

By: Representatives Formby,
Davis, Moore, Read, Simpson,
Snowden

To: Appropriations; Sel Cmte
on Hurricane Recovery

HOUSE BILL NO. 38

1 AN ACT TO AMEND SECTION 25-11-127, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE TEMPORARY EMPLOYMENT OF RETIREES UNDER THE PUBLIC
3 EMPLOYEES' RETIREMENT SYSTEM IN POSITIONS IN ANY COUNTY THAT WAS
4 DECLARED BY THE PRESIDENT TO BE A MAJOR DISASTER AREA BECAUSE OF
5 DAMAGE FROM HURRICANE KATRINA AND IN WHICH CERTAIN ASSISTANCE FROM
6 THE FEDERAL GOVERNMENT HAS BEEN MADE AVAILABLE, IF THE EMPLOYER
7 DETERMINES AND CERTIFIES THAT THE RETIREE'S KNOWLEDGE AND
8 EXPERIENCE WOULD BE BENEFICIAL TO THE EMPLOYER IN RECOVERING FROM
9 THE EFFECTS OF HURRICANE KATRINA; TO SPECIFY THE PERIOD OF TIME
10 THAT A RETIREE MAY WORK AND THE AMOUNT OF THE SALARY THAT A
11 RETIREE MAY RECEIVE WHILE EMPLOYED IN SUCH A POSITION; AND FOR
12 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 [Through June 30, 2006, Section 25-11-127 shall read as
17 follows:]

18 25-11-127. (1) (a) No person who is being paid a
19 retirement allowance or a pension after retirement under this
20 article shall be employed or paid for any service by the State of
21 Mississippi, except as provided in this section.

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

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

29 (2) Any person who has been retired under the provisions of
30 Article 3 and who is later reemployed in service covered by this
31 article shall cease to receive benefits under this article and
32 shall again become a contributing member of the retirement system.

33 When the person retires again, if the reemployment exceeds six (6)
34 months, the person shall have his or her benefit recomputed,
35 including service after again becoming a member, provided that the
36 total retirement allowance paid to the retired member in his or
37 her previous retirement shall be deducted from the member's
38 retirement reserve and taken into consideration in recalculating
39 the retirement allowance under a new option selected.

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

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

45 (i) For a period of time not to exceed one-half
46 (1/2) of the normal working days for the position in any fiscal
47 year during which the retiree will receive no more than one-half
48 (1/2) of the salary in effect for the position at the time of
49 employment, or

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

53 To determine the normal working days for a position under
54 subparagraph (i) of this paragraph (a), the employer shall
55 determine the required number of working days for the position on
56 a full-time basis and the equivalent number of hours representing
57 the full-time position. The retiree then may work up to one-half
58 (1/2) of the required number of working days or up to one-half
59 (1/2) of the equivalent number of hours and receive up to one-half
60 (1/2) of the salary for the position. In the case of employment
61 with multiple employers, the limitation shall equal one-half (1/2)
62 of the number of days or hours for a single full-time position.

63 (b) Notwithstanding the provisions of paragraph (a) of
64 this subsection, in any county that was declared by the President
65 to be a major disaster area because of damage from Hurricane

66 Katrina and in which both Individual Assistance and Public
67 Assistance from the federal government have been made available, a
68 retiree may be employed and draw a retirement allowance during the
69 period from the effective date of this act through June 30, 2006,
70 in any position covered by the retirement system for which the
71 duties will be performed in any of those counties, and for which
72 the retiree's knowledge and experience would be beneficial to the
73 employer in recovering from the effects of Hurricane Katrina, as
74 determined by the employer and certified to the executive
75 director. Any retiree who is employed under the provisions of
76 this paragraph (b) may be employed and draw a retirement allowance
77 for any period of time from the effective date of this act through
78 June 30, 2006, during which time the retiree may receive the full
79 amount of the salary in effect for the position at the time of
80 employment.

81 (c) Notice of employment under this subsection (4)
82 shall be given in writing to the executive director, setting forth
83 the facts upon which the employment is being made, and the notice
84 shall be given within five (5) days from the date of employment
85 and also from the date of termination of the employment.

86 (5) Any member may continue in municipal or county elected
87 office or be elected to a municipal or county office, provided
88 that the person:

89 (a) Files annually, in writing, in the office of the
90 employer and the office of the executive director of the system
91 before the person takes office or as soon as possible after
92 retirement, a waiver of all salary or compensation and elects to
93 receive in lieu of that salary or compensation a retirement
94 allowance as provided in this section, in which event no salary or
95 compensation shall thereafter be due or payable for those
96 services; however, any such officer or employee may receive, in
97 addition to the retirement allowance, office expense allowance,

98 mileage or travel expense authorized by any statute of the State
99 of Mississippi; or

100 (b) Elects to receive compensation for that elective
101 office in an amount not to exceed twenty-five percent (25%) of the
102 retiree's average compensation. As used in this paragraph, the
103 term "compensation" shall not include office expense allowance,
104 mileage or travel expense authorized by a statute of the State of
105 Mississippi. In order to receive compensation as allowed in this
106 paragraph, the member shall file annually, in writing, in the
107 office of the employer and the office of the executive director of
108 the system, an election to receive, in addition to a retirement
109 allowance, compensation as allowed in this paragraph.

110 **[From and after July 1, 2006, this section shall read as**
111 **follows:]**

112 25-11-127. (1) (a) No person who is being paid a
113 retirement allowance or a pension after retirement under this
114 article shall be employed or paid for any service by the State of
115 Mississippi, except as provided in this section.

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

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

123 (2) Any person who has been retired under the provisions of
124 Article 3 and who is later reemployed in service covered by this
125 article shall cease to receive benefits under this article and
126 shall again become a contributing member of the retirement system.
127 When the person retires again, if the reemployment exceeds six (6)
128 months, the person shall have his or her benefit recomputed,
129 including service after again becoming a member, provided that the
130 total retirement allowance paid to the retired member in his or

131 her previous retirement shall be deducted from the member's
132 retirement reserve and taken into consideration in recalculating
133 the retirement allowance under a new option selected.

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

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

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

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

147 To determine the normal working days for a position under
148 paragraph (a) of this subsection, the employer shall determine the
149 required number of working days for the position on a full-time
150 basis and the equivalent number of hours representing the
151 full-time position. The retiree then may work up to one-half
152 (1/2) of the required number of working days or up to one-half
153 (1/2) of the equivalent number of hours and receive up to one-half
154 (1/2) of the salary for the position. In the case of employment
155 with multiple employers, the limitation shall equal one-half (1/2)
156 of the number of days or hours for a single full-time position.

157 Notice shall be given in writing to the executive director,
158 setting forth the facts upon which the employment is being made,
159 and the notice shall be given within five (5) days from the date
160 of employment and also from the date of termination of the
161 employment.

162 (5) Any member may continue in municipal or county elected
163 office or be elected to a municipal or county office, provided
164 that the person:

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

176 (b) Elects to receive compensation for that elective
177 office in an amount not to exceed twenty-five percent (25%) of the
178 retiree's average compensation. As used in this paragraph, the
179 term "compensation" shall not include office expense allowance,
180 mileage or travel expense authorized by a statute of the State of
181 Mississippi. In order to receive compensation as allowed in this
182 paragraph, the member shall file annually, in writing, in the
183 office of the employer and the office of the executive director of
184 the system, an election to receive, in addition to a retirement
185 allowance, compensation as allowed in this paragraph.

186 **SECTION 2.** This act shall take effect and be in force from
187 and after its passage.