

1 SB299  
2 115672-5  
3 By Senators Bedford, Mitchell, Smitherman, Little (T), Glover,  
4 Holley, Means, Coleman, Dunn, Butler, Keahey, Little (Z),  
5 Poole, Mitchem, and Orr  
6 RFD: Finance and Taxation General Fund  
7 First Read: 19-JAN-10

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4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 To create the Alabama Firefighters Annuity and  
12 Benefit Fund for paid and volunteer firefighters; to provide  
13 for a board of commissioners to administer the act and the  
14 fund created by the act; to provide that assets in the fund  
15 shall be invested and reinvested by the Employees' Retirement  
16 System (ERS) of Alabama for a reasonable fee in accordance  
17 with ERS administrative policies; to provide for qualified  
18 service, the process for applying for and receiving benefits,  
19 refunds for members who leave the fund, disability and death  
20 benefits, annual audits and reports of the fund, and  
21 administrative duties of the board.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. When used in this act, the following  
24 words and phrases shall have the following meanings,  
25 respectively, unless the context clearly indicates otherwise:

26 (1) BOARD. The board of commissioners of the fund  
27 and any successors thereto.

1 (2) ERS. The Employees' Retirement System of  
2 Alabama.

3 (3) EXECUTIVE DIRECTOR. The executive director of  
4 the board.

5 (4) FIREFIGHTER. Any firefighter as certified by the  
6 Alabama Firefighters Personnel Standards and Education  
7 Commission. The term also includes any volunteer firefighter  
8 who is a member of a certified volunteer fire department under  
9 Section 9-3-17, Code of Alabama 1975.

10 (5) FUND. The Firefighters Annuity and Benefit Fund  
11 created in this act.

12 (6) MEMBER. Any firefighter who is a member of the  
13 fund and who is in good standing by virtue of having paid all  
14 sums required by this act.

15 (7) MEMBERSHIP SERVICE. The period of employment of  
16 a member as a firefighter from the date he or she becomes a  
17 member.

18 (8) MONTH. A period of 30 days.

19 (9) PRIOR SERVICE. The period of employment of a  
20 member as a firefighter from the time of initial employment as  
21 a firefighter to October 1, 2010.

22 (10) QUALIFIED SERVICE. The prior service plus  
23 membership service of a member.

24 (11) YEAR. A period of 365 days. The last year of  
25 employment as a firefighter when over six months of membership  
26 service shall constitute a year toward service retirement.

1           Section 2. There is created a board to be known as  
2 the Board of Commissioners of the Alabama Firefighters Annuity  
3 and Benefit Fund. The board shall be composed of the following  
4 members:

5           (1) A consumer member appointed by the Governor for  
6 an initial term of two years.

7           (2) A volunteer firefighter appointed by the Alabama  
8 Association of Volunteer Fire Departments for an initial term  
9 of two years.

10          (3) A volunteer firefighter appointed by the Alabama  
11 Firefighters Association for an initial term of four years.

12          (4) A paid firefighter appointed by the Professional  
13 Firefighters Association of Alabama for an initial term of  
14 four years.

15          (5) A paid firefighter appointed by the Alabama  
16 Association of Fire Chiefs for an initial term of four years.

17          Thereafter, each member of the board shall serve for  
18 a period of four years. Any member of the board shall be  
19 eligible to succeed himself or herself. The term of each  
20 person appointed or elected to the board shall begin on the  
21 date of appointment or election, and any person so appointed  
22 or elected whose successor has not been appointed or elected  
23 shall continue to serve until the appointment or election of a  
24 successor. Any member of the board who shall cease to be a  
25 member during his or her incumbency shall be replaced as a  
26 member of the board by the appointing authority for the  
27 remainder of the unexpired term.

1           Section 3. All board members shall be paid thirty  
2 dollars (\$30) per day and mileage and per diem for attendance  
3 of board meetings. When a board member is traveling on fund  
4 business, he or she shall receive the same mileage and per  
5 diem as allowed for state employees while attending state  
6 business.

