by the Internal
99 Revenue Service, or a retiree may be elected to a municipal or
100 county office, provided that the person:

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

112 (ii) Elects to receive compensation for that
113 elective office in an amount not to exceed twenty-five percent
114 (25%) of the retiree's average compensation. In order to receive
115 compensation as allowed in this subparagraph, the retiree shall
116 file annually, in writing, in the office of the employer and the
117 office of the executive director of the system, an election to
118 receive, in addition to a retirement allowance, compensation as
119 allowed in this subparagraph.

120 (b) The municipality or county in which the retired
121 person holds elective office shall pay to the board the amount of



122 the employer's contributions on the full amount of the regular
123 compensation for the elective office that the retired person
124 holds.

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

128 **SECTION 2.** This act shall take effect and be in force from
129 and after July 1, 2016.

