

1 HB663  
2 151011-1  
3 By Representative Treadaway (N & P)  
4 RFD: Jefferson County Legislation  
5 First Read: 23-APR-13

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8 SYNOPSIS: This bill would amend Act No. 556 of the  
9 Regular Session of the Legislature of Alabama of  
10 1959, as amended by Act 2011-584 of the 2011  
11 Regular Session to provide for a new member of the  
12 City of Birmingham Firemen's and Policemen's  
13 Supplemental Pension System Board of Managers,  
14 authorize the Board of Managers to appoint a  
15 temporary secretary, amend the investment powers of  
16 the Board of Managers to include interest of  
17 private investment, private investment funds,  
18 alternative investments and exclude direct  
19 investments in real estate and add a new Section  
20 8.3 to Act No. 556 of the Regular Session of the  
21 Legislature of Alabama of 1959, as amended by Act  
22 2011-584 of the 2011 Regular Session, transferring  
23 all assets and powers of the (City of Birmingham)  
24 Firemen's Pension and Relief Fund provided by Act  
25 No. 389 of the 1935 Regular Session of the Alabama  
26 Legislature as amended and the funding sources  
27 contained in Section 10C. of the (City of

1 Birmingham) Firemen's Pension and Relief Fund  
2 provided by Act No. 389 of the 1935 Regular Session  
3 of the Alabama Legislature as amended to the City  
4 of Birmingham Firemen's and Policemen's  
5 Supplemental Pension System and repeal all other  
6 funding sources provided by Act No. 389 of the 1935  
7 Regular Session of the Alabama Legislature (Ala.  
8 Act 389, p. 847) as amended and restated by Act No.  
9 307 of the 1943 Regular Session of the Alabama  
10 Legislature (Ala. Act 307, p. 264) as amended by  
11 Act No. 632 of the 1967 Regular Session of the  
12 Alabama Legislature (Ala. Act 632, p. 1441).

13  
14 A BILL

15 TO BE ENTITLED

16 AN ACT

17  
18 To amend Act No. 556 of the Regular Session of the  
19 Legislature of Alabama of 1959, as amended by Act 2011-584 of  
20 the 2011 Regular Session, relating to the City of Birmingham  
21 Firemen's and Policemen's Supplement Pension System; to  
22 provide for a new member of the City of Birmingham Firemen's  
23 and Policemen's Supplemental Pension System Board of Managers,  
24 authorize the Board of Managers to appoint a temporary  
25 secretary, amend the investment powers of the Board of  
26 Managers to include interest of private investment, private  
27 investment funds, alternative investments and exclude direct

1 investments in real estate and add a new Section 8.3 to Act  
2 No. 556 of the Regular Session of the Legislature of Alabama  
3 of 1959, as amended by Act 2011-584 of the 2011 Regular  
4 Session, transferring all assets and powers of the (City of  
5 Birmingham) Firemen's Pension and Relief Fund provided by Act  
6 No. 389 of the 1935 Regular Session of the Alabama Legislature  
7 as amended and the funding sources contained in Section 10C.  
8 of the (City of Birmingham) Firemen's Pension and Relief Fund  
9 provided by Act No. 389 of the 1935 Regular Session of the  
10 Alabama Legislature as amended to the City of Birmingham  
11 Firemen's and Policemen's Supplemental Pension System. All  
12 other funding sources provided by Act No. 389 of the 1935  
13 Regular Session of the Alabama Legislature (Ala. Act 389, p.  
14 847) as amended and restated by Act No. 307 of the 1943  
15 Regular Session of the Alabama Legislature (Ala. Act 307, p.  
16 264) as amended by Act No. 632 of the 1967 Regular Session of  
17 the Alabama Legislature (Ala. Act 632, p. 1441) are hereby  
18 repealed.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Section 4(a) and 4(b) of Act 556 of the  
21 1959 Regular Session (Acts 1959, p. 1376), as amended, is  
22 further amended to read as follows:

23 "Section 4. Board of Managers.

