



1 SB332
2 136257-1
3 By Senator Orr
4 RFD: Finance and Taxation General Fund
5 First Read: 16-FEB-12



1 136257-1 : n : 02/03/2012 : LFO-KF / csh
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8 SYNOPSIS: This bill establishes an earnings cap for
9 employees who have retired under the Employees'
10 Retirement System, the Teachers' Retirement System,
11 or the Judicial Retirement Fund and returned to
12 work with an employer participating in such systems
13 while still drawing their pensions.
14

15 A BILL
16 TO BE ENTITLED
17 AN ACT
18

19 To amend Sections 12-18-10, 16-25-26, 29-4-5,
20 29-4-6, and 36-27-8.2, Code of Alabama 1975, relating to
21 post-retirement employment, to establish an earnings cap for
22 employees who have retired under the Employees' Retirement
23 System, the Teachers' Retirement System, or the Judicial
24 Retirement Fund.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:



1 Section 1. Sections 12-18-10, 16-25-26, 29-4-5,
2 29-4-6, and 36-27-8.2, Code of Alabama 1975, are amended to
3 read as follows:

4 "§12-18-10.

5 (a) The retirement benefit payable to a justice of
6 the Supreme Court or judge of one of the courts of appeals
7 retiring pursuant to subdivision (2), (3), (4) or (5) of
8 subsection (a) of Section 12-18-6 shall be 75 percent of the
9 salary prescribed by law for the position from which he
10 retires, payable monthly for the rest of his life. Such
11 benefit shall continue to be 75 percent of his salary
12 prescribed by law for such position and shall change in amount
13 as such salary is hereafter increased or decreased by law and
14 shall not be subject to writs of attachment or garnishment.

15 (b) The retirement benefit payable to a judge of a
16 circuit court retiring pursuant to subdivision (2), (3), (4)
17 or (5) of subsection (b) of Section 12-18-6 shall be 75
18 percent of the salary prescribed by law of the salary payable
19 from the State Treasury to circuit judges. Such retirement
20 benefits shall be payable monthly for the life of the
21 beneficiary and shall continue to be 75 percent of the salary
22 then prescribed by law for the respective position and shall
23 change in amount as such salary is hereafter increased or
24 decreased by law and shall not be subject to writs of
25 attachment or garnishment.



1 (c) After the death of any justice or judge who had
2 held office for a minimum of five years, his spouse shall
3 receive a yearly benefit equivalent to three percent of the
4 salary payable from the State Treasury prescribed by law for
5 his former position as either a justice or judge, as the case
6 may be, for each year of service, not to exceed 30 percent of
7 such salary, payable monthly for the remainder of such
8 spouse's life or until his or her remarriage, and such benefit
9 shall change in amount as such salary is hereafter increased
10 or decreased by law.

11 (d) Any justice or judge retiring pursuant to
12 subdivision (1) of subsection (a) or subdivision (1) of
13 subsection (b) of Section 12-8-6 who has served for 10 years
14 shall be entitled to a disability benefit allowance payable
15 monthly from the Judicial Retirement Fund equal to 75 percent
16 of the salary payable from the State Treasury for the position
17 he held at the time he retires. If such disabled justice or
18 judge has served less than 10 years, he shall be entitled to
19 receive a monthly disability benefit that is equal to 25
20 percent of the salary payable from the State Treasury for the
21 position he held at the time he retires plus 10 percent of
22 such salary for each year of service in excess of five years;
23 provided, however, that in no event shall such justice or
24 judge receive less than 30 percent of the annual salary being
25 paid to a full-time justice or judge, as the case may be, from
26 the State Treasury.



