

1 HB521
2 128621-1
3 By Representative Treadaway (N & P)
4 RFD: Jefferson County Legislation
5 First Read: 14-APR-11

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
12

13 Relating to The Board of Managers of the City of
14 Birmingham Retirement and Relief System, as created by Act
15 929, 1951 Regular Session and amended and restated in Act 339,
16 2006 Regular Session, to amend the City of Birmingham
17 Retirement and Relief System to comply with applicable
18 mandatory provisions of the Internal Revenue Code of 1986, as
19 amended (the "Code") and the regulations promulgated
20 thereunder, and to amend the investment powers to expand the
21 power of the Board to make investments to include alternative
22 investments, removing the requirement of not less than fifty
23 percent (50%) of fixed income be invested in bills, notes and
24 bonds of the United States government, removing the
25 restriction requiring international equity investments be
26 American Depository Receipts and removing the requirement

1 bonds be rated investment grade by at least one nationally
2 recognized credit rating agency.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. The Board of Managers of the City of
5 Birmingham Retirement and Relief System, as created by Act
6 929, 1951 Regular Session and amended and restated in Act 339,
7 2006 Regular Session, hereby amends Section 1 of Article II
8 thereof, which defines "Final Average Salary", to apply Code
9 Section 401(a) (17) limit on includible compensation, as
10 follows:

11 "Final Average Salary." The sum of the three (3)
12 years of highest compensation, exclusive of overtime or other
13 forms of extra compensation but including longevity pay, in
14 the ten (10) years immediately preceding retirement after the
15 effective date of this plan, divided by thirty-six (36)
16 months. Effective July 1, 1996, compensation in excess of
17 \$150,000 (or such other amount provided in the Code) shall be
18 disregarded. Such amount shall be adjusted for increases in
19 the cost of living in accordance with Code Section
20 401(a) (17) (B), except that the dollar increase in effect on
21 January 1 of any calendar year shall be effective for the
22 Fiscal Years beginning with or within such calendar year.
23 Effective July 1, 2002, compensation in excess of \$160,000
24 shall be disregarded. Such amount shall be automatically
25 adjusted for increases in the cost of living in accordance
26 with Code Section 415(d), except that the dollar increase in
27 effect on January 1 of any calendar year shall be effective

1 for the Fiscal Years beginning with or within such calendar
2 year. If compensation for any prior determination period is
3 taken into account in determining a participant's benefits for
4 the current Fiscal Year, the compensation for such prior
5 determination period is subject to the applicable annual
6 compensation limit in effect for that prior period.

7 Section 2. The Board of Managers of the City of
8 Birmingham Retirement and Relief System, as created by Act
9 929, 1951 Regular Session and amended and restated in Act 339,
10 2006 Regular Session, hereby amends Section 1 of Article V
11 thereof, to satisfy funding requirements mandated under the
12 Pension Protection Act, as follows:

13 "(a) Each participant shall contribute to the cost
14 of the system, and the city shall deduct from said
15 participant's pay, an amount equal to not less than six
16 percent (6%) nor more than seven percent (7%) of actual
17 monthly salary, or an amount necessary to satisfy the funding
18 obligations of the system unless, in lieu of an increase in
19 contributions, future accrued benefits hereunder are reduced
20 such that the contributions satisfy the funding obligations of
21 the system as determined in accordance with Governmental
22 Accounting Standards Board Statements Numbers 25 and 27, said
23 amount to be immediately paid into the fund, said percentage
24 to be determined by an actuary of the board, annually, in
25 order that the plan shall remain solvent and insure payments
26 of accrued and future benefits."

