

1 SB72
2 126815-5
3 By Senators Marsh, Pittman, Holtzclaw, Williams, Glover,
4 McGill and Beason
5 RFD: Finance and Taxation Education
6 First Read: 01-MAR-11

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 To amend Sections 16-25-150 and 36-27-170 of the
12 Code of Alabama 1975, relating to the Deferred Retirement
13 Option Plan, to prohibit new participation in the plan and
14 limit interest paid on accounts.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Sections 16-25-150 and 36-27-170 of the
17 Code of Alabama 1975, are amended to read as follows;

18 "§16-25-150.

19 "(a) As governed by this subsection, there exists as
20 a part of this retirement system an optional account known as
21 the Deferred Retirement Option Plan, which may be cited as
22 "DROP." The purpose of DROP is to allow, contractually, in
23 lieu of immediate withdrawal from service and receipt of a
24 retirement allowance, continued employment for a specific
25 period of time, coupled with the deferral of receipt of a
26 retirement allowance until the end of the period of

1 participation, at which time the member shall withdraw from
2 service.

3 "(b) Participation in DROP is an option available to
4 any member of this retirement system who meets all of the
5 following requirements:

6 "(1) Has at least 25 years of creditable service
7 exclusive of sick leave.

8 "(2) Is at least 55 years of age.

9 "(3) Is eligible for service retirement.

10 "(c) An election to participate in DROP may be made
11 in one year increments not to exceed five years, nor to be
12 less than three years. A member may participate in DROP only
13 one time. Any voluntary termination within the first three
14 years in DROP will result in a forfeiture of the portion of
15 his or her DROP account that constitutes the retirement
16 allowance. However, member contributions will not be
17 forfeited, nor will any interest attributable to the
18 retirement allowance. There will be no penalty forfeiture if
19 the participation period is interrupted due to an involuntary
20 dismissal, disability, involuntary transfer of his or her
21 spouse, or death of the participant.

22 "(d) A member who chooses to participate in DROP may
23 elect an option allowance set out for members of the Teachers'
24 Retirement System in subsection (h) of Section 16-25-14 at the
25 beginning of the participation period. Otherwise, he or she
26 shall receive the maximum benefit. Such election shall be

1 irrevocable once the participation period begins except as
2 otherwise provided in this chapter.

3 "(e) For purposes of DROP, sick leave may not be
4 converted for purposes of establishing retirement eligibility,
5 nor used in the calculation of the original retirement
6 allowance except as provided in Section 16-25-151.

7 "(f) The election to participate in DROP shall be
8 made in accordance with procedures set forth in a uniform and
9 nondiscriminatory election and application form adopted by the
10 Board of Control. The election to participate in DROP may be
11 made at any time on or after the date the member becomes
12 eligible to participate as set out in subsection (b). Such
13 application must be made at least 30 days, but not more than
14 90 days, before the effective date of participation in DROP.

15 "(g) Upon the effective date of the commencement in
16 DROP, the member's service shall remain as it existed on that
17 date for the duration of DROP. Once a member enters DROP,
18 service credit purchases are prohibited. Both the employer and
19 employee member contribution shall continue to be made. The
20 monthly retirement allowance that would have been payable, had
21 the person elected to withdraw from service and receive a
22 retirement allowance, shall be paid into a DROP account that
23 reflects the credits attributed to the person in DROP.
24 However, the monies shall remain a part of the regular
25 retirement fund until disbursed to the participating member in
26 accordance with this section. Any monies paid into this

1 account are subject to the exemptions set out in Section 16-25-23.

2 "(h) (1) The DROP account shall earn interest at the
3 same rate that interest is posted to active member accounts as
4 defined in subdivision (15) of Section 16-25-1. A person who
5 participates in this plan shall not be eligible to receive a
6 retiree cost-of-living increase while participating in DROP,
7 and shall not be eligible for a retiree cost-of-living
8 increase until participation in the plan ceases and he or she
9 withdraws from service and has been receiving a retirement
10 allowance for at least one full year.

11 "(2) Notwithstanding any other provision of this
12 chapter, for any member who has fulfilled his or her
13 obligation under DROP and does not withdraw from service and
14 any member who begins participation in DROP on or before April
15 1, 2011, and fulfills his or her obligation under DROP and
16 does not withdraw from service, the amount of interest payable
17 on benefit deposits after the effective date of this act shall
18 be the lesser of (1) the investment performance of the
19 immediately preceding fiscal year but no less than \$0, or (2)
20 as provided in subdivision (1) of subsection (d) of Section
21 16-25-151.

22 "(i) DROP shall not be subject to any fees, charges,
23 or other similar expenses of any kind for any purpose.

24 "(j) Participation in DROP shall not affect the
25 rights of any education employee including, but not limited
26 to, the Fair Dismissal Act, Section 36-26-100 et seq., the

1 tenure law, Section 16-24-1, et seq., or any other fringe
2 benefit.

3 "(k) Participation in DROP shall not affect the
4 accrual of annual and sick leave by the participant.

5 "(l) Participants in DROP may receive salary
6 cost-of-living adjustments and salary increases.