1 ~~(e) Every justice or judge who has retired pursuant~~
2 ~~to this article may, on the request of the Chief Justice, the~~
3 ~~presiding judge of a court of appeals or the Governor, be~~
4 ~~called to active duty status and, when serving with the~~
5 ~~Supreme Court or courts of appeals, shall perform such duties~~
6 ~~as may be prescribed by the Chief Justice or the presiding~~
7 ~~judge of the court of appeals with which he is serving and,~~
8 ~~when serving in a circuit court, shall perform such duties as~~
9 ~~may be prescribed by the presiding judge in the circuit. Such~~
10 ~~retired justice or judge of a court of appeals in such active~~
11 ~~service status shall receive an additional sum during the term~~
12 ~~of such service which, when added to his retirement benefits,~~
13 ~~would amount to \$250.00 per month less than the monthly salary~~
14 ~~paid a justice or judge of the appellate court from which he~~
15 ~~has retired. The salary paid a retired circuit judge called to~~
16 ~~active service with the Supreme Court or a court of appeals~~
17 ~~shall be the salary paid a circuit judge in the circuit from~~
18 ~~which said judge retired. The salary paid a retired circuit~~
19 ~~judge called to active service as a circuit judge shall be the~~
20 ~~salary paid a regular judge in the circuit to which he is~~
21 ~~assigned or in the circuit from which he retired, whichever is~~
22 ~~greater. In no event, however, shall the total compensation~~
23 ~~paid to a retired circuit judge on active status during any~~
24 ~~calendar year exceed a sum which is \$1,000.00 less than the~~
25 ~~compensation received by a regular judge in the circuit from~~
26 ~~which such judge retired.~~



1 ~~Whenever a retired justice or judge of a court of~~
2 ~~appeals is serving in a circuit court, he shall receive~~
3 ~~compensation equal to that due the regular judge of that~~
4 ~~circuit for the performance of such duties, such compensation~~
5 ~~to be paid in the same manner as the compensation of the~~
6 ~~regular circuit judge is paid; and, whenever a retired justice~~
7 ~~or a judge of a court of appeals is serving as an active~~
8 ~~member on the Supreme Court or on one of the courts of~~
9 ~~appeals, then he shall be entitled to receive, during the time~~
10 ~~of such service, compensation equal to that due a regular~~
11 ~~justice or judge for the performance of such duties, such~~
12 ~~compensation to be paid in the same manner as the compensation~~
13 ~~of a regular justice or judge is paid.~~

14 A retired justice or judge of one of the courts of
15 appeals or circuit judge, while serving with the Supreme Court
16 or one of the courts of appeals for reasons other than the
17 absence or disqualification of a justice or judge, shall
18 perform such duties as may be prescribed by the Chief Justice
19 when serving with the Supreme Court, or as prescribed by the
20 presiding judge of the court of appeals with which he may be
21 serving.

22 (f) The Chief Justice, with the advice of the
23 Supreme Court, or the presiding judge of a court of appeals,
24 with the advice of the court over which he presides, shall
25 determine whether such retired justice or judge is
26 satisfactorily performing his assigned duties. Upon



1 determination that such retired justice or judge is not
2 satisfactorily performing such duties, such retired justice or
3 judge shall immediately be removed from active status, and his
4 additional active duty compensation shall be stopped.

5 (g) Except as provided in subsection (f) of this
6 section, a retired justice or judge shall hold office as such
7 additional or extra judge during good behavior and may be
8 removed only for causes specified in the constitution. Such
9 retired justices or judges may, however, but subject to the
10 approval of the chief justice, be transferred to inactive
11 status, upon request for such transfer. Justices or judges who
12 revert to inactive status shall be entitled to the same
13 retirement benefits prescribed in subsections (a) and (b) of
14 this section for justices and judges who have retired.

15 (h) Nothing contained in this section or hereafter
16 shall limit the power and authority of the Chief Justice to
17 transfer a retired justice or judge from inactive status to
18 active status or from active status to inactive status as the
19 public interest in his judgment requires.

20 (i) Any person who is retired under the Judicial
21 Retirement Fund may perform duties in any capacity with any
22 employer participating in the Employees' Retirement System,
23 the Teachers' Retirement System, or the Judicial Retirement
24 Fund without suspension of his or her retirement allowance
25 provided that (1) the person is not employed, or performing
26 services in any permanent full-time capacity and (2) the



1 person's compensation, including any money paid directly or
2 indirectly to a company formed by or for the benefit of the
3 person, or as an independent contractor, from the
4 participating employer does not exceed the amounts allowed for
5 retirees of the Employees' Retirement System and the Teachers'
6 Retirement System pursuant to Sections 16-25-26(a) and
7 36-27-8.2(a) respectively.