7           Section 4. The board shall have the following powers  
8 in carrying out its responsibilities:

9           (1) To collect all moneys provided in this act to be  
10 collected by it.

11           (2) To provide for and maintain all necessary  
12 administrative facilities and personnel.

13           (3) To provide for payment of all administrative  
14 salaries, fees, and expenses.

15           (4) To cause its moneys to be invested in a manner  
16 consistent with the Employees' Retirement System of Alabama  
17 investment policies and practices.

18           (6) To pass upon all applications for annuities and  
19 benefits provided for in this act.

20           (7) To adopt such rules as may be necessary or  
21 desirable to expedite the administration of the affairs of the  
22 board pursuant to the Alabama Administrative Procedure Act.

23           (8) To provide upon request descriptive literature  
24 regarding the fund.

25           (9) To pay all benefits and annuities that may be  
26 determined to be due under this act and under the rules of the  
27 board.

1           (10) To make refunds and repayments to which members  
2 may be entitled under this act.

3           (11) To employ such agents, attorneys, actuaries,  
4 and other specialized personnel as shall be necessary or  
5 desirable to enable the board to carry on its functions in a  
6 proper and actuarially sound manner.

7           (12) To receive by gift, grant, devise, or bequest  
8 any moneys or properties of any nature or description.

9           (13) To carry out any powers expressly granted  
10 elsewhere in this act to the board.

11           (14) All other powers necessary for the proper  
12 administration of the provisions of this act.

13           Section 5. The board shall keep permanent records of  
14 its membership, receipts, disbursements, and all of its other  
15 affairs under this act. Such records of the members shall show  
16 with respect to each member his or her name, age, date of  
17 beginning of prior service, date of beginning of membership  
18 service, the amount of all payments made by him or her to the  
19 fund, the date of any incapacity and the nature thereof and  
20 reason therefor, the amount of all annuities or benefits, if  
21 any, paid to him or her under this act and such other  
22 information with respect to each member as shall be deemed  
23 necessary by the board for the proper determination of  
24 eligibility for annuities and benefits under this act and the  
25 amount of potential liability of the fund for the same. All  
26 records, papers, documents, and other data of the board shall

1 be carefully preserved in a safe, secure, and permanent  
2 manner.

3 Section 6. (a) A special fund is hereby established  
4 for the purpose of providing retirement allowances and other  
5 benefits for members of the fund. The fund shall be known as  
6 the Alabama Firefighters Annuity and Benefit Fund. All amounts  
7 received by the board shall be paid into the fund.

8 (b) The board shall deliver all monies not currently  
9 needed for the functioning of the board to the Employees'  
10 Retirement System of Alabama for investment and reinvestment  
11 as determined by ERS administrative policies and practices.  
12 The ERS shall charge a reasonable fee for providing investment  
13 services to the board. The board shall comply with all  
14 administrative policies and requests of the ERS regarding  
15 investment services provided by ERS. The board shall have such  
16 control of the fund as is consistent with this act and with  
17 the laws of the state.

18 (c) All moneys of the board not currently invested  
19 by the ERS shall be held in a special trust account or  
20 accounts in any bank or banks in the state and may be  
21 withdrawn therefrom by voucher, check, or electronic debit by  
22 the executive director pursuant to authorization given by the  
23 board. The board may expend moneys in the fund in accordance  
24 with this act.

25 Section 7. (a) In order to fund the provisions of  
26 this act, an annual fee of two dollars (\$2) may be voluntarily  
27 contributed by indicating on a check-off box which shall be

1 provided on annual ad valorem tax statements or a document  
2 provided with the annual ad valorem tax statement that is  
3 prescribed by the person or authority administering the  
4 program and agreed to by the executive director. If a taxpayer  
5 voluntarily indicates, two dollars (\$2) shall be added to his  
6 or her amount due and paid to the appropriate person or  
7 authority administering the program. The voluntary  
8 contribution by the taxpayer shall be distributed by the  
9 appropriate person or authority administering the program to  
10 the fund created by this act.