1 Section 3. The Board of Managers of the City of
2 Birmingham Retirement and Relief System, as created by Act
3 929, 1951 Regular Session and amended and restated in Act 339,
4 2006 Regular Session, hereby amends Section 2 of Article VI
5 thereof, to apply Code Section 415 limits on benefits, as
6 follows:

7 "Section 2. Minimum and Maximum Normal Retirement
8 Benefit. The minimum retirement benefit payable under the
9 preceding Section 1 shall be Four Hundred Dollars (\$400.00)
10 per month. The maximum normal retirement benefit payable under
11 the preceding Section 1 shall be seventy-five percent (75%) of
12 final average salary, exclusive of sick leave bonus.
13 Notwithstanding the foregoing and to the extent applicable to
14 "governmental plans" as such are defined in Code Section
15 414(d), in no event may the normal retirement benefit exceed
16 the annual dollar limits imposed by Code Section 415(b),
17 excluding contributions under Code Section 414(h) (2). Further,
18 no "Post Severance Compensation" shall be included for any
19 benefit hereunder. "Post Severance Compensation" means amounts
20 paid by the later of: (1) 2-1/2 months after an employee's
21 severance from employment with the Employer or (2) the end of
22 the limitation year that includes the date of severance from
23 employment with the Employer; and those amounts would have
24 been included in the definition of compensation if they were
25 paid prior to the employee's severance from employment.
26 However the payment must be for (a) unused accrued bona fide
27 sick, vacation, or other leave, but only if the employee would

1 have been able to use the leave if the employee had continued
2 in employment; or (b) received by an employee pursuant to a
3 nonqualified unfunded deferred compensation plan, but only if
4 the payment would have been paid to the employee at the same
5 time if the employee had continued in employment with the
6 Employer and only to the extent that the payment is includible
7 in the employee's gross income. Notwithstanding the foregoing,
8 in all events no benefit payments shall exceed limits imposed
9 on governmental plans by applicable law."

10 Section 4. The Board of Managers of the City of
11 Birmingham Retirement and Relief System, as created by Act
12 929, 1951 Regular Session and amended and restated in Act 339,
13 2006 Regular Session, hereby adds new Subsection (d) to
14 Section 3 of Article VI thereof, to apply Code Section 401(a)
15 requirements that prohibit the use of forfeitures for any
16 purpose other than reduction of future contributions or costs,
17 as follows:

18 "(d) That portion of a terminated participant's
19 benefit that is forfeited shall be used only to reduce future
20 costs of the system at such time as it becomes a forfeiture."

21 Section 5. The Board of Managers of the City of
22 Birmingham Retirement and Relief System, as created by Act
23 929, 1951 Regular Session and amended and restated in Act 339,
24 2006 Regular Session, hereby adds new Section 30 to Article VI
25 thereof, to comply with Code Section 401(a)(9) rules on
26 required minimum distributions to participants over age 70
27 1/2, as follows:

1 "Section 30. Required Minimum Distributions.

2 (a) Notwithstanding any provision in the Act to the
3 contrary, the distribution of a participant's benefits shall
4 be made in accordance with the following requirements and
5 shall otherwise comply with Code Section 401(a) (9) and the
6 Regulations thereunder (including Regulation 1.401(a) (9) (2),
7 the provisions of which are incorporated herein by reference:

8 (i) A participant's benefits shall be distributed or
9 must begin to be distributed not later than April 1st of the
10 calendar year following the later of (A) the calendar year in
11 which the participant attains age 70 1/2 or (B) the calendar
12 year in which the participant retires. Such distributions
13 shall be equal to or greater than any required distribution.

14 Alternatively, if the distribution is to be in the
15 form of a joint and survivor annuity or single life annuity,
16 then distributions must begin no later than the applicable
17 April 1st as determined under the preceding paragraph and must
18 be made over the life of the participant (or the lives of the
19 participant and the participant's designated Beneficiary) in
20 accordance with Regulations.

21 (ii) Distributions to a participant and the
22 participant's Beneficiaries shall only be made in accordance
23 with the incidental death benefit requirements of Code Section
24 401(a) (9) (G) and the Regulations thereunder.

25 (b) For purposes of this section, the life
26 expectancy of a participant and a participant's spouse (other
27 than in the case of a life annuity) may, at the election of

1 the participant or the participant's spouse, be redetermined
2 in accordance with Regulations. The election, once made, shall
3 be irrevocable. If no election is made by the time
4 distributions must commence, then the life expectancy of the
5 participant and the participant's spouse shall not be subject
6 to recalculation. Life expectancy and joint and last survivor
7 expectancy shall be computed using the return multiples in
8 Tables V and VI of Regulation 1.72 9."

