

1 SB299  
2 121810-2  
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

1 SB299

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4 ENROLLED, An Act,

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

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

20 (1) BOARD. The board of commissioners of the fund  
21 and any successors thereto.

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

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

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

6           (5) FUND. The Firefighters Annuity and Benefit Fund  
7 created in this act.

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

11           (7) MEMBERSHIP SERVICE. The period of employment of  
12 a member as a firefighter from the date he or she becomes a  
13 member.

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

15           (9) PRIOR SERVICE. The period of employment of a  
16 member as a firefighter from the time of initial employment as  
17 a firefighter to October 1, 2010.

18           (10) QUALIFIED SERVICE. The prior service plus  
19 membership service of a member.

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

23           Section 2. There is created a board to be known as  
24 the Board of Commissioners of the Alabama Firefighters Annuity

1 and Benefit Fund. The board shall be composed of the following  
2 members:

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

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

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

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

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

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

1           (9) To pay all benefits and annuities that may be  
2 determined to be due under this act and under the rules of the  
3 board.

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

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

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

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

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

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

1 necessary by the board for the proper determination of  
2 eligibility for annuities and benefits under this act and the  
3 amount of potential liability of the fund for the same. All  
4 records, papers, documents, and other data of the board shall  
5 be carefully preserved in a safe, secure, and permanent  
6 manner.

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

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

22 (c) All moneys of the board not currently invested  
23 by the ERS shall be held in a special trust account or  
24 accounts in any bank or banks in the state and may be  
25 withdrawn therefrom by voucher, check, or electronic debit by

1 the executive director pursuant to authorization given by the  
2 board. The board may expend moneys in the fund in accordance  
3 with this act.

4 Section 7. (a) In order to fund the provisions of  
5 this act, an annual fee of two dollars (\$2) may be voluntarily  
6 contributed by indicating on a check-off box which shall be  
7 provided on annual ad valorem tax statements or a document  
8 provided with the annual ad valorem tax statement that is  
9 prescribed by the person or authority administering the  
10 program and agreed to by the executive director. If a taxpayer  
11 voluntarily indicates, two dollars (\$2) shall be added to his  
12 or her amount due and paid to the appropriate person or  
13 authority administering the program. The voluntary  
14 contribution by the taxpayer shall be distributed by the  
15 appropriate person or authority administering the program to  
16 the fund created by this act.

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

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



1           (b) Each firefighter who becomes a member shall pay  
2 to the fund a regular fee of twenty dollars (\$20) per calendar  
3 month, to be paid on or before the tenth calendar day of each  
4 month so long as he or she is a member or until he or she  
5 becomes entitled to benefits hereunder. A member who has 25  
6 years of qualified service in the fund and having met all  
7 other requirements of the law and thereby having earned  
8 maximum benefits provided will no longer be required to make  
9 monthly contributions for his or her membership and will  
10 retain all of the rights and privileges as provided any other  
11 member.

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

18           (d) If any member does not pay the monthly fee for  
19 60 days after its due date, the board shall give him or her  
20 notice of termination of his or her membership in the fund and  
21 of his or her right to a refund and unless he or she makes  
22 application for a refund within 60 days after the mailing of  
23 the notice, all amounts heretofore paid by him or her to the  
24 fund shall be returned to him or her. Any member so terminated  
25 who later applies for membership in the fund shall lose credit

1 for all of his or her prior qualified service up to the time  
2 of such termination and, upon approval of his or her new  
3 application, will become a new member in the fund.

4 Section 9. Any firefighter who becomes a member of  
5 the fund and who thereafter leaves work as a firefighter and  
6 is drafted or enters directly into the Armed Forces of the  
7 United States and who returns to work as a firefighter within  
8 six months after he or she ceases to serve in the Armed Forces  
9 shall receive prior service credit for such service in the  
10 Armed Forces, not to exceed five years.

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

14 (b) The amount of the monthly benefit shall be  
15 determined by the board in an amount recommended by the  
16 actuary for the fund. The benefit shall begin upon approval by  
17 the board on the date of the member's application for the  
18 benefits on forms provided by the board, but in no event shall  
19 the benefit begin prior to his or her termination of service  
20 as a firefighter. The benefits shall be paid for the life of  
21 the member, except as otherwise provided in this section.

22 (c) Any application made pursuant to this section  
23 shall contain evidence satisfactory to the board of the date  
24 of birth of the member. If any member receiving retirement  
25 benefits reenters employment as a firefighter, the payment of

1 retirement benefits shall be terminated as long as he or she  
2 is so employed. Upon termination of his or her reemployment as  
3 a firefighter, the benefits shall resume if, during the period  
4 of reemployment, he or she has made all required monthly  
5 payments to the fund. Any employment as a firefighter after  
6 the initial retirement and during which the payments are made  
7 to the fund shall be included in the computation of membership  
8 service for the purpose of determining further rights and  
9 benefits under this section.