7 "(m) No person may begin participation in DROP after
8 April 1, 2011.

9 "§36-27-170.

10 "(a) As governed by this subsection, there exists as
11 a part of this retirement system, an optional account known as
12 the Deferred Retirement Option Plan, which may be cited as
13 "DROP." The purpose of DROP is to allow, contractually, in
14 lieu of immediate withdrawal from service and receipt of a
15 retirement allowance, continued employment for a specific
16 period of time, coupled with the deferral of receipt of a
17 retirement allowance until the end of such period of
18 participation, at which time the member shall withdraw from
19 service.

20 "(b) Participation in DROP is an option available to
21 any member of this retirement system who meets all of the
22 following:

23 "(1) Has at least 25 years of creditable service
24 exclusive of sick leave.

25 "(2) Is at least 55 years of age, or in the case of
26 a state police member, is at least 52 years of age.

27 "(3) Is eligible for service retirement.

1 "(c) An election to participate in DROP may be made
2 in one year increments not to exceed five years, nor to be
3 less than three years. A member may participate in DROP only
4 one time. Any voluntary termination within the first three
5 years in DROP will result in a forfeiture of a portion of his
6 or her DROP account that constitutes the retirement allowance.
7 However, member contributions will not be forfeited nor will
8 any interest attributable to the retirement allowance. There
9 will be no forfeiture if the participation period is
10 interrupted due to an involuntary dismissal, disability,
11 involuntary transfer of his or her spouse, or death of the
12 participant.

13 "(d) A member who chooses to participate in DROP may
14 elect an option allowance set out for members of the
15 Employees' Retirement System in subsection (d) of Section
16 36-27-16 at the beginning of the participation period.
17 Otherwise, he or she shall receive the maximum benefit. Such
18 election shall be irrevocable once the participation period
19 begins except as otherwise provided in this chapter.

20 "(e) For purposes of DROP, sick leave may not be
21 converted for purposes of establishing retirement eligibility,
22 nor used in the calculation of the original retirement
23 allowance except as provided in Section 36-27-171. A person
24 electing to enter the DROP program is not eligible for a
25 lump-sum payment for any annual or sick leave until withdrawal
26 from service.

1 "(f) The election to participate in DROP shall be
2 made in accordance with procedures set forth in a uniform and
3 nondiscriminatory election and application form adopted by the
4 Board of Control. The election to participate in DROP may be
5 made at any time on or after the date the member becomes
6 eligible to participate as set out in subsection (b). Such
7 application must be made at least 30 days, but not more than
8 90 days, before the effective date of participation in DROP.

9 "(g) Upon the effective date of the commencement in
10 DROP, the member's service shall remain as it existed on that
11 date for the duration of DROP. Once a member enters DROP,
12 service credit purchases are prohibited. Both the employer and
13 employee member contribution shall continue to be made. The
14 monthly retirement allowance that would have been payable, had
15 the person elected to withdraw from service and receive a
16 retirement allowance, shall be paid into a DROP account that
17 reflects the credits attributed to the person in DROP.
18 However, the monies shall remain a part of the regular
19 retirement fund until disbursed to the participating member in
20 accordance with this section. Any monies paid into this
21 account are subject to the exemptions set out in Section
22 36-27-28.

23 "(h) (1) The DROP account shall earn interest at the
24 same rate that interest is posted to active member accounts as
25 defined in subdivision (12) of Section 36-27-1. A person who
26 participates in this plan shall not be eligible to receive a
27 retiree cost-of-living increase while participating in DROP,

1 and shall not be eligible for a retiree cost-of-living
2 increase until participation in the plan ceases and he or she
3 withdraws from service and has been receiving a retirement
4 allowance for at least one full year.

5 "(2) Notwithstanding any other provision of this
6 chapter, for any member who has fulfilled his or her
7 obligation under DROP and does not withdraw from service and
8 any member who begins participation in DROP on or before April
9 1, 2011, and fulfills his or her obligation under DROP and
10 does not withdraw from service, the amount of interest payable
11 on benefit deposits after the effective date of this act shall
12 be the lesser of (1) the investment performance of the
13 immediately preceding fiscal year but no less than \$0, or (2)
14 as provided in subdivision (1) of subsection (d) of Section
15 36-27-171.

16 "(i) DROP shall not be subject to any fees, charges,
17 or other similar expenses of any kind for any purpose.

18 "(j) Participation in DROP shall not affect the
19 rights of any state employee under the state personnel system,
20 including, but not limited to, his or her rights to longevity
21 pay.

22 "(k) Participation in DROP shall not affect the
23 accrual of annual and sick leave by the participant.

24 "(l) Participants in DROP may receive salary
25 cost-of-living adjustments and salary increases.

26 "(m) No person may begin participation in DROP after
27 April 1, 2011."

1 Section 2. This act shall become effective
2 immediately following its passage and approval by the
3 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 Education 01-MAR-11

Read for the second time and placed on the calen-
dar 1 amendment..... 03-MAR-11

Read for the third time and passed as amended 08-MAR-11

Yeas 23
Nays 12

Patrick Harris
Secretary