24 "(a) In order to assure representation of all  
25 participants of this system, there shall be a Board of  
26 Managers of ~~four~~ five members for the administration,  
27 management, and control of the Supplemental Pension System,

1 including administration, management, control, acquisition,  
2 and disbursement of the fund. The board shall consist of the  
3 president of the governing body of the city, who shall be  
4 chair of the board, and ~~three~~four associate members,  
5 designated respectively as Member No. 1, Member No. 2, ~~and~~  
6 Member No. 3, and Member No. 4.

7 "Member No. 1 shall be appointed by the Jefferson  
8 County personnel board and shall be a person who at the time  
9 of appointment has had five or more consecutive years  
10 immediately preceding his or her appointment and has been an  
11 officer of, or the occupant of an executive position in  
12 insurance, actuarial, investment, banking, or as a certified  
13 public accountant and shall serve for a term of four years.  
14 Should the appointed Member No. 1 die, resign, or otherwise be  
15 unable to serve, the vacancy thus created shall be filled for  
16 the remainder of the term by the Jefferson County Personnel  
17 Board. The personnel board in appointing Member No. 1 shall  
18 select the person who in the opinion of the personnel board is  
19 best qualified to discharge the duties of a member of the  
20 Board of Managers. Member No. 2 shall be a firefighter who is  
21 a participant of the system, ~~and~~ Member No. 3 shall be a  
22 police officer who is a participant of the system. Member No.  
23 4 shall be a retiree in the City of Birmingham Firemen's and  
24 Policemen's Supplemental Pension System with a retirement  
25 benefit from the System and shall be a qualified voter of the  
26 State of Alabama. The firefighter participants of the  
27 Supplemental Pension System shall elect Member No. 2 and the

1 police officer participants of the system shall elect Member  
2 No. 3. The firefighter and the police officer receiving a  
3 plurality of votes shall be elected. In the event a  
4 participant representative shall die, resign, or otherwise be  
5 unable to serve or no longer qualified, the participants from  
6 the respective Member category shall by a plurality of the  
7 votes cast elect a person who shall fill the unexpired term.  
8 Member No. 4 shall be elected by a plurality of the votes cast  
9 by the retirees in the system at an election to be held within  
10 ninety days from the date on which this Act becomes effective.  
11 At the first election to be held hereunder retirees belonging  
12 to the System may vote for a retired fireman or policeman in  
13 the System to hold the position to be occupied by Member No. 4  
14 on the Board. In any election subsequent to the first  
15 election, qualified retirees voting in such subsequent  
16 election shall not vote for any retiree of the System  
17 belonging to the same former department (that is fire  
18 department or police department, as the case may be) as the  
19 retiree last elected for a full term as Member No. 4. The  
20 purpose of the next preceding sentence is to rotate Member No.  
21 4 between qualified retirees from the fire department and the  
22 police department of the City of Birmingham. In the event the  
23 retirees representative shall cease to be retired, die,  
24 resign, or otherwise be unable to serve or no longer  
25 qualified, the said retirees of the system shall by a  
26 plurality of the votes cast elect to fill the unexpired  
27 portion of the term with a person who shall be a retiree of

1 the System and meet the qualifications of Member No. 4. Member  
2 No. 2 and Member No. 3 may hold their positions until  
3 elections for their respective Board Member positions are due  
4 for election in April, 2016. Members of the board shall be  
5 elected by secret ballot to serve a term of four years  
6 commencing on the date the result of the election is declared.  
7 Any member of the board may be removed by impeachment for  
8 corruption or malfeasance or misfeasance in office or for  
9 habitual neglect of duty. Any member of the board may serve  
10 beyond his or her term until a successor is appointed or  
11 elected. The governing body of the city shall have the  
12 authority to prescribe and to change rules and regulations  
13 concerning the election of the participant-member of the board  
14 provided that the rules and regulations as prescribed or  
15 changed are not inconsistent with this act.

16 "The board shall meet on the second Wednesday in  
17 each calendar month; however, the board shall not be required  
18 to meet unless there is pending before the board some  
19 application for pension, relief, or benefit or unless there is  
20 pending some other matter requiring consideration by the board  
21 and the board by resolution may change the regular meeting  
22 date.

