

1 HB432
2 183298-1
3 By Representative Patterson
4 RFD: State Government
5 First Read: 16-MAR-17

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8 SYNOPSIS: This bill would authorize a five percent
9 surcharge on a retired person and a five percent
10 surcharge on the employer of the retired person,
11 such surcharge being based on the annual gross
12 compensation of the retired person and distributed
13 to the Retirement Systems of Alabama, when the
14 person is retired under the Employees' Retirement
15 System or the Teachers' Retirement System and
16 receives compensation for duties performed in any
17 capacity, including as an independent contractor,
18 for an employer participating in the Employees'
19 Retirement System or the Teachers' Retirement
20 System, without suspension of the retirement
21 allowance of the person.

22 This bill would require disclosure of the
23 surcharge be provided to the retired person under
24 certain conditions and would specify that the
25 surcharge is nonrefundable and will not be credited
26 to the retiree.
27

1 A BILL
2 TO BE ENTITLED
3 AN ACT
4

5 Relating to retirees under the Employees' Retirement
6 System or the Teachers' Retirement System; to authorize a
7 surcharge on a retiree and an employer when a retiree performs
8 duties for compensation in any capacity, including as an
9 independent contractor, for an employer participating in the
10 Employees' Retirement System or the Teachers' Retirement
11 System, without suspension of the retirement allowance of the
12 retiree; and to require certain disclosures.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. (a) Notwithstanding any other provision
15 of law to the contrary, commencing at the beginning of the
16 next fiscal year following the effective date of this act, a
17 surcharge based on the compensation a person who is retired
18 under the Employees' Retirement System or the Teachers'
19 Retirement System receives for performing any duties in any
20 capacity, including as an independent contractor, for an
21 employer participating in the Employees' Retirement System or
22 the Teachers' Retirement System, without suspension of the
23 retirement allowance of the person, shall be assessed on both
24 the retired person and the employer.

25 (b) The surcharge authorized by subsection (a) shall
26 be five percent of the annual gross compensation of the
27 retired person and both the surcharge due from the retired

1 person and the surcharge due from the employer shall be paid
2 in monthly installments to the Retirement Systems of Alabama
3 in the same manner and at the same time as other monies are
4 due the Retirement Systems of Alabama.

5 (c) A written notice disclosing the surcharge
6 required by this section shall be provided by the employer to
7 the retired person at least 30 days prior to the date the
8 employer knows or should know that a retired person will be
9 performing duties for the employer, but if it is less than 30
10 days from the date the employee is scheduled to commence
11 employment, the employer shall provide immediate written
12 notice disclosing the surcharge required by this section.

13 (d) (1) The notice required by this section shall be
14 created by the Retirement Systems of Alabama and shall include
15 a clear and concise statement informing the retired person
16 that the surcharge to be collected from the compensation of
17 the retired person will not benefit the retired person in any
18 manner or language substantially similar to this subdivision
19 that effectively communicates to the retired person that the
20 surcharge is not a contribution or benefit for the retired
21 person.

22 (2) The initial notice shall be distributed to every
23 employer that participates in the Employees' Retirement System
24 or the Teachers' Retirement System at least 40 days prior to
25 the commencement of the initial collection of the surcharge.

26 (3) Any modifications made by the Retirement Systems
27 of Alabama to the notice required by this section shall be

1 distributed, with a date of when the modified notice will take
2 effect, to every employer that participates in the Employees'
3 Retirement System or the Teachers' Retirement System, at least
4 10 days prior to the effective date of the modified notice.

5 (4) Upon receipt of a modified notice, the employer
6 shall distribute copies of the modified notice to all retired
7 persons employed at that time by the employer and shall use
8 the most recent modified notice when disclosing the surcharge
9 to potential employees who are retired persons.

10 (e) (1) There shall be no service credit granted for
11 any time period during which the retiree must pay the
12 surcharge.

13 (2) The surcharge shall not be credited to the
14 retiree and shall not be refundable to the retiree or
15 employer.

16 Section 2. This act shall become effective on the
17 first day of the third month following its passage and
18 approval by the Governor, or its otherwise becoming law.