8 (j) Any person serving as an elected official who
9 has retired from the Judicial Retirement Fund may serve for
10 compensation in an elected public office with the state, a
11 county, or an incorporated municipality without suspension of
12 retirement benefits; provided that under no circumstances
13 shall such a person participate in or accrue additional
14 benefits under the Teachers' Retirement System, Employees'
15 Retirement System, or the Judicial Retirement Fund and
16 provided that under no circumstances shall a person whose
17 retirement is based upon service as an elected official
18 continue in or return to such office and receive both pension
19 benefits and salary; provided further, that this subsection
20 shall apply to elected officials whose participation in the
21 Teachers' Retirement System, the Employees' Retirement System
22 or the Judicial Retirement Fund is constitutionally required
23 to be upon the same terms and conditions as specified by law
24 for other employees in the retirement system if such elected
25 official's compensation does not exceed the annual earning
26 limits provided in this section.



1 (k) The responsibility for compliance with the
2 provision of this section is placed upon the employing
3 authority, and each employee employed under this section shall
4 certify to the employer any information required in order to
5 carry out this section.

6 "\$16-25-26.

7 (a) Any person who is retired under the Teachers'
8 Retirement System may perform duties in any capacity with any
9 employer participating in the Employees' Retirement System, or
10 the Teachers' Retirement System, or the Judicial Retirement
11 Fund without suspension of his or her retirement allowance
12 provided that (1) the person is not employed, or performing
13 services in any in-a permanent full-time capacity and (2) the
14 person's compensation, including any money paid directly or
15 indirectly to a company formed by or for the benefit of the
16 person, or as an independent contractor, from the
17 participating employer in calendar year 2000 does not exceed
18 \$17,000. Beginning in calendar year 2001, and each calendar
19 year thereafter, the annual earning limit shall be increased
20 by the same percentage increase as the increase in the
21 Consumer Price Index for all urban consumers as published by
22 the U.S. Department of Labor, Bureau of Labor Statistics. Any
23 increase in the annual earning limit shall be rounded to the
24 next lowest multiple of \$1,000 with any amount in excess of
25 the \$1,000 multiple considered in determining the increase for
26 the following year. Each adjustment shall be based on the



1 increase in the index for the preceding 12-month period ending
2 on September 30 and the increase shall be effective for the
3 following calendar year.

4 (b) Any person serving as an elected official who
5 has retired from the Teachers' Retirement System may serve for
6 compensation in an elected public office with the state, a
7 county, or an incorporated municipality without suspension of
8 retirement benefits; provided that under no circumstances
9 shall such a person participate in or accrue additional
10 benefits under the Teachers' Retirement System, or the
11 Employees' Retirement System, or the Judicial Retirement Fund
12 and provided that under no circumstances shall a person whose
13 retirement is based upon service as an elected official
14 continue in or return to such office and receive both pension
15 benefits and salary; provided further, that this subsection
16 shall apply to elected officials whose participation in the
17 Teachers' Retirement System, or the Employees' Retirement
18 System, or the Judicial Retirement Fund is constitutionally
19 required to be upon the same terms and conditions as specified
20 by law for other employees in the retirement system if such
21 elected official's compensation does not exceed the annual
22 earning limits provided in subsection (a).

23 (c) The responsibility for compliance with this
24 section is placed upon the employing authority, and each
25 person employed under this section shall certify to the



1 employer any information required in order to carry out this
2 section.

3 "§29-4-5.

4 (a) Any Alabama state trooper who retires, and who
5 has not reached the age of 65, may be employed or reemployed
6 as a guard, marshal, or doorkeeper for either house of the
7 Legislature without regard to the laws of the State Merit
8 System or to the State Employees' Retirement System.

9 (b) The retirement benefits of such a retired
10 employee which have accrued prior to employment as a guard,
11 marshal, or doorkeeper for the Legislature shall not be
12 suspended or decreased because of the subsequent employment in
13 any such capacity with the Legislature, pursuant to Section
14 36-27-8.2(a).

15 "§29-4-6.

