

By: Representatives McMillan, Holloway
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To: State Affairs;
Appropriations A

HOUSE BILL NO. 1372

1 AN ACT TO AMEND SECTION 25-11-127, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE RETIRED MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT
3 SYSTEM TO BE EMPLOYED IN A POSITION FOR WHICH THE EMPLOYER HAS A
4 CRITICAL NEED FOR OR SHORTAGE OF EMPLOYEES AND DRAW THE FULL
5 AMOUNT OF THE RETIREE'S RETIREMENT ALLOWANCE, DURING WHICH TIME
6 THE RETIREE MAY WORK THE FULL NUMBER OF NORMAL WORKING DAYS FOR
7 THE POSITION AND RECEIVE THE FULL AMOUNT OF THE SALARY IN EFFECT
8 FOR THE POSITION AT THE TIME OF EMPLOYMENT; TO PROVIDE THAT BEFORE
9 A RETIREE MAY BE EMPLOYED IN SUCH A POSITION, THE EMPLOYER MUST
10 PROVIDE SATISFACTORY EVIDENCE WITH QUANTIFIABLE NUMBERS TO THE
11 RETIREMENT SYSTEM OF THE EXISTENCE OF A CRITICAL NEED FOR OR
12 SHORTAGE OF EMPLOYEES IN THE EMPLOYER'S AGENCY, DEPARTMENT,
13 INSTITUTION OR POLITICAL SUBDIVISION, AND SATISFACTORY EVIDENCE
14 THAT THE EMPLOYEE HAS THE EDUCATION AND EXPERIENCE NECESSARY FOR
15 THE POSITION FOR WHICH THERE IS A CRITICAL NEED OR SHORTAGE AND IN
16 WHICH HE OR SHE WILL BE EMPLOYED; AND FOR RELATED PURPOSES.

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

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

20 25-11-127. (1) (a) No person who is being paid a
21 retirement allowance or a pension after retirement under this
22 article shall be employed or paid for any service by the State of
23 Mississippi, including services as an employee, contract worker,
24 contractual employee or independent contractor, until the retired
25 person has been retired for not less than ninety (90) consecutive



26 days from his or her effective date of retirement. After the
27 person has been retired for not less than ninety (90) consecutive
28 days from his or her effective date of retirement or such later
29 date as established by the board, he or she may be reemployed
30 while being paid a retirement allowance under the terms and
31 conditions provided in this section.

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

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

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



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

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

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

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

63 To determine the normal working days for a position under
64 paragraph (a) of this subsection, the employer shall determine the
65 required number of working days for the position on a full-time
66 basis and the equivalent number of hours representing the
67 full-time position. The retiree then may work up to one-half
68 (1/2) of the required number of working days or up to one-half
69 (1/2) of the equivalent number of hours and receive up to one-half
70 (1/2) of the salary for the position. In the case of employment
71 with multiple employers, the limitation shall equal one-half (1/2)
72 of the number of days or hours for a single full-time position.

73 Notice shall be given in writing to the executive director,
74 setting forth the facts upon which the employment is being made,



75 and the notice shall be given within five (5) days from the date
76 of employment and also from the date of termination of the
77 employment.

78 (5) The provisions of this section shall not be construed to
79 prohibit a retiree, regardless of age, from being employed in a
80 position for which the employer has a critical need for or
81 shortage of employees and drawing the full amount of the retiree's
82 retirement allowance, during which time the retiree may work the
83 full number of normal working days for the position and receive
84 the full amount of the salary in effect for the position at the
85 time of employment, subject to the following conditions: Before a
86 retiree may be employed in a position under this subsection, the
87 employer must provide (a) satisfactory evidence with quantifiable
88 numbers to the Public Employees' Retirement System of the
89 existence of a critical need for or shortage of employees in the
90 employer's agency, department, institution or political
91 subdivision, and (b) satisfactory evidence that the employee has
92 the education and experience necessary for the position for which
93 there is a critical need or shortage and in which he or she will
94 be employed.

95 (* * *6) Except as otherwise provided in subsection
96 (* * *7) of this section, the employer of any person who is
97 receiving a retirement allowance and who is employed in service
98 covered by subsection (4) and (5) of this section as an employee
99 or a contractual employee shall pay to the board the full amount



100 of the employer's contribution on the amount of compensation
101 received by the retiree for his or her employment in accordance
102 with regulations prescribed by the board. The retiree shall not
103 receive any additional creditable service in the retirement system
104 as a result of the payment of the employer's contribution. This
105 subsection does not apply to persons who are receiving a
106 retirement allowance and who contract with an employer to provide
107 services as a true independent contractor, as defined by the board
108 through regulation.

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

115 (i) Files annually, in writing, in the office of
116 the employer and the office of the executive director of the
117 system before the person takes office or as soon as possible after
118 retirement, a waiver of all salary or compensation and elects to
119 receive in lieu of that salary or compensation a retirement
120 allowance as provided in this section, in which event no salary or
121 compensation shall thereafter be due or payable for those
122 services; however, any such officer or employee may receive, in
123 addition to the retirement allowance, office expense allowance,



124 mileage or travel expense authorized by any statute of the State
125 of Mississippi; or

126 (ii) Elects to receive compensation for that
127 elective office in an amount not to exceed twenty-five percent
128 (25%) of the retiree's average compensation. In order to receive
129 compensation as allowed in this subparagraph, the retiree shall
130 file annually, in writing, in the office of the employer and the
131 office of the executive director of the system, an election to
132 receive, in addition to a retirement allowance, compensation as
133 allowed in this subparagraph.

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

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

142 **SECTION 2.** This act shall take effect and be in force from
143 and after July 1, 2024.

