SB332

136257-1

By Senator Orr

RFD: Finance and Taxation General Fund

First Read: 16-FEB-12
SYNOPSIS: This bill establishes an earnings cap for employees who have retired under the Employees' Retirement System, the Teachers' Retirement System, or the Judicial Retirement Fund and returned to work with an employer participating in such systems while still drawing their pensions.

A BILL
TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
Section 1. Sections 12-18-10, 16-25-26, 29-4-5, 29-4-6, and 36-27-8.2, Code of Alabama 1975, are amended to read as follows:

"§12-18-10.

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

(b) The retirement benefit payable to a judge of a circuit court retiring pursuant to subdivision (2), (3), (4) or (5) of subsection (b) of Section 12-18-6 shall be 75 percent of the salary prescribed by law of the salary payable from the State Treasury to circuit judges. Such retirement benefits shall be payable monthly for the life of the beneficiary and shall continue to be 75 percent of the salary then prescribed by law for the respective position and shall change in amount as such salary is hereafter increased or decreased by law and shall not be subject to writs of attachment or garnishment.
(c) After the death of any justice or judge who had held office for a minimum of five years, his spouse shall receive a yearly benefit equivalent to three percent of the salary payable from the State Treasury prescribed by law for his former position as either a justice or judge, as the case may be, for each year of service, not to exceed 30 percent of such salary, payable monthly for the remainder of such spouse's life or until his or her remarriage, and such benefit shall change in amount as such salary is hereafter increased or decreased by law.

(d) Any justice or judge retiring pursuant to subdivision (1) of subsection (a) or subdivision (1) of subsection (b) of Section 12-8-6 who has served for 10 years shall be entitled to a disability benefit allowance payable monthly from the Judicial Retirement Fund equal to 75 percent of the salary payable from the State Treasury for the position he held at the time he retires. If such disabled justice or judge has served less than 10 years, he shall be entitled to receive a monthly disability benefit that is equal to 25 percent of the salary payable from the State Treasury for the position he held at the time he retires plus 10 percent of such salary for each year of service in excess of five years; provided, however, that in no event shall such justice or judge receive less than 30 percent of the annual salary being paid to a full-time justice or judge, as the case may be, from the State Treasury.
(e) Every justice or judge who has retired pursuant
to this article may, on the request of the Chief Justice, the
presiding judge of a court of appeals or the Governor, be
called to active duty status and, when serving with the
Supreme Court or courts of appeals, shall perform such duties
as may be prescribed by the Chief Justice or the presiding
judge of the court of appeals with which he is serving and,
when serving in a circuit court, shall perform such duties as
may be prescribed by the presiding judge in the circuit. Such
retired justice or judge of a court of appeals in such active
service status shall receive an additional sum during the term
of such service which, when added to his retirement benefits,
would amount to $250.00 per month less than the monthly salary
paid a justice or judge of the appellate court from which he
has retired. The salary paid a retired circuit judge called to
active service with the Supreme Court or a court of appeals
shall be the salary paid a circuit judge in the circuit from
which said judge retired. The salary paid a retired circuit
judge called to active service as a circuit judge shall be the
salary paid a regular judge in the circuit to which he is
assigned or in the circuit from which he retired, whichever is
greater. In no event, however, shall the total compensation
paid to a retired circuit judge on active status during any
calendar year exceed a sum which is $1,000.00 less than the
compensation received by a regular judge in the circuit from
which such judge retired.
Whenever a retired justice or judge of a court of appeals is serving in a circuit court, he shall receive compensation equal to that due the regular judge of that circuit for the performance of such duties, such compensation to be paid in the same manner as the compensation of the regular circuit judge is paid; and, whenever a retired justice or a judge of a court of appeals is serving as an active member on the Supreme Court or on one of the courts of appeals, then he shall be entitled to receive, during the time of such service, compensation equal to that due a regular justice or judge for the performance of such duties, such compensation to be paid in the same manner as the compensation of a regular justice or judge is paid.