11 (b) The amount of all such fees shall be remitted by  
12 the person or authority collecting the same to the executive  
13 director on the tenth day of each month next succeeding that  
14 in which the fee is paid.

15 Section 8. (a) Participation in the fund established  
16 by this act is entirely elective on the part of a firefighter,  
17 and the benefits provided herein are in addition to any other  
18 benefits provided by law for firefighters.

19 (b) Each firefighter who becomes a member shall pay  
20 to the fund a regular fee of twenty dollars (\$20) per calendar  
21 month, to be paid on or before the tenth calendar day of each  
22 month so long as he or she is a member or until he or she  
23 becomes entitled to benefits hereunder. A member who has 25  
24 years of qualified service in the fund and having met all  
25 other requirements of the law and thereby having earned  
26 maximum benefits provided will no longer be required to make  
27 monthly contributions for his or her membership and will



1 retain all of the rights and privileges as provided any other  
2 member.

3 (c) Six months from the passage of this act, all  
4 applicants for membership who join the fund must pay an  
5 initial fee of twenty dollars (\$20) and twenty dollars (\$20)  
6 per month as long as they maintain their membership, with no  
7 regard given for firefighter service prior to the date of  
8 application.

9 (d) If any member does not pay the monthly fee for  
10 60 days after its due date, the board shall give him or her  
11 notice of termination of his or her membership in the fund and  
12 of his or her right to a refund and unless he or she makes  
13 application for a refund within 60 days after the mailing of  
14 the notice, all amounts heretofore paid by him or her to the  
15 fund shall be returned to him or her. Any member so terminated  
16 who later applies for membership in the fund shall lose credit  
17 for all of his or her prior qualified service up to the time  
18 of such termination and, upon approval of his or her new  
19 application, will become a new member in the fund.

20 Section 9. Any firefighter who becomes a member of  
21 the fund and who thereafter leaves work as a firefighter and  
22 is drafted or enters directly into the Armed Forces of the  
23 United States and who returns to work as a firefighter within  
24 six months after he or she ceases to serve in the Armed Forces  
25 shall receive prior service credit for such service in the  
26 Armed Forces, not to exceed five years.

1           Section 10. (a) Any member shall, at any time after  
2 reaching the age of 62 and completion of at least 25 years'  
3 qualified service, be entitled to an annuity benefit.

4           (b) The amount of the monthly benefit shall be  
5 determined by the board in an amount recommended by the  
6 actuary for the fund. The benefit shall begin upon approval by  
7 the board on the date of the member's application for the  
8 benefits on forms provided by the board, but in no event shall  
9 the benefit begin prior to his or her termination of service  
10 as a firefighter. The benefits shall be paid for the life of  
11 the member, except as otherwise provided in this section.

12           (c) Any application made pursuant to this section  
13 shall contain evidence satisfactory to the board of the date  
14 of birth of the member. If any member receiving retirement  
15 benefits reenters employment as a firefighter, the payment of  
16 retirement benefits shall be terminated as long as he or she  
17 is so employed. Upon termination of his or her reemployment as  
18 a firefighter, the benefits shall resume if, during the period  
19 of reemployment, he or she has made all required monthly  
20 payments to the fund. Any employment as a firefighter after  
21 the initial retirement and during which the payments are made  
22 to the fund shall be included in the computation of membership  
23 service for the purpose of determining further rights and  
24 benefits under this section.

25           (d) Notwithstanding any other provisions of this act  
26 to the contrary, an active and contributing member of the fund  
27 may purchase service credit in the fund for prior service

1 rendered as a full-time firefighter within this state which  
2 would have qualified at the time for membership in the fund.  
3 The prior service credit may be claimed within two years of  
4 joining as a member of the fund by making a lump-sum payment  
5 in the amount of the full actuarially determined cost for each  
6 year of prior service credit purchased as determined by the  
7 actuary for the fund.

