HB632

152140-1

By Representative Robinson (O)

RFD: Ethics and Campaign Finance

First Read: 16-APR-13
SYNOPSIS: Current law allows a member of the Legislature who was a public employee or teacher on December 1, 2010, to continue in that employment until November 5, 2014.

This bill would extend the exemption for continued employment indefinitely.

A BILL
TO BE ENTITLED
AN ACT

To amend Section 29-1-26 of the Code of Alabama 1975, relating to the employment of a member of the Legislature from employment in other branches of state government or by public educational institutions; to extend indefinitely the provision allowing the continued employment of a member employed as a public employee or teacher on December 1, 2010.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
Section 1. Section 29-1-26 of the Code of Alabama 1975, is amended to read as follows:

"§29-1-26.

"(a) This section shall be known and may be cited as the Legislative Double Dipping Prohibition Act.

"(b) Any other provision of law to the contrary notwithstanding, and except as provided in subsection (c), a member of the Legislature, during his or her term of office, may not be an employee of any other branch of state government, any department, agency, board, or commission of the state, or any public educational institution including, but not limited to, a local board of education, a two-year institution of higher education, or a four-year institution of higher education. For purposes of this section, employee means any of the following:

"(1) An employee as defined in Section 36-27-1, or a teacher as defined in Section 16-25-1. An employee as defined in this subsection shall not include any person receiving pension benefits from the Retirement Systems of Alabama.

"(2) A person who is personally providing services under a personal or professional services contract paid for by the department, agency, board, commission, or educational entity, including the Department of Postsecondary Education or a two-year institution of higher education, except that persons appointed by any court or any district attorney in this state to provide legal services on a temporary,
case-by-case, or part time basis shall not be considered an employee for purposes of this section.

"(3) A person who has a substantial financial interest by reason of ownership of, control of, or exercise of power over any interest greater than five percent of the value of any corporation, partnership, company, joint venture, or other business entity that is providing goods or services under any contract paid for by the branch, department, agency, board, commission, or educational institution, including the Department of Postsecondary Education or a two-year institution of higher education, except for contracts awarded pursuant to competitive bidding, on sealed bids, to the lowest responsible bidder, and except where the contract service of the business or the business entity with the state branch, department, agency, board, commission, or educational institution consists of acting as a qualified public depository for a public depositor under Chapter 14A of Title 41. The competitive bidding requirements of this subdivision do not apply during an emergency or disaster situation where the legislator is the single or sole source provider of necessary emergency equipment or services.

"(c) The prohibition provided in subsection (b) does not apply to any of the following:

"(1) Any administrative or teaching contract that does not extend beyond December 31, 2014.

"(2) The continued employment of a legislator, until November 5, 2014, if the legislator is an employee or teacher
as provided in subdivision (1) of subsection (b) on December 1, 2010.

"(3) Any contract as provided in subdivision (2) or subdivision (3) of subsection (b) that is in force on December 1, 2010, if the contract expires before November 5, 2014.

"(4) Membership in or employment by the Alabama National Guard, the civil defense force, or the state defense force including, but not limited to, the Naval Militia, the Alabama State Guard, organized in lieu of the National Guard, the civilian auxiliary of the United States Air Force known as the Civil Air Patrol, the National Disaster Medical System, or any other reserve component of the uniformed services of the State of Alabama or the United States.

"(5) Any contract with providers of Medicaid services in the ordinary and normal course of their profession.

"(6) Any person employed on a part-time basis as referred to in Section 36-25-1, provided the income from such part-time employment does not exceed five percent of the part-time employee's income for each client and the total income from the part-time employment does not exceed 10 percent of the part-time employee's total income.

"(d) Subject to subsection (c), any employment or contract that violates subsection (b) is void.

"(e) A legislator shall be personally liable to the State of Alabama for the amount of any employment compensation received in violation of subsection (b).
"(f) The Attorney General shall enforce this section.

"(g) It is the intent of this section to treat the employees of, and persons providing services under a personal or professional services contract paid for by, the Department of Postsecondary Education or any public two-year institution of higher education in the state in the same manner as other public education employees in the state are treated under this section."

Section 2. 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.