9 Section 6. The Board of Managers of the City of
10 Birmingham Retirement and Relief System, as created by Act
11 929, 1951 Regular Session and amended and restated in Act 339,
12 2006 Regular Session, hereby adds new Section 31 to Article VI
13 thereof, to comply with Code Section 401(a)(31) rules
14 permitting direct rollovers of lump sum distributions, as
15 follows:

16 "Section 31. Direct Rollovers.

17 (a) Notwithstanding any provision of the Act to the
18 contrary that would otherwise limit a 'distributee's' election
19 under this Section, a 'distributee' may elect, at the time and
20 in the manner prescribed by the Board, to have any portion of
21 an "eligible rollover distribution" that is equal to at least
22 \$500 paid directly to an 'eligible retirement plan' specified
23 by the 'distributee' in a 'direct rollover.'

24 (b) For purposes of this Section 31 the following
25 definitions shall apply:

26 (i) An 'eligible rollover distribution' is any
27 distribution of all or any portion of the balance to the

1 credit of the 'distributee,' except that an 'eligible rollover
2 distribution' does not include: any distribution that is one
3 of a series of substantially equal periodic payments (not less
4 frequently than annually) made for the life (or life
5 expectancy) of the 'distributee' or the joint lives (or joint
6 life expectancies) of the 'distributee' and the
7 'distributee's' designated beneficiary, or for a specified
8 period of ten years or more; any distribution to the extent
9 such distribution is required under Code Section 401(a)(9);
10 the portion of any other distribution that is not includible
11 in gross income (determined without regard to the exclusion
12 for net unrealized appreciation with respect to employer
13 securities); any hardship distribution described in Code
14 Section 401(k)(2)(B)(i)(IV); and any other distribution that
15 is reasonably expected to total less than \$200 during a year.

16 (ii) An 'eligible retirement plan' is an individual
17 retirement account described in Code Section 408(a), an
18 individual retirement annuity described in Code Section
19 408(b), an annuity plan described in Code Section 403(a), a
20 Roth IRA described in Code Section 408A(b), or a qualified
21 trust described in Code Section 401(a), that accepts the
22 'distributee's' 'eligible rollover distribution.'

23 (iii) A 'distributee' includes an Employee or former
24 Employee. In addition, the employee's or former Employee's
25 surviving spouse and the Employee's or former Employee's
26 spouse or former spouse who is the alternate payee under a
27 qualified domestic relations order, as defined in Code Section

1 414(p), are 'distributees' with regard to the interest of the
2 spouse or former spouse.

3 (iv) A 'direct rollover' is a payment by the Plan to
4 the 'eligible retirement plan' specified by the distributee.

5 (v) For distributions after December 31, 2009, a
6 non-spouse beneficiary who is a 'designated beneficiary' under
7 Code Section 401(a)(9)(E) and the Regulations thereunder, by a
8 direct trustee-to-trustee transfer ('direct rollover'), may
9 roll over all or any portion of his or her distribution to an
10 Individual Retirement Account (IRA) the beneficiary
11 establishes for purposes of receiving the distribution. In
12 order to be able to roll over the distribution, the
13 distribution otherwise must satisfy the definition of an
14 'eligible rollover distribution' under Code Section
15 401(a)(31)."

16 Section 7. The Board of Managers of the City of
17 Birmingham Retirement and Relief System, as created by Act
18 929, 1951 Regular Session and amended and restated in Act 339,
19 2006 Regular Session, hereby adds new Section 32 of Article VI
20 thereof, to comply with mandatory provisions of the Pension
21 Protection Act of 2006, and the Heroes Earnings Assistance and
22 Relief Tax Act of 2008 (HEART Act) as follows:

23 "Section 32. Heroes Earnings Assistance and Relief
24 Tax Act of 2008 (HEART Act) Provisions.

