

1 SB72
2 127683-3
3 By Senators Marsh, Pittman, Holtzclaw, Williams, Glover,
4 McGill and Beason
5 RFD: Finance and Taxation Education
6 First Read: 01-MAR-11

1 SB72

2
3
4 ENROLLED, An Act,

5 To amend Sections 16-25-150 and 36-27-170 of the
6 Code of Alabama 1975, relating to the Deferred Retirement
7 Option Plan, to prohibit new participation in the plan and
8 limit interest paid on accounts; and to create a Joint Interim
9 Legislative Committee on Teacher and Public Employee
10 Retention.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

14 "§16-25-150.

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

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

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

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

7 "(3) Is eligible for service retirement.

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

20 "(d) A member who chooses to participate in DROP may
21 elect an option allowance set out for members of the Teachers'
22 Retirement System in subsection (h) of Section 16-25-14 at the
23 beginning of the participation period. Otherwise, he or she
24 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 and shall be made no later than the effective date of this
16 act. A member must be eligible to participate, as provided
17 above at the time the application is made.

18 "(g) Upon the effective date of the commencement in
19 DROP, the member's service shall remain as it existed on that
20 date for the duration of DROP. Once a member enters DROP,
21 service credit purchases are prohibited. Both the employer and
22 employee member contribution shall continue to be made. The
23 monthly retirement allowance that would have been payable, had
24 the person elected to withdraw from service and receive a
25 retirement allowance, shall be paid into a DROP account that

1 reflects the credits attributed to the person in DROP.
2 However, the monies shall remain a part of the regular
3 retirement fund until disbursed to the participating member in
4 accordance with this section. Any monies paid into this
5 account are subject to the exemptions set out in Section
6 16-25-23.

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

16 "(2) Notwithstanding any other provision of this
17 chapter, for any member who has fulfilled his or her
18 obligation under DROP and does not withdraw from service and
19 any member who begins participation in DROP on or before April
20 1, 2011, and fulfills his or her obligation under DROP and
21 does not withdraw from service, the amount of interest payable
22 on benefit deposits after the effective date of this act shall
23 be the lesser of (1) the investment performance of the
24 immediately preceding fiscal year but no less than \$0, or (2)

1 as provided in subdivision (1) of subsection (d) of Section 16-25-151.

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

4 "(j) Participation in DROP shall not affect the
5 rights of any education employee including, but not limited
6 to, the Fair Dismissal Act, Section 36-26-100 et seq., the
7 tenure law, Section 16-24-1, et seq., or any other fringe
8 benefit.

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

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

13 "§36-27-170.

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

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

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

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

8 "(3) Is eligible for service retirement.

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

21 "(d) A member who chooses to participate in DROP may
22 elect an option allowance set out for members of the
23 Employees' Retirement System in subsection (d) of Section
24 36-27-16 at the beginning of the participation period.
25 Otherwise, he or she shall receive the maximum benefit. Such

1 election shall be irrevocable once the participation period
2 begins except as 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 36-27-171. A person
7 electing to enter the DROP program is not eligible for a
8 lump-sum payment for any annual or sick leave until withdrawal
9 from service.

10 "(f) The election to participate in DROP shall be
11 made in accordance with procedures set forth in a uniform and
12 nondiscriminatory election and application form adopted by the
13 Board of Control. The election to participate in DROP may be
14 made at any time on or after the date the member becomes
15 eligible to participate as set out in subsection (b). Such
16 application must be made at least 30 days, but not more than
17 90 days, before the effective date of participation in DROP,
18 and shall be made no later than the effective date of this
19 act. A member must be eligible to participate, as provided
20 above, at the time the application is made.

21 "(g) Upon the effective date of the commencement in
22 DROP, the member's service shall remain as it existed on that
23 date for the duration of DROP. Once a member enters DROP,
24 service credit purchases are prohibited. Both the employer and
25 employee member contribution shall continue to be made. The

1 monthly retirement allowance that would have been payable, had
2 the person elected to withdraw from service and receive a
3 retirement allowance, shall be paid into a DROP account that
4 reflects the credits attributed to the person in DROP.
5 However, the monies shall remain a part of the regular
6 retirement fund until disbursed to the participating member in
7 accordance with this section. Any monies paid into this
8 account are subject to the exemptions set out in Section
9 36-27-28.