8 Section 11. (a) Any member who becomes totally or  
9 permanently disabled as a result of a heart attack or any  
10 injury received in the line of duty as a firefighter not as a  
11 result of his or her misconduct and who makes proper  
12 application to the board on a form supplied by the board and  
13 submits evidence satisfactory to the board of such total or  
14 permanent disability and the circumstances giving rise to its  
15 occurrence shall be entitled to be paid benefits. The board  
16 may require that any applicant for benefits under this section  
17 be examined by one or more physicians on behalf of the board  
18 and at its expense. Failure of any such applicant to subject  
19 himself or herself to such examination shall be sufficient  
20 grounds for the board to deny payment of benefits under this  
21 section. Any benefit paid under this section shall be paid for  
22 a period of not longer than 24 calendar months as follows:

23 (1) Seventy-two dollars (\$72) per calendar month if  
24 his or her qualified service is not more than 35 months.

25 (2) One hundred eight dollars (\$108) per calendar  
26 month if his or her qualified service is at least 36 months  
27 and not more than 47 months.

1           (3) One hundred forty-four dollars (\$144) per  
2 calendar month if his or her qualified service is at least 48  
3 months and not more than 59 months.

4           (4) One hundred eighty dollars (\$180) per calendar  
5 month if his or her qualified service is 60 months or more.

6           (b) Any member disabled as defined in this section  
7 for a period of more than 24 calendar months shall be eligible  
8 for retirement benefits under this act if he or she meets the  
9 requirements of Section 7.

10           (c) The account of any member not meeting the  
11 requirements of Section 7 who does not return to work after  
12 having drawn disability benefits for 24 consecutive months  
13 shall be placed in an inactive status, not to exceed 36  
14 months, with no further benefits or privileges. If the member  
15 returns to fire fighting as a firefighter within the 36  
16 months, and pays the dues required, all of his or her  
17 creditable service shall be restored prior to the date of  
18 disability. If the member does not return to fire fighting  
19 within the 36 months, his or her account shall be closed with  
20 no further rights or benefits.

21           (d) Any member whose account is so closed who later  
22 applies for membership in the fund shall lose credit for all  
23 of his or her prior qualified service up to the time his or  
24 her account is closed and, upon approval of his or her new  
25 application, will become a new member in the fund.

26           Section 12. (a) Each member shall be issued a  
27 certificate by the board in which the board agrees to pay to a

1 beneficiary designated by such member, upon his or her death  
2 while an active member, and to be conditioned upon the  
3 satisfaction of all obligations of the member to the fund, a  
4 lump sum amount of two thousand five hundred dollars (\$2,500).

5 (b) If any member is killed in the line of duty, his  
6 or her beneficiary or estate shall be paid all membership fees  
7 paid by the member. Such repayment of membership fees shall be  
8 in addition to the death benefit provided in this section. The  
9 board shall pay to the beneficiary of a member, upon his or  
10 her death while an active member, a refund pursuant to Section  
11 11.

12 Section 13. (a) The board shall appoint and employ  
13 an actuary to make an actuarial valuation every three years or  
14 earlier, if deemed required, of the receipts and income  
15 accruing to the fund based on age, expected mortality,  
16 disability, and retirement status of the members and the  
17 qualified service and membership service of members and to  
18 determine what percentage of the proposed payments, annuities,  
19 and benefits set forth in this act may be paid if the fund is  
20 to be kept on an actuarially sound and solvent basis. Upon  
21 receipt of the report of the actuary, the executive director  
22 shall present it to a meeting of the board which shall make  
23 adjustments of annuities and benefits, up or down, as are  
24 recommended by the actuary. Any increase or reduction in  
25 benefits resulting from any actuarial study or from any  
26 subsequent amendment of this act shall be applicable to all

1 persons then receiving such benefits, even though such persons  
2 had theretofore received benefits at a different rate.