25 In the case of a death or disability occurring on or
26 after January 1, 2007, if a Participant dies while performing
27 qualified military service (as defined in Code Section

1 414(u)), the survivors of the Employee are entitled to any
2 additional benefits (other than benefit accruals relating to
3 the period of qualified military service) provided under the
4 Plan as if the Participant had resumed and then terminated
5 employment on account of death."

6 Section 8. The Board of Managers of the City of
7 Birmingham Retirement and Relief System, as created by Act
8 929, 1951 Regular Session and amended and restated in Act 339,
9 2006 Regular Session, hereby adds new Section 33 to Article VI
10 thereof, to comply with applicable provisions of the Pension
11 Funding Equity Act of 2004, as follows:

12 "Section 33. Pension Funding Equity Act of 2004
13 ("PFEA"). Solely for purposes of calculating DROP benefits and
14 for converting lump sum amounts for compliance with Code
15 Section 415, if the system provides a benefit in a form that
16 is subject to the minimum present value requirements of Code
17 section 417(e) (3) in a Fiscal Year beginning in 2004 or 2005,
18 the actuarially equivalent straight life annuity that is used
19 for demonstrating compliance with Code section 415 shall be
20 the greater of: (i) the straight life annuity determined using
21 the Plan rate and Plan mortality table and (ii) the straight
22 life annuity determined using 5.5% and the applicable
23 mortality table. A benefit is subject to the minimum present
24 value requirements of Code section 417(e) (3) if it is any
25 benefit other than a nondecreasing annuity payable for a
26 period of not less than the life of the Participant (or, in
27 the case of a qualified preretirement survivor annuity, the

1 life of the surviving spouse), or such other benefit described
2 in the Act."

3 Section 9. The Board of Managers of the City of
4 Birmingham Retirement and Relief System, as created by Act
5 929, 1951 Regular Session and amended and restated in Act 339,
6 2006 Regular Session, hereby amends Section 4 of Article VIII
7 thereof, to comply with mandatory provisions for members of
8 the armed services, as follows:

9 "Section 4. Members in Armed Forces.

10 ~~"(a) If any participant, either before July 1, 1945,~~
11 ~~and after October 16, 1940, or after July 1, 1945, and prior~~
12 ~~to declaration by the Congress or President of the United~~
13 ~~States of termination of the unlimited national emergency~~
14 ~~declared by the President in his proclamation of May 27, 1941,~~
15 ~~shall have left the service for the purpose of entering the~~
16 ~~Armed Forces of the United States, after having been in the~~
17 ~~service for at least one year next before such leaving, and~~
18 ~~shall have left in the fund all contributions made by him/her~~
19 ~~prior to such leaving, and shall have resumed a position of~~
20 ~~qualified employee in the service of the city within forty~~
21 ~~days after his/her separation from such Armed Forces, and, in~~
22 ~~any event, within one year after declaration by the Congress~~
23 ~~or the President of the United States of termination of the~~
24 ~~unlimited national emergency declared by said President in~~
25 ~~said proclamation of May 27, 1941, and shall not have been~~
26 ~~dishonorably discharged from such Armed Forces, then, and in~~
27 ~~all such events, the city shall promptly pay into the fund an~~

1 amount double that which the participant would have
2 contributed to the fund from his/her salary had he continued
3 in the service of the city as a participant throughout the
4 period between the time of so leaving the service and the time
5 of resumption of position in the service at the same rate of
6 pay he/she was receiving at the time he/she so left the
7 service, and, upon such payment into the fund, the participant
8 shall be entitled to count as credited service the entire
9 aforesaid period, provided, however, that if such participant
10 becomes disabled to perform his/her customary duties at any
11 time within two years after such resumption of position, the
12 amount of any benefits to which he/she might otherwise be
13 entitled hereunder for any period shall be reduced by any
14 amount paid or payable to him/her by the federal government
15 for the same period, and provided further that no part of such
16 payment by the city shall be returnable by the fund under any
17 provision of the system for return of contributions made by
18 participants. In order to extend the benefits of this Section
19 to some "Korean Veterans" to whom such benefits would not
20 otherwise extend, the unlimited national emergency declared by
21 the President of the United States in his proclamation of May
22 27, 1941, shall, for the purposes of this Section, be deemed
23 to have been by the Congress or the said President declared
24 terminated at midnight, January 31, 1955, the time designated
25 by the President in Executive Order No. 10585, dated January
26 1, 1955, "as the date of termination of combatant activities"
27 in the Korean Zone and also the time fixed by said President