10 "(h) (1) The DROP account shall earn interest at the
11 same rate that interest is posted to active member accounts as
12 defined in subdivision (12) of Section 36-27-1. A person who
13 participates in this plan shall not be eligible to receive a
14 retiree cost-of-living increase while participating in DROP,
15 and shall not be eligible for a retiree cost-of-living
16 increase until participation in the plan ceases and he or she
17 withdraws from service and has been receiving a retirement
18 allowance for at least one full year.

19 "(2) Notwithstanding any other provision of this
20 chapter, for any member who has fulfilled his or her
21 obligation under DROP and does not withdraw from service and
22 any member who begins participation in DROP on or before April
23 1, 2011, and fulfills his or her obligation under DROP and
24 does not withdraw from service, the amount of interest payable
25 on benefit deposits after the effective date of this act shall

1 be the lesser of (1) the investment performance of the
2 immediately preceding fiscal year but no less than \$0, or (2)
3 as provided in subdivision (1) of subsection (d) of Section
4 36-27-171.

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

7 "(j) Participation in DROP shall not affect the
8 rights of any state employee under the state personnel system,
9 including, but not limited to, his or her rights to longevity
10 pay.

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

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

15 Section 2. (a) The Alabama Legislature recognizes
16 that the State of Alabama cannot reach its fullest potential
17 without attracting and retaining the best and brightest
18 classroom teachers and other public employees of the highest
19 caliber, regardless of their race, gender, occupation, or
20 geographic location. It is the intent of the Legislature that
21 a committee should be formed to study how the State can most
22 effectively retain our best and brightest classroom teachers
23 and public employees, while making the most efficient use of
24 taxpayer money.

1 (b) The "Keeping Alabama's Best" Joint Interim
2 Legislative Committee on Teacher and Public Employee Retention
3 is hereby created. The committee shall be comprised of six
4 members as follows: The Speaker of the House of
5 Representatives shall appoint three members of the House of
6 Representatives, with at least one appointed member being from
7 the minority party; and the President Pro Tempore of the
8 Senate shall appoint three members of the Senate, with at
9 least one appointed member being appointed from the minority
10 party. The membership of the committee shall be inclusive and
11 reflect the racial, gender, geographic, urban/rural, and
12 economic diversity of the state. The chair and vice chair of
13 the committee shall be elected at the first meeting by the
14 members of the committee. The chair shall be a member of the
15 House of Representatives and the vice chair shall be a member
16 of the Senate. The committee shall study ways to ensure that
17 the "best and brightest" employees of the state, including
18 classroom teachers and employees of other public educational
19 institutions, are encouraged to continue their service to the
20 citizens of Alabama. The committee shall report its findings,
21 conclusions, and recommendations to the Legislature not later
22 than the fifth legislative day of the 2012 Regular Session,
23 whereupon the committee shall stand dissolved and discharged
24 of any further duties and liabilities. When making its
25 recommendations, the committee shall carefully consider the

1 impact such recommendations have on state budgets and
2 finances, and shall report to the Legislature only those
3 recommendations that are either revenue-neutral or result in a
4 cost savings to the state. Upon the request of the chair, the
5 Secretary of the Senate and the Clerk of the House of
6 Representatives shall provide necessary clerical assistance
7 for the work of the committee. Members of the committee shall
8 serve without compensation.

9 Section 3. The provisions of this act are severable.
10 If any part of this act is declared invalid or
11 unconstitutional, that declaration shall not affect that part
12 which remains.

13 Section 4. This act shall become effective
14 immediately following its passage and approval by the
15 Governor, or its otherwise becoming law.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

President and Presiding Officer of the Senate

Speaker of the House of Representatives

Senate 08-MAR-11.
I hereby certify that the within Act originated in and passed
the Senate, as amended.

Senate 24-MAR-11
I hereby certify that the within Act originated in and passed
the Senate, as amended by Executive Amendment.

Patrick Harris
Secretary

House of Representatives
Amended and Passed: 10-MAR-11
House of Representatives
Passed: 24-MAR-11, as amended by Executive Amendment.

By: Senator Marsh