3 (b) In no event shall the board, the fund, the  
4 association, the order, or any member, officer, director, or  
5 employee of any thereof or the state or any subdivision  
6 thereof or any municipality therein be liable to any member or  
7 any beneficiary or any representative of any member or any  
8 beneficiary of the fund for any deficiency in payments made  
9 pursuant to this act and pursuant to any pro rata reduction of  
10 annuities or benefits.

11 Section 14. Any member shall be entitled at any time  
12 to withdraw from the fund and, upon application for such  
13 withdrawal on forms supplied by the board and approved by it,  
14 shall be entitled to receive 90 percent of all amounts  
15 previously paid to the fund by such member. Any member who  
16 withdraws and receives such refund shall not thereafter have  
17 any rights with respect to the fund and may not thereafter be  
18 entitled to become a member except as a new member. Any member  
19 who ceases to be a firefighter may elect not to receive any  
20 such refund for a period of not more than 36 months. If within  
21 the 36-month period the person shall again become a  
22 firefighter, he or she may be reinstated as a member without  
23 loss of his or her accumulated qualified service. If a member  
24 does not return to service at the end of the 36 months'  
25 period, then his or her account shall be terminated and his or  
26 her fees shall be returned, thereby cancelling all his or her  
27 qualified service.

1           Section 15. (a) The executive director shall make  
2 semiannual reports to the board showing the total amount of  
3 money on hand at the time of such report, all investments then  
4 held by the board and itemizing by classifications all  
5 receipts and disbursements since the last such semiannual  
6 report.

7           (b) The Chief Examiner of the Department of  
8 Examiners of Public Accounts shall make an annual audit of the  
9 activities of the board for each fiscal year and make a  
10 complete report of the same to the Legislature. The annual  
11 audit shall cover all moneys received by the board and all  
12 expenditures made by the board during the period covered by  
13 the audit.

14           Section 16. (a) All rights, annuities, and benefits  
15 provided herein shall be subject to future change by the  
16 Legislature, and subject to future changes or revisions as  
17 provided in this act, and no current or future member or  
18 beneficiary shall be deemed to have any vested right in the  
19 fund or to any annuity or benefit provided in this act.  
20 However, when the board has approved a member's application  
21 for a retirement annuity or benefit and the member has  
22 actually received benefits pursuant to the board's  
23 determination for a period of two years, then the board's  
24 determination as to the member's years of qualified service  
25 shall be conclusive, and the board shall not thereafter arrive  
26 at a different determination except in the case of fraud or  
27 misrepresentation of any fact by the applicant.

1           (b) Any member who is receiving retirement benefits  
2 and returns to active fire fighting shall be covered under the  
3 provisions of Section 7.

4           Section 17. None of the moneys referred to in this  
5 act or any benefit or annuity payable under this act shall be  
6 assignable nor subject to attachment, garnishment, or judgment  
7 entered against any member or beneficiary. All payments of  
8 annuities and benefits shall be paid directly to the member or  
9 beneficiary.

10           Section 18. (a) The annuities and benefits provided  
11 for in this act shall not repeal or be considered to be in  
12 substitution for any other annuity or benefit provided for by  
13 law or any other retirement system, whether municipal, county,  
14 state, or federal.

15           (b) Participation by a firefighter in any other  
16 program, plan, fund, or system shall not bar participation by  
17 such firefighter in the fund.

18           Section 19. This act shall become effective on the  
19 first day of the third month following its passage and  
20 approval by the Governor, or its otherwise becoming law.



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Senate

Read for the first time and referred to the Senate  
committee on Finance and Taxation General Fund .. 19-JAN-10

Read for the second time and placed on the calen-  
dar 1 amendment ..... 02-FEB-10

Read for the third time and passed as amended ... 08-APR-10

Yeas 32  
Nays 0  
Abstaining 1

McDowell Lee  
Secretary