1 in Proclamation No. 3080, dated January 1, 1955, as a terminal
2 time for various purposes in respect of service in the Armed
3 Forces Notwithstanding any provision of this Act to the
4 contrary, contributions, benefits and service credit with
5 respect to qualified military service shall be provided in
6 accordance with Code section 414(u).

7 "In order to extend the benefits of this Section to
8 other veterans to whom such benefits would not otherwise
9 extend, it is hereby, provided that if any participant shall
10 have left the service prior to April 20, 1954, for the purpose
11 of serving in the Armed Forces of the United States after
12 having been in the service for at least one year next before
13 leaving, and shall have entered such Armed Forces promptly
14 after such leaving, and shall have left in the fund all
15 contributions made by him/her prior to such leaving, and shall
16 have resumed a position of participant in the service within
17 forty days after his/her separation from such Armed Forces,
18 and in any event prior to the 21st day of May, 1956, and shall
19 not have been dishonorably discharged from such Armed Forces,
20 then and in all such events, the city shall promptly pay into
21 the fund an amount double that which the employee would have
22 contributed to the fund from his/her salary had he/she
23 continued in the service as a participant throughout the
24 period between the time of so leaving the service and the time
25 of resumption of position in the service at the same rate of
26 pay he/she was receiving at the time he/she so left the
27 service, and, upon such payment into the fund, the participant

1 shall be entitled to count as credited service the entire
2 aforesaid period, provided, however, that if such participant
3 becomes disabled to perform his/her customary duties at any
4 time within two years after such resumption of position, the
5 amount of any benefits to which he/she might otherwise be
6 entitled hereunder for any period shall be reduced by any
7 amount paid or payable to him/her by the federal government
8 for the same period, and provided further that no part of such
9 payment by the city shall be returnable by the fund under any
10 provision of the system for return of contributions made by
11 Participants."

12 Section 10. The Board of Managers of the City of
13 Birmingham Retirement and Relief System, as created by Act
14 929, 1951 Regular Session and amended and restated in Act 339,
15 2006 Regular Session, hereby adds new Section 5 to Article
16 VIII thereof, to describe the actuarial methods used to
17 calculate contributions and valuations of the system, as
18 follows:

19 "Section 5. Actuarial Assumptions.

20 (a) Effective date. Except as provided by the
21 Pension Benefit Guaranty Corporation (PBGC) and IRS, the
22 limitations of this Section shall first apply in determining
23 the amount payable to a Participant having an annuity starting
24 date in a Fiscal Year beginning on or after January 1, 2008.

25 (b) Applicable interest rate. For purposes of the
26 Fund's provisions relating to the calculation of the present
27 value of a benefit payment that is subject to Code Section

1 417(e), as well as any other Fund provision referring directly
2 or indirectly to the 'applicable interest rate' or 'applicable
3 mortality table' used for purposes of Code Section 417(e), any
4 provision prescribing the use of the annual rate of interest
5 on 30-year U.S. Treasury securities shall be implemented by
6 instead using the rate of interest determined by applicable
7 interest rate described by Code Section 417(e) after its
8 amendment by PPA. Specifically, the applicable interest rate
9 shall be the adjusted first, second, and third segment rates
10 applied under the rules similar to the rules of Code Section
11 430(h)(2)(C) for the calendar month (lookback month) before
12 the first day of the Fiscal Year in which the annuity starting
13 date occurs (stability period). For this purpose, the first,
14 second, and third segment rates are the first, second, and
15 third segment rates which would be determined under Code
16 Section 430(h)(2)(C) if:

17 (i) Code Section 430(h)(2)(D) were applied by
18 substituting the average yields for the month described in the
19 preceding paragraph for the average yields for the 24-month
20 period described in such section, and

21 (ii) Code Section 430(h)(2)(G)(i)(II) were applied
22 by substituting 'Section 417(e)(3)(A)(ii)(II)' for 'Section
23 412(b)(5)(B)(ii)(II),' and

24 (iii) The applicable percentage under Code Section
25 430(h)(2)(G) is treated as being 20% in 2008, 40% in 2009, 60%
26 in 2010, and 80% in 2011.

