

1 SB242
2 134108-1
3 By Senator Whatley
4 RFD: Finance and Taxation Education
5 First Read: 08-FEB-12

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8 SYNOPSIS: Currently, a member of the Teachers'
9 Retirement System or the Employees' Retirement
10 System participating in the Deferred Retirement
11 Option Plan (DROP) who voluntarily leaves service
12 within the first three years in DROP will forfeit
13 the portion of his or her DROP account that
14 constitutes the retirement allowance.

15 This bill would allow members in DROP to
16 voluntarily leave service without forfeiting the
17 portion of his or her DROP account that constitutes
18 the retirement allowance.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT
23

24 To amend Sections 16-25-150 and 36-27-170 of the
25 Code of Alabama 1975, as amended by Act 2011-27, relating to
26 the Deferred Retirement Option Plan (DROP), to allow members
27 in the plan to voluntarily leave service without forfeiting

1 the portion of his or her DROP amount that constitutes the
2 retirement allowance.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

6 "§16-25-150.

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

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

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

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

23 "(3) Is eligible for service retirement.

24 "(c) An election to participate in DROP may be made
25 in one year increments not to exceed five years, nor to be
26 less than three years. A member may participate in DROP only
27 one time. ~~Any~~ Prior to the effective date of this act, any

1 voluntary termination within the first three years in DROP
2 will result in a forfeiture of the portion of his or her DROP
3 account that constitutes the retirement allowance. However,
4 member contributions will not be forfeited, nor will any
5 interest attributable to the retirement allowance. There will
6 be no penalty forfeiture if the participation period is
7 interrupted due to an involuntary dismissal, disability,
8 involuntary transfer of his or her spouse, or death of the
9 participant. After the effective date of this act, any
10 voluntary termination within the first three years in DROP
11 will not result in a forfeiture of the portion of his or her
12 DROP account that constitutes the retirement allowance. In
13 addition, member contributions will not be forfeited, nor will
14 any interest attributable to the retirement allowance.

15 "(d) A member who chooses to participate in DROP may
16 elect an option allowance set out for members of the Teachers'
17 Retirement System in subsection (h) of Section 16-25-14 at the
18 beginning of the participation period. Otherwise, he or she
19 shall receive the maximum benefit. Such election shall be
20 irrevocable once the participation period begins except as
21 otherwise provided in this chapter.

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

26 "(f) The election to participate in DROP shall be
27 made in accordance with procedures set forth in a uniform and

1 nondiscriminatory election and application form adopted by the
2 Board of Control. The election to participate in DROP may be
3 made at any time on or after the date the member becomes
4 eligible to participate as set out in subsection (b). Such
5 application must be made at least 30 days, but not more than
6 90 days, before the effective date of participation in DROP,
7 and shall be made no later than March 24, 2011. A member must
8 be eligible to participate, as provided above at the time the
9 application is made.

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

24 "(h) (1) The DROP account shall earn interest at the
25 same rate that interest is posted to active member accounts as
26 defined in subdivision (15) of Section 16-25-1. A person who
27 participates in this plan shall not be eligible to receive a

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

6 "(2) Notwithstanding any other provision of this
7 chapter, for any member who has fulfilled his or her
8 obligation under DROP and does not withdraw from service and
9 any member who begins participation in DROP on or before April
10 1, 2011, and fulfills his or her obligation under DROP and
11 does not withdraw from service, the amount of interest payable
12 on benefit deposits after March 24, 2011, shall be the lesser
13 of (1) the investment performance of the immediately preceding
14 fiscal year but no less than \$0, or (2) as provided in
15 subdivision (1) of subsection (d) of Section 16-25-151.

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 education employee including, but not limited
20 to, the Fair Dismissal Act, Section 36-26-100 et seq., the
21 tenure law, Section 16-24-1, et seq., or any other fringe
22 benefit.

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

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

27 "§36-27-170.

1 "(a) As governed by this subsection, there exists as
2 a part of this retirement system, an optional account known as
3 the Deferred Retirement Option Plan, which may be cited as
4 "DROP." The purpose of DROP is to allow, contractually, in
5 lieu of immediate withdrawal from service and receipt of a
6 retirement allowance, continued employment for a specific
7 period of time, coupled with the deferral of receipt of a
8 retirement allowance until the end of such period of
9 participation, at which time the member shall withdraw from
10 service.

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

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

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

18 "(3) Is eligible for service retirement.

19 "(c) An election to participate in DROP may be made
20 in one year increments not to exceed five years, nor to be
21 less than three years. A member may participate in DROP only
22 one time. ~~Any~~ Prior to the effective date of this act, any
23 voluntary termination within the first three years in DROP
24 will result in a forfeiture of a portion of his or her DROP
25 account that constitutes the retirement allowance. However,
26 member contributions will not be forfeited nor will any
27 interest attributable to the retirement allowance. There will

1 be no forfeiture if the participation period is interrupted
2 due to an involuntary dismissal, disability, involuntary
3 transfer of his or her spouse, or death of the participant.
4 After the effective date of this act, any voluntary
5 termination within the first three years in DROP will not
6 result in a forfeiture of the portion of his or her DROP
7 account that constitutes the retirement allowance. In
8 addition, member contributions will not be forfeited, nor will
9 any interest attributable to the retirement allowance.

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

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

24 "(f) The election to participate in DROP shall be
25 made in accordance with procedures set forth in a uniform and
26 nondiscriminatory election and application form adopted by the
27 Board of Control. The election to participate in DROP may be

1 made at any time on or after the date the member becomes
2 eligible to participate as set out in subsection (b). Such
3 application must be made at least 30 days, but not more than
4 90 days, before the effective date of participation in DROP,
5 and shall be made no later than March 24, 2011. A member must
6 be eligible to participate, as provided above, at the time the
7 application is made.

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

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

1 increase until participation in the plan ceases and he or she
2 withdraws from service and has been receiving a retirement
3 allowance for at least one full year.

4 "(2) Notwithstanding any other provision of this
5 chapter, for any member who has fulfilled his or her
6 obligation under DROP and does not withdraw from service and
7 any member who begins participation in DROP on or before April
8 1, 2011, and fulfills his or her obligation under DROP and
9 does not withdraw from service, the amount of interest payable
10 on benefit deposits after March 24, 2011, shall be the lesser
11 of (1) the investment performance of the immediately preceding
12 fiscal year but no less than \$0, or (2) as provided in
13 subdivision (1) of subsection (d) of Section 36-27-171.

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

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

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

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

24 Section 2. The provisions of this act are severable.
25 If any part of this act is declared invalid or
26 unconstitutional, that declaration shall not affect that part
27 which remains.

1 Section 3. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.