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

(f) The Chief Justice, with the advice of the Supreme Court, or the presiding judge of a court of appeals, with the advice of the court over which he presides, shall determine whether such retired justice or judge is satisfactorily performing his assigned duties. Upon
determination that such retired justice or judge is not satisfactorily performing such duties, such retired justice or judge shall immediately be removed from active status, and his additional active duty compensation shall be stopped.

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

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

(i) Any person who is retired under the Judicial Retirement Fund may perform duties in any capacity with any employer participating in the Employees' Retirement System, the Teachers' Retirement System, or the Judicial Retirement Fund without suspension of his or her retirement allowance provided that (1) the person is not employed, or performing services in any permanent full-time capacity and (2) the
person's compensation, including any money paid directly or
indirectly to a company formed by or for the benefit of the
person, or as an independent contractor, from the
participating employer does not exceed the amounts allowed for
retirees of the Employees' Retirement System and the Teachers'
Retirement System pursuant to Sections 16-25-26(a) and
36-27-8.2(a) respectively.

(i) Any person serving as an elected official who
has retired from the Judicial Retirement Fund may serve for
compensation in an elected public office with the state, a
county, or an incorporated municipality without suspension of
retirement benefits; provided that under no circumstances
shall such a person participate in or accrue additional
benefits under the Teachers' Retirement System, Employees'
Retirement System, or the Judicial Retirement Fund and
provided that under no circumstances shall a person whose
retirement is based upon service as an elected official
continue in or return to such office and receive both pension
benefits and salary; provided further, that this subsection
shall apply to elected officials whose participation in the
Teachers' Retirement System, the Employees' Retirement System
or the Judicial Retirement Fund is constitutionally required
to be upon the same terms and conditions as specified by law
for other employees in the retirement system if such elected
official's compensation does not exceed the annual earning
limits provided in this section.
(k) The responsibility for compliance with the provision of this section is placed upon the employing authority, and each employee employed under this section shall certify to the employer any information required in order to carry out this section.


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

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

(c) The responsibility for compliance with this
section is placed upon the employing authority, and each
person employed under this section shall certify to the
employer any information required in order to carry out this
section.

"§29-4-5.

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

(b) The retirement benefits of such a retired
employee which have accrued prior to employment as a guard,
marshal, or doorkeeper for the Legislature shall not be
suspended or decreased because of the subsequent employment in
any such capacity with the Legislature, pursuant to Section
36-27-8,2(a).

"§29-4-6.

(a) It is lawful and permissible for any public
employee who has retired under the Employees' Retirement
System, the Teachers' Retirement System, or the Judicial
Retirement Fund to be employed with, or perform services for,
the House of Representatives, the Senate, the Department of
the Examiners of Public Accounts, the Legislative Fiscal
Office, or the Legislative Reference Service if the person so
employed is physically and mentally capable of performing the
required work in the opinion of the employing authority, is
not employed in a permanent full-time capacity, does not
replace a full-time employee, and does not receive
compensation and expenses, other than reimbursement of
normally reimbursable employee expenses, in excess of the
amounts allowed in Sections 16-25-26(a) and 36-27-8.2(a), in
excess of the base allowed under federal Social Security for a
person age 67, as set from year to year, for any legislative
session in a calendar year.

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

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

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

"§36-27-8.2."
(a) Any person who is retired under the Employees' Retirement System may perform duties in any capacity with any employer participating in the Employees' Retirement System, or the Teachers' Retirement System, or the Judicial Retirement Fund without suspension of his or her retirement allowance provided that (1) the person is not employed, or performing services in any in a permanent full-time capacity and (2) the person's compensation, including any money paid directly or indirectly to a company formed by or for the benefit of the person, or as an independent contractor, from the participating employer in calendar year 2000 does not exceed $17,000. Beginning in calendar year 2001, and each calendar year thereafter, the annual earning limit shall be increased by the same percentage increase as the increase in the Consumer Price Index for all urban consumers as published by the U.S. Department of Labor, Bureau of Labor Statistics. Any increase in the annual earning limit shall be rounded to the next lowest multiple of $1,000 with any amount in excess of the $1,000 multiple considered in determining the increase for the following year. Each adjustment shall be based on the increase in the index for the preceding 12-month period ending on September 30 and the increase shall be effective for the following calendar year.

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

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

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

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