

1 SB299
2 115672-4
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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8 SYNOPSIS: This bill would create the Alabama
9 Firefighters Annuity and Benefit Fund for paid and
10 volunteer firefighters. Participation would be
11 voluntary and in addition to any other benefit
12 provided by law.

13 The bill would provide for a board of
14 commissioners to administer the act and the fund
15 created by the act. Assets in the fund would be
16 invested and reinvested by the Employees'
17 Retirement System of Alabama.

18 The bill would provide for qualified
19 service, the process for applying for and receiving
20 benefits, the management of the fund, refunds for
21 members who leave the fund, disability and death
22 benefits, annual audits and reports of the fund,
23 and administrative duties of the board.

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25 A BILL
26 TO BE ENTITLED
27 AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

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

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

1 (5) FUND. The Firefighters Annuity and Benefit Fund
2 created in this act.

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

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

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

10 (9) PRIOR SERVICE. The period of employment of a
11 member as a firefighter from the time of initial employment as
12 a firefighter to October 1, 2010.

13 (10) QUALIFIED SERVICE. The prior service plus
14 membership service of a member.

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

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

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

24 (2) A volunteer firefighter appointed by the Alabama
25 Association of Volunteer Fire Departments for an initial term
26 of two years.

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

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

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

8 Thereafter, each member of the board shall serve for
9 a period of four years. Any member of the board shall be
10 eligible to succeed himself or herself. The term of each
11 person appointed or elected to the board shall begin on the
12 date of appointment or election, and any person so appointed
13 or elected whose successor has not been appointed or elected
14 shall continue to serve until the appointment or election of a
15 successor. Any member of the board who shall cease to be a
16 member during his or her incumbency shall be replaced as a
17 member of the board by the appointing authority for the
18 remainder of the unexpired term.

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

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

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

3 (2) To provide for and maintain all necessary
4 administrative facilities and personnel.

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

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

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

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

15 (8) To provide upon request descriptive literature
16 regarding the fund.

17 (9) To pay all benefits and annuities that may be
18 determined to be due under this act and under the rules of the
19 board.

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

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

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

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

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

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

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

26 (b) The board shall deliver all monies not currently
27 needed for the functioning of the board to the Employees'

1 Retirement System of Alabama for investment and reimbursement
2 as determined by ERS administrative policies and practices.
3 The ERS shall charge a reasonable fee for providing investment
4 services to the board. The board shall comply with all
5 administrative policies and requests of the ERS regarding
6 investment services provided by ERS. The board shall have such
7 control of the fund as is consistent with this act and with
8 the laws of the state.

9 (c) All moneys of the board not currently invested
10 by the ERS shall be held in a special trust account or
11 accounts in any bank or banks in the state and may be
12 withdrawn therefrom by voucher, check, or electronic debit by
13 the executive director pursuant to authorization given by the
14 board. The board may expend moneys in the fund in accordance
15 with this act.

16 Section 7. (a) In order to fund the provisions of
17 this act, an annual fee of two dollars (\$2) may be voluntarily
18 deducted from every property and casualty insurance policy
19 issued or renewed in the state by indicating on a check-off
20 box which shall be provided on the policy billing. Each policy
21 owner, at his or her option, may check whether two dollars
22 (\$2) shall be distributed as a set-off against the amount due
23 the policy issuer. If a policy holder voluntarily so
24 indicates, two dollars (\$2) shall be deducted from the policy
25 premium due and distributed by the property or casualty
26 insurance issuer to the fund created by this act. The amount
27 for 2010 shall be prorated for the period of time during which

1 such policy was in effect. The Department of Insurance shall
2 promulgate rules providing for the monthly collection and
3 distribution of the fees herein assessed.

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

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

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

23 (c) Six months from the passage of this act, all
24 applicants for membership who join the fund must pay an
25 initial fee of twenty dollars (\$20) and twenty dollars (\$20)
26 per month as long as they maintain their membership, with no

1 regard given for firefighter service prior to the date of
2 application.

3 (d) If any member does not pay the monthly fee for
4 60 days after its due date, the board shall give him or her
5 notice of termination of his or her membership in the fund and
6 of his or her right to a refund and unless he or she makes
7 application for a refund within 60 days after the mailing of
8 the notice, all amounts heretofore paid by him or her to the
9 fund shall be returned to him or her. Any member so terminated
10 who later applies for membership in the fund shall lose credit
11 for all of his or her prior qualified service up to the time
12 of such termination and, upon approval of his or her new
13 application, will become a new member in the fund.

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

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

24 (b) The amount of the monthly benefit shall be
25 determined by the board in an amount recommended by the
26 actuary for the fund. The benefit shall begin upon approval by
27 the board on the date of the member's application for the

1 benefits on forms provided by the board, but in no event shall
2 the benefit begin prior to his or her termination of service
3 as a firefighter. The benefits shall be paid for the life of
4 the member, except as otherwise provided in this section.

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

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

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

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

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

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

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

26 (b) Any member disabled as defined in this section
27 for a period of more than 24 calendar months shall be eligible

1 for retirement benefits under this act if he or she meets the
2 requirements of Section 7.

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

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

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

25 (b) If any member is killed in the line of duty, his
26 or her beneficiary or estate shall be paid all membership fees
27 paid by the member. Such repayment of membership fees shall be

1 in addition to the death benefit provided in this section. The
2 board shall pay to the beneficiary of a member, upon his or
3 her death while an active member, a refund pursuant to Section
4 11.

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

22 (b) In no event shall the board, the fund, the
23 association, the order, or any member, officer, director, or
24 employee of any thereof or the state or any subdivision
25 thereof or any municipality therein be liable to any member or
26 any beneficiary or any representative of any member or any
27 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.

26 (b) The Chief Examiner of the Department of
27 Examiners of Public Accounts shall make an annual audit of the

1 activities of the board for each fiscal year and make a
2 complete report of the same to the Legislature. The annual
3 audit shall cover all moneys received by the board and all
4 expenditures made by the board during the period covered by
5 the audit.

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

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

23 Section 17. None of the moneys referred to in this
24 act or any benefit or annuity payable under this act shall be
25 assignable nor subject to attachment, garnishment, or judgment
26 entered against any member or beneficiary. All payments of

1 annuities and benefits shall be paid directly to the member or
2 beneficiary.

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

8 (b) Participation by a firefighter in any other
9 program, plan, fund, or system shall not bar participation by
10 such firefighter in the fund.

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