1 (c) Applicable mortality assumption. For purposes of
2 the Fund's provisions relating to the calculation of the
3 present value of a benefit payment that is subject to Code
4 Section 417(e), as well as any other Fund provision referring
5 directly or indirectly to the 'applicable interest rate,' any
6 provision directly or indirectly prescribing the use of the
7 mortality table described in Revenue Ruling 2001-62 shall be
8 amended to prescribe the use of the applicable annual
9 mortality table within the meaning of Code Section
10 417(e) (3) (B), as initially described in Revenue Ruling
11 2007-67.

12 Section 11. The Board of Managers of the City of
13 Birmingham Retirement and Relief System, as created by Act
14 929, 1951 Regular Session and amended and restated in Act 339,
15 2006 Regular Session, hereby amends Section 9 of Article III
16 thereof as follows:

17 Section 9. The Fund and its investment.

18 (a) In each instance in which any provision of this
19 Section 9 requires a determination of the value of a security,
20 or securities, in the fund, the fair market value of such
21 security or securities as determined by pricing sources
22 acceptable to the custodian, shall be deemed to be the value
23 thereof.

24 (b) The fund shall include all assets of the fund in
25 any form, and the city director of finance shall be, ex
26 officio, the custodian of the fund. The custodian shall keep a
27 separate account of the fund and of all assets and liabilities

1 thereof and of all receipts and disbursements thereof and of
2 all prior service time and paid membership time of employee
3 members. The custodian shall keep all monies of the fund in a
4 separate bank account. The custodian shall keep in force and
5 effect a bond in a penal amount equal to the total amount of
6 monies and securities in such custodian's custody or
7 possession, but in no event in excess of fifty thousand
8 dollars (\$50,000), payable to the board and conditioned for
9 faithful performance of such custodian's duties and for
10 faithful accounting to the board for all monies, securities
11 and property coming into his/her control, custody or
12 possession as such custodian. Such bond shall be executed by a
13 surety company authorized to do business in the State of
14 Alabama, and the premium on such bond, and all necessary
15 expenses of the board, shall be paid out of the fund upon
16 order of the board. All bonds and securities acquired for the
17 fund shall be registered by the custodian, or his/her
18 designated representative, in the name of the system promptly
19 upon acquisition and shall remain so registered until sold or
20 otherwise disposed of by authority of the Board. The board
21 shall select a financial institution as sub-custodian of
22 securities, with authority to collect and remit to the
23 custodian dividends, principal and interest of securities
24 entrusted to its custody as the same may mature, and pay it
25 such reasonable fees or compensation for its services as the
26 Board may deem proper, and the board may, if it sees fit,
27 waive any bond otherwise required of such institution as

1 sub-custodian so long as the net worth of the sub-custodian
2 exceeds one and one-half times the total value of the
3 securities entrusted to its custody. Securities in the custody
4 of such sub-custodian shall not be counted as in the custody
5 of the custodian for the purpose of computing the amount of
6 the custodian's bond. The board is authorized to accept and
7 receive gifts, donations, or legacies for the fund, and to
8 administer same as may be directed by the board. No member or
9 employee of the board of managers shall, directly or
10 indirectly, for himself or herself or as an agent in any
11 manner use the fund, except to make current and necessary
12 payments authorized by the board, nor shall any member or
13 employee of the board of managers become an endorser or surety
14 or in any manner an obligor for moneys loaned to or borrowed
15 from the board. In the adjudication of claims against the
16 fund, the records of the city director of finance and
17 sub-custodian made and kept for the purpose of this act shall
18 be deemed prima facie, to speak the truth.

