

1 HB159  
2 209107-2  
3 By Representative Moore (P)  
4 RFD: Ways and Means Education  
5 First Read: 02-FEB-21  
6 PFD: 01/26/2021

SYNOPSIS: Under existing law, retirees of the Employees' Retirement System and the Teachers' Retirement System may be employed part-time by any employer participating in either system, without suspension of their retirement allowance, as long as their compensation is below the annual earning limit.

This bill would allow a retiree to be employed full-time, for one academic year at a time, as a teacher or support employee within K-12 education, without limit on his or her compensation or suspension of his or her retirement allowance, under certain circumstances.

A BILL  
TO BE ENTITLED  
AN ACT

To amend Section 16-25-26, Code of Alabama 1975, relating to the Teachers' Retirement System; to allow the

1 full-time employment and compensation of teacher and support  
2 personnel retirees by K-12 education employers, without  
3 limiting their compensation or suspending their retirement  
4 allowances, under certain circumstances.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Section 16-25-26 of the Code of Alabama  
7 1975, is amended to read as follows:

8 "§16-25-26.

9 "(a) Any person who is retired under the Teachers'  
10 Retirement System may perform duties in any capacity,  
11 including as an independent contractor, with any employer  
12 participating in the Employees' Retirement System or the  
13 Teachers' Retirement System without suspension of his or her  
14 retirement allowance; provided that (1) the person is not  
15 employed in a permanent full-time capacity and (2) the  
16 person's compensation from the employer in calendar year 2016  
17 does not exceed thirty thousand dollars (\$30,000). Beginning  
18 in calendar year 2017, and each calendar year thereafter, the  
19 annual earning limit shall be increased by the same percentage  
20 increase as the increase in the Consumer Price Index for all  
21 urban consumers as published by the U.S. Department of Labor,  
22 Bureau of Labor Statistics. Any increase in the annual earning  
23 limit shall be rounded to the next lowest multiple of one  
24 thousand dollars (\$1,000) with any amount in excess of the one  
25 thousand dollar (\$1,000) multiple considered in determining  
26 the increase for the following year. Each adjustment shall be  
27 based on the increase in the index for the preceding 12-month

1 period ending on September 30 and the increase shall be  
2 effective for the following calendar year.

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

21 "(c) The responsibility for compliance with this  
22 section is placed upon the employing authority, and each  
23 retiree performing duties under this section shall certify to  
24 the employer any information required in order to carry out  
25 this section. The retiree shall provide written notice of the  
26 postretirement employment under this section to the Teachers'  
27 Retirement System and employing authority within 30 days after

1 the date the retiree knows or should know that he or she will  
2 be performing duties on a full-time or permanent basis or will  
3 earn an amount in excess of the annual earning limit under  
4 this section.

5 "(d) (1) An employer that is unable to fill a teacher  
6 or support personnel position with a qualified candidate may  
7 petition the Teachers' Retirement System for a waiver of the  
8 limitations provided in subsection (a), on a one academic year  
9 basis, to hire a retiree without impacting his or her  
10 retirement allowance. The submitted waiver petition shall  
11 include all of the following:

12 "a. A copy of the job posting required by Section  
13 16-22-15, as proof that the position was posted as required by  
14 law.

15 "b. A signed affidavit of the chief executive  
16 officer of the employer that the employer has not received an  
17 application for the position from any applicant with the  
18 minimum posted qualifications.

19 "c. A certification from the State Superintendent of  
20 Education that the position was posted as vacant on a State  
21 Department of Education website and that there is a statewide  
22 shortage of qualified applicants for the position.

23 "(2) The compensation and paid leave of a retiree  
24 employed full-time as a teacher or other employee pursuant to  
25 this subsection shall be the same, based upon years of  
26 experience, degree, and other credentials, as any other  
27 full-time teacher or employee of that employer, and the

1 employer shall be responsible for all employer contributions  
2 for health insurance and retirement for the retiree as are  
3 otherwise provided for a full-time teacher or employee. A  
4 retiree may not accrue additional service credit during  
5 retirement work and may not make retirement contributions.

6 "(3) A retiree employed as a teacher or other  
7 employee pursuant to this subsection may not be employed in  
8 the position for consecutive academic years by the same  
9 employer. A break of at least one academic year shall occur  
10 before reemployment by the same employer pursuant to this  
11 subsection."

12 Section 2. This act shall become effective June 1,  
13 2021, following its passage and approval by the Governor, or  
14 its otherwise becoming law.