23 "The personnel director, of the Personnel Board of  
24 Jefferson County, Alabama, shall be the secretary of the board  
25 and shall be present at every meeting of the board, and keep a  
26 record of all proceedings of the board and all orders and  
27 decisions of the board. In the event the personnel director is

1 temporarily unable to fulfill his/her obligations, the board  
2 may appoint a temporary replacement to take and record the  
3 minutes of the meeting. Neither the secretary nor any member  
4 of the board shall receive any salary or compensation. Any  
5 three members of the board, when assembled either in regular  
6 or special meeting, shall constitute a quorum for the  
7 transaction of any and all business of the board, and the  
8 affirmative vote of three members present shall be necessary  
9 and sufficient to pass any motion or resolution. The board  
10 shall meet in the office of the chair, or such other place as  
11 the board may designate.

12 "The board is empowered to make rules and  
13 regulations not inconsistent with the provisions of the system  
14 in relation to its affairs and the system. The board shall  
15 receive, investigate, and pass upon all applications for  
16 retirement, disability, and survivors benefits and shall make  
17 retirement, disability, and survivors benefits in accordance  
18 with the system to all participants and their survivors  
19 entitled thereto under the system, and its decisions upon all  
20 such matters of fact shall be final and conclusive unless it  
21 shall be affirmatively made to appear that its decision is  
22 plainly and manifestly wrong.

23 "(b) (1) No money of the fund shall be invested, paid  
24 out, or disbursed except pursuant to order or authorization of  
25 the board. The board shall be the trustee, have entire  
26 management and control of the fund, and shall direct  
27 investment of monies of the fund not needed to meet



1 disbursements provided for in this act and in the loans to  
2 members hereinafter referred to and shall be invested in the  
3 classes of bonds, mortgages, common and preferred stocks,  
4 shares of investment companies or mutual funds, real estate  
5 investment trusts, international equity, corporate fixed  
6 income, international fixed income, index funds, ~~derivative~~  
7 ~~securities and investments recognized as alternative~~  
8 ~~investments~~ interest of private investment, private investment  
9 funds, or treasury bonds, notes, and bills of the United  
10 States, and agencies of the United States as the board may  
11 approve, derivative securities and investment recognized as  
12 alternative investments (excluding direct investments in real  
13 estate) subject to the limitations herein. The board may  
14 invest in fixed income securities and bonds of corporations  
15 organized under federal laws or under laws of any state of the  
16 United States or in bonds registered with the Security and  
17 Exchange Commission, mortgaged-backed securities or asset  
18 backed securities, or in securities issued by federal agencies  
19 and government sponsored entities, or may invest in Federal  
20 Savings and Loan Associations or in other corporations having  
21 Federal Savings and Loan Association's guarantee or in  
22 certificates of deposit or bonds issued by banks organized  
23 under federal laws or under the laws of the State of Alabama  
24 and insured by the federal government. No funds may be  
25 invested in fixed income securities or common or preferred  
26 stocks and stocks of private corporations or other forms of  
27 equity or fixed investment unless such common or preferred

1 stocks or other forms of equity or fixed investments are  
2 registered with the Securities and Exchange Commission or are  
3 traded through NASDAQ Stock Market or are Rule 144A securities  
4 or are traded on an organized exchange and the aggregate value  
5 of the funds invested in such common or preferred stock of  
6 corporations or other forms of equity securities last referred  
7 to above shall not exceed 60 percent of the value of all funds  
8 available in the system. The aggregate value of the funds  
9 invested in common or preferred stocks, mutual funds or other  
10 forms of equity securities, shall not exceed 60 percent of  
11 total investments of the fund. The total investment in fixed  
12 income securities shall not be less than forty percent (40%)  
13 of the fair market value of all the funds available in the  
14 system for investment. Securities issued by any single  
15 non-guaranteed agency or entity may not constitute more than  
16 ten percent (10%) of the fixed income allocation of the fund  
17 at the time of purchase. The fair market value of all funds  
18 available in the system for investment is to be determined  
19 periodically, but not less than annually. In exercising its  
20 discretion to invest, reinvest, and have invested and  
21 reinvested all funds of the system, the board shall act with  
22 the care, skill, prudence and diligence under the  
23 circumstances then prevailing that a prudent person acting in  
24 a like capacity and familiar with such matters would use in  
25 the conduct of an enterprise of a like character and with like  
26 aims.