16 (a) It is lawful and permissible for any public
17 employee who has retired under the Employees' Retirement
18 System, the Teachers' Retirement System, or the Judicial
19 Retirement Fund to be employed with , or perform services for,
20 the House of Representatives, the Senate, the Department of
21 the Examiners of Public Accounts, the Legislative Fiscal
22 Office, or the Legislative Reference Service if the person so
23 employed is physically and mentally capable of performing the
24 required work in the opinion of the employing authority, is
25 not employed in a permanent full-time capacity, does not
26 replace a full-time employee, and does not receive



1 compensation and expenses, other than reimbursement of
2 normally reimbursable employee expenses, in excess of the
3 amounts allowed in Sections 16-25-26(a) and 36-27-8.2(a). ~~in~~
4 ~~excess of the base allowed under federal Social Security for a~~
5 ~~person age 67, as set from year to year, for any legislative~~
6 ~~session in a calendar year.~~

7 (b) A retiree employed, or performing services in
8 any capacity under this section shall continue to receive all
9 retirement benefits which the retiree would normally receive
10 if he or she were not so employed, subject to the limitations
11 of this section.

12 (c) The responsibility for compliance with this
13 section is placed upon the employing authority and each
14 retiree employed under this section shall certify to the
15 employer any information required for compliance with this
16 section.

17 ~~(d) Nothing in this section or any other provision~~
18 ~~of law shall prevent a person age 65 or over who has retired~~
19 ~~under the Employees' Retirement System or the Judicial~~
20 ~~Retirement Fund from performing services for the House of~~
21 ~~Representatives, the Senate, the Department of Examiners of~~
22 ~~Public Accounts, the Legislative Fiscal Office, or the~~
23 ~~Legislative Reference Service as an independent contractor~~
24 ~~without regard to the limitations in subsection (a).~~

25 "§36-27-8.2.



1 (a) Any person who is retired under the Employees'
2 Retirement System may perform duties in any capacity with any
3 employer participating in the Employees' Retirement System, or
4 the Teachers' Retirement System, or the Judicial Retirement
5 Fund without suspension of his or her retirement allowance
6 provided that (1) the person is not employed, or performing
7 services in any in-a permanent full-time capacity and (2) the
8 person's compensation, including any money paid directly or
9 indirectly to a company formed by or for the benefit of the
10 person, or as an independent contractor, from the
11 participating employer in calendar year 2000 does not exceed
12 \$17,000. Beginning in calendar year 2001, and each calendar
13 year thereafter, the annual earning limit shall be increased
14 by the same percentage increase as the increase in the
15 Consumer Price Index for all urban consumers as published by
16 the U.S. Department of Labor, Bureau of Labor Statistics. Any
17 increase in the annual earning limit shall be rounded to the
18 next lowest multiple of \$1,000 with any amount in excess of
19 the \$1,000 multiple considered in determining the increase for
20 the following year. Each adjustment shall be based on the
21 increase in the index for the preceding 12-month period ending
22 on September 30 and the increase shall be effective for the
23 following calendar year.

24 (b) Any person serving as an elected official who
25 has retired from the Employees' Retirement System may serve
26 for compensation in an elected public office with the state, a



1 county, or an incorporated municipality without suspension of
2 retirement benefits; provided that under no circumstances
3 shall such a person participate in or accrue additional
4 benefits under the Teachers' Retirement System, ~~or the~~
5 Employees' Retirement System, or the Judicial Retirement Fund
6 and provided that under no circumstances shall a person whose
7 retirement is based upon service as an elected official
8 continue in or return to such office and receive both pension
9 benefits and salary; provided further, that this subsection
10 shall apply to elected officials whose participation in the
11 Teachers' Retirement System, ~~or the Employees' Retirement~~
12 System or the Judicial Retirement Fund is constitutionally
13 required to be upon the same terms and conditions as specified
14 by law for other employees in the retirement system if such
15 elected official's compensation does not exceed the annual
16 earning limits provided in subsection (a).

17 (c) The responsibility for compliance with the
18 provision of this section is placed upon the employing
19 authority, and each employee employed under this section shall
20 certify to the employer any information required in order to
21 carry out this section.

22 Section 2. All laws or parts of laws which conflict
23 with this act are repealed.

24 Section 3. This act shall become effective on the
25 first day of the third month following its passage and
26 approval by the Governor, or its otherwise becoming law.