

By: Senator(s) Norwood, Simmons (13th)

To: Finance

SENATE BILL NO. 2401

1 AN ACT TO CREATE NEW SECTION 25-11-128, MISSISSIPPI CODE OF  
 2 1972, TO PROVIDE THAT CERTAIN PERSONS RECEIVING A RETIREMENT  
 3 ALLOWANCE FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO ARE  
 4 REEMPLOYED AS TEACHERS IN THE PUBLIC SCHOOL SYSTEM AFTER THEIR  
 5 RETIREMENT MAY RECEIVE A RETIREMENT ALLOWANCE DURING THEIR  
 6 EMPLOYMENT AS TEACHERS IN ADDITION TO RECEIVING A TEACHER'S  
 7 SALARY; TO PROVIDE THAT THOSE PERSONS MAY NOT BE REEMPLOYED FOR A  
 8 PERIOD GREATER THAN FIVE YEARS; TO PROVIDE THAT THOSE PERSONS  
 9 SHALL NOT BE CONTRIBUTING MEMBERS OF THE RETIREMENT SYSTEM NOR  
 10 RECEIVE ANY CREDITABLE SERVICE; TO PROVIDE THAT THE EMPLOYER SHALL  
 11 BE RESPONSIBLE FOR PAYING AN AMOUNT EQUIVALENT TO BOTH THE  
 12 EMPLOYER'S PORTION AND THE EMPLOYEE'S PORTION OF THE CONTRIBUTION  
 13 RATE; TO AMEND SECTION 25-11-127, MISSISSIPPI CODE OF 1972, TO  
 14 CONFORM; AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** The following shall be codified as Section  
 17 25-11-128, Mississippi Code of 1972:

18 25-11-128. (1) Any person who has completed thirty (30) or  
 19 more years of creditable service, is receiving a retirement  
 20 allowance under this article, and who was employed as a teacher in  
 21 the public school system at the time of retirement may, after  
 22 having been retired for a period of no less than twelve (12)  
 23 consecutive months, return to employment in the public school  
 24 system and receive the retirement allowance under this article in



25 addition to receiving a salary negotiated with the school  
26 district, in the manner provided in this section.

27 (2) Any person described in subsection (1) of this section  
28 shall notify the executive director of the retirement system,  
29 before being employed as a teacher in the public school system  
30 after retirement, about his or her choice on continuing to receive  
31 the retirement allowance during employment as a teacher. If the  
32 person chooses not to continue receiving the retirement allowance  
33 during employment as a teacher, the retirement allowance shall  
34 cease on the day that he or she begins employment as a teacher  
35 after retirement. After the person leaves employment as a teacher  
36 that began after retirement, in order to begin receiving a  
37 retirement allowance under this article again, the person shall  
38 make application to the executive director of the retirement  
39 system, and the retirement allowance shall begin on the first of  
40 the month following the date that the application is received by  
41 the executive director.

42 (3) No person may be reemployed under this section for a  
43 period greater than five (5) years.

44 (4) The provisions of Section 25-11-127(2) do not apply to  
45 persons reemployed under this section. Such persons shall not be  
46 contributing members of the retirement system nor receive any  
47 creditable service.

48 (5) For every person returning to employment under this  
49 section, the employer shall be responsible for paying an amount



50 equivalent to both the employer's portion and the employee's  
51 portion of the contribution rate specified in Section 25-11-123.

52 **SECTION 2.** Section 25-11-127, Mississippi Code of 1972, is  
53 amended as follows:

54 25-11-127. (1) (a) No person who is being paid a  
55 retirement allowance or a pension after retirement under this  
56 article shall be employed or paid for any service by the State of  
57 Mississippi, including services as an employee, contract worker,  
58 contractual employee or independent contractor, until the retired  
59 person has been retired for not less than ninety (90) consecutive  
60 days from his or her effective date of retirement. Except as  
61 otherwise provided in Section 25-11-128, after the person has been  
62 retired for not less than ninety (90) consecutive days from his or  
63 her effective date of retirement or such later date as established  
64 by the board, he or she may be reemployed while being paid a  
65 retirement allowance under the terms and conditions provided in  
66 this section.

67 (b) No retiree of this retirement system who is  
68 reemployed or is reelected to office after retirement shall  
69 continue to draw retirement benefits while so reemployed, except  
70 as provided in this section or Section 25-11-128.

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



74           (2) Any person who has been retired under the provisions of  
75 Article 3 and who is later reemployed in service covered by this  
76 article shall cease to receive benefits under this article and  
77 shall again become a contributing member of the retirement system.  
78 When the person retires again, if the reemployment exceeds six (6)  
79 months, the person shall have his or her benefit recomputed,  
80 including service after again becoming a member, provided that the  
81 total retirement allowance paid to the retired member in his or  
82 her previous retirement shall be deducted from the member's  
83 retirement reserve and taken into consideration in recalculating  
84 the retirement allowance under a new option selected. This  
85 subsection does not apply to retired teachers returning to  
86 employment as teachers in the public school system under Section  
87 25-11-128.

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

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

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



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

101               To determine the normal working days for a position under  
102 paragraph (a) of this subsection, the employer shall determine the  
103 required number of working days for the position on a full-time  
104 basis and the equivalent number of hours representing the  
105 full-time position. The retiree then may work up to one-half  
106 (1/2) of the required number of working days or up to one-half  
107 (1/2) of the equivalent number of hours and receive up to one-half  
108 (1/2) of the salary for the position. In the case of employment  
109 with multiple employers, the limitation shall equal one-half (1/2)  
110 of the number of days or hours for a single full-time position.

111               Notice shall be given in writing to the executive director,  
112 setting forth the facts upon which the employment is being made,  
113 and the notice shall be given within five (5) days from the date  
114 of employment and also from the date of termination of the  
115 employment.

116               (5) Except as otherwise provided in subsection (6) of this  
117 section, the employer of any person who is receiving a retirement  
118 allowance and who is employed in service covered by subsection (4)  
119 of this section as an employee or a contractual employee shall pay  
120 to the board the full amount of the employer's contribution on the  
121 amount of compensation received by the retiree for his or her  
122 employment in accordance with regulations prescribed by the board.



123 The retiree shall not receive any additional creditable service in  
124 the retirement system as a result of the payment of the employer's  
125 contribution. This subsection does not apply to persons who are  
126 receiving a retirement allowance and who contract with an employer  
127 to provide services as a true independent contractor, as defined  
128 by the board through regulation.

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

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

146 (ii) Elects to receive compensation for that  
147 elective office in an amount not to exceed twenty-five percent



148 (25%) of the retiree's average compensation. In order to receive  
149 compensation as allowed in this subparagraph, the retiree shall  
150 file annually, in writing, in the office of the employer and the  
151 office of the executive director of the system, an election to  
152 receive, in addition to a retirement allowance, compensation as  
153 allowed in this subparagraph.

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

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

162 **SECTION 3.** This act shall take effect and be in force from  
163 and after July 1, 2024.