1           "(2) From the fund of the system created by this  
2 act, the Board of Managers shall pay to the fund of the  
3 General Retirement and Relief System of the City of Birmingham  
4 amounts hereinafter specified. When any firefighter or police  
5 officer retires on length of service, as hereinafter provided  
6 for in Section 8, the Board of Managers shall pay from the  
7 fund of this system the amount specified during each month  
8 between the due date on which the participant retires and the  
9 date on which the participant would have been entitled to  
10 receive a retirement allowance from the General Retirement and  
11 Relief System for 30 years service had the participant not  
12 retired, but had continued to serve without interruption as a  
13 participant of the General Retirement and Relief System until  
14 entitled to receive from said last named system a retirement  
15 system pension based upon 30 years service. The amount which  
16 the Board of Managers shall pay to the fund of the General  
17 Retirement and Relief System, during the period specified,  
18 shall be the sum of the amount which the city would have  
19 deducted from the salary of the participant and would have  
20 paid into the fund of the General Retirement and Relief System  
21 had the participant continued to be employed by the city  
22 during the period specified had the participant retired under  
23 Section 8 of this act plus the amount which the city during  
24 the same period would have paid from the funds of the city  
25 into the General Retirement and Relief System to match the  
26 deductions had the participant continued to work until  
27 entitled to retire on a pension based upon 30 years' service.

1           Section 2. Section 8 of Act 556 of the 1959 Regular  
2 Session is further amended to add a new Section 8.3 to  
3 transfer all assets and powers of the (City of Birmingham)  
4 Firemen's Pension and Relief Fund created and provided by Act  
5 No. 389 of the 1935 Regular Session of the Alabama Legislature  
6 (Ala. Act 389, p. 847) as amended and restated by Act No. 307  
7 of the 1943 Regular Session of the Alabama Legislature (Ala.  
8 Act 307, p. 264) as amended by Act No. 632 of the 1967 Regular  
9 Session of the Alabama Legislature (Ala. Act 632, p. 1441) to  
10 the City of Birmingham Firemen's and Policemen's Supplemental  
11 Pension System and to repeal all laws, in conflict herewith.  
12 No pension benefits or obligations under the Firemen's Pension  
13 and Relief Fund provided by Act No. 389 of the 1935 Regular  
14 Session of the Alabama Legislature (Ala. Act 389, p. 847) as  
15 amended and restated by Act No. 307 of the 1943 Regular  
16 Session of the Alabama Legislature (Ala. Act No. 307, p. 264)  
17 as amended by Act No. 632 of the 1967 Regular Session of the  
18 Alabama Legislature (Ala. Act No. 632, p. 1441) which amended  
19 Act 307 of the 1943 Session of the Legislature of Alabama and  
20 created a Board of Trustees of the Firemen's Pension and  
21 Relief Fund is hereby repealed and all powers of said Board of  
22 Trustees shall be transferred to the City of Birmingham  
23 Firemen's and Policemen's Supplemental Pension System Board of  
24 Managers. All obligations of all funding sources provided in  
25 Section 10C. under Act No. 389 of the 1935 Regular Session of  
26 the Alabama Legislature (Ala. Act 389, p. 847) as amended and  
27 restated by Act No. 307 of the 1943 Regular Session of the

1 Alabama Legislature (Ala. Act 307, p. 264) as amended by Act  
2 No. 632 of the 1967 Regular Session of the Alabama Legislature  
3 (Ala. Act 632, p. 1441) shall continue. The funds paid by the  
4 funding source provided in Section 10C. of the Firemen's  
5 Pension and Relief Fund shall become a part of the City of  
6 Birmingham Firemen's and Policemen's Supplemental Pension  
7 System to be used consistent with Section 4(b)(1) and Section  
8 4(b)(2) of Act 556 of the 1