10 (d) Notwithstanding any other provisions of this act  
11 to the contrary, an active and contributing member of the fund  
12 may purchase service credit in the fund for prior service  
13 rendered as a full-time firefighter within this state which  
14 would have qualified at the time for membership in the fund.  
15 The prior service credit may be claimed within two years of  
16 joining as a member of the fund by making a lump-sum payment  
17 in the amount of the full actuarially determined cost for each  
18 year of prior service credit purchased as determined by the  
19 actuary for the fund.

20 Section 11. (a) Any member who becomes totally or  
21 permanently disabled as a result of a heart attack or any  
22 injury received in the line of duty as a firefighter not as a  
23 result of his or her misconduct and who makes proper  
24 application to the board on a form supplied by the board and  
25 submits evidence satisfactory to the board of such total or

1 permanent disability and the circumstances giving rise to its  
2 occurrence shall be entitled to be paid benefits. The board  
3 may require that any applicant for benefits under this section  
4 be examined by one or more physicians on behalf of the board  
5 and at its expense. Failure of any such applicant to subject  
6 himself or herself to such examination shall be sufficient  
7 grounds for the board to deny payment of benefits under this  
8 section. Any benefit paid under this section shall be paid for  
9 a period of not longer than 24 calendar months as follows:

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

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

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

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

20 (b) Any member disabled as defined in this section  
21 for a period of more than 24 calendar months shall be eligible  
22 for retirement benefits under this act if he or she meets the  
23 requirements of Section 10.

24 (c) The account of any member not meeting the  
25 requirements of Section 10 who does not return to work after

1 having drawn disability benefits for 24 consecutive months  
2 shall be placed in an inactive status, not to exceed 36  
3 months, with no further benefits or privileges. If the member  
4 returns to fire fighting as a firefighter within the 36  
5 months, and pays the dues required, all of his or her  
6 creditable service shall be restored prior to the date of  
7 disability. If the member does not return to fire fighting  
8 within the 36 months, his or her account shall be closed with  
9 no further rights or benefits.

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

15 Section 12. (a) Each member shall be issued a  
16 certificate by the board in which the board agrees to pay to a  
17 beneficiary designated by such member, upon his or her death  
18 while an active member, and to be conditioned upon the  
19 satisfaction of all obligations of the member to the fund, a  
20 lump sum amount of two thousand five hundred dollars (\$2,500).

21 (b) If any member is killed in the line of duty, his  
22 or her beneficiary or estate shall be paid all membership fees  
23 paid by the member. Such repayment of membership fees shall be  
24 in addition to the death benefit provided in this section. The  
25 board shall pay to the beneficiary of a member, upon his or

1 her death while an active member, a refund pursuant to Section  
2 11.

3 Section 13. (a) The board shall appoint and employ  
4 an actuary to make an actuarial valuation every three years or  
5 earlier, if deemed required, of the receipts and income  
6 accruing to the fund based on age, expected mortality,  
7 disability, and retirement status of the members and the  
8 qualified service and membership service of members and to  
9 determine what percentage of the proposed payments, annuities,  
10 and benefits set forth in this act may be paid if the fund is  
11 to be kept on an actuarially sound and solvent basis. Upon  
12 receipt of the report of the actuary, the executive director  
13 shall present it to a meeting of the board which shall make  
14 adjustments of annuities and benefits, up or down, as are  
15 recommended by the actuary. Any increase or reduction in  
16 benefits resulting from any actuarial study or from any  
17 subsequent amendment of this act shall be applicable to all  
18 persons then receiving such benefits, even though such persons  
19 had theretofore received benefits at a different rate.

20 (b) In no event shall the board, the fund, the  
21 association, the order, or any member, officer, director, or  
22 employee of any thereof or the state or any subdivision  
23 thereof or any municipality therein be liable to any member or  
24 any beneficiary or any representative of any member or any  
25 beneficiary of the fund for any deficiency in payments made

1 pursuant to this act and pursuant to any pro rata reduction of  
2 annuities or benefits.

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

20 Section 15. (a) The executive director shall make  
21 semiannual reports to the board showing the total amount of  
22 money on hand at the time of such report, all investments then  
23 held by the board and itemizing by classifications all  
24 receipts and disbursements since the last such semiannual  
25 report.

1           (b) The Chief Examiner of the Department of  
2           Examiners of Public Accounts shall make an annual audit of the  
3           activities of the board for each fiscal year and make a  
4           complete report of the same to the Legislature. The annual  
5           audit shall cover all moneys received by the board and all  
6           expenditures made by the board during the period covered by  
7           the audit.

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

22          (b) Any member who is receiving retirement benefits  
23          and returns to active fire fighting shall be covered under the  
24          provisions of Section 10.



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

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

12           (b) Participation by a firefighter in any other  
13 program, plan, fund, or system shall not bar participation by  
14 such firefighter in the fund.

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

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB299

Senate 08-APR-10

I hereby certify that the within Act originated in and passed the Senate, as amended.

McDowell Lee  
Secretary

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House of Representatives  
Amended and passed 21-APR-10

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Senate concurred in House amendment 22-APR-10

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By: Senator Bedford