19 (c) The board of managers shall have the sole and
20 absolute discretion, if the board deems it advisable to
21 invest, reinvest and have invested and reinvested all funds of
22 the system, real and personal, in the classes of bonds,
23 mortgages, common and preferred stocks, shares of investment
24 companies or mutual funds, real estate investment trusts,
25 international equity (~~American Depository Receipts~~), corporate
26 fixed income, international fixed income, index funds, and
27 derivative securities, and investments recognized as

1 alternative investments or other investments as the board of
2 managers may approve, subject to the limitations herein
3 provided. No money or the fund shall be invested, paid out or
4 disbursed except pursuant to order or authorization of the
5 board given prior, at the time or subsequent to same. The
6 board shall be trustee, and have entire management and control
7 of the fund, and shall direct or subsequently approve
8 investment of monies of the fund not needed to meet
9 disbursements provided for in this Act, in the loans to
10 members hereinabove referred to, in bills, notes and bonds of
11 the United States Government, or general obligation bonds of
12 the State of Alabama, or in common or preferred stock of
13 corporations or in bonds registered with the Security and
14 Exchange Commission, mortgaged-back securities, or
15 asset-backed securities ~~rated investment grade by at least one~~
16 ~~nationally recognized credit rating agency~~, or in securities
17 issued by federal agencies and government sponsored entities,
18 or may invest in Federal Saving and Loan Associations or in
19 other corporations having Federal Savings and Loan
20 Association's guarantee or in certificates of deposit or bonds
21 issued by banks organized under Federal laws or under laws of
22 the State of Alabama and insured by the federal government or
23 in such other assets as the board may prudently approve, with
24 due regard to their suitability and creditworthiness; provided
25 however, that no funds shall be invested in common or
26 preferred stocks of corporations unless such common or
27 preferred stocks are listed upon Exchanges registered with and

1 subject to the jurisdiction of the United States Securities
2 and Exchange Commission or are traded through NASDAQ Stock
3 Market or are Rule 144A securities, or are traded on an
4 organized exchange, ~~that the total investment in common or~~
5 ~~preferred stock of corporations last referred to above shall~~
6 ~~not exceed sixty-five percent (65%) of the fair market value~~
7 ~~of all the funds available in the system for investment, the~~
8 ~~remaining funds available shall be invested in fixed income~~
9 ~~securities, of which not less than fifty percent (50%) be~~
10 ~~invested in bills, notes and bonds of the United States~~
11 ~~government or securities fully guaranteed as to payment of~~
12 ~~principal and interest by the United States government.~~
13 ~~Securities issued by agencies and entities that receive the~~
14 ~~unconditional guarantee of the United States government shall~~
15 ~~be considered permissible United States government guaranteed~~
16 ~~investments. Securities issued by agencies and other entities~~
17 ~~not directly guaranteed by the United States government may be~~
18 ~~included with these fixed income securities but not to~~
19 ~~exceed twenty-five percent (25%) of the total fixed income~~
20 ~~securities~~ and that the total investment in fixed income
21 securities shall not be less than thirty-five percent (35%) of
22 the fair market value of all the funds available in the system
23 for investment. Securities issued by any single non-guaranteed
24 agency or entity may not constitute more than ten percent
25 (10%) of the fixed income allocation of the fund at the time
26 of purchase. The fair market value of all of the funds
27 available in the system for investment is to be determined

1 periodically, but not less than annually. In exercising its
2 discretion to invest, reinvest, and have invested and
3 reinvested all funds of the system, the board shall act with
4 the care, skill, prudence and diligence under the
5 circumstances then prevailing that a prudent person acting in
6 a like capacity and familiar with such matters would use in
7 the conduct of an enterprise of a like character and with like
8 aims.

9 Section 12. The provisions of this act are
10 severable. If any part of this act is declared invalid or
11 unconstitutional, that declaration shall not affect the part
12 which remains.

13 Section 13. This act shall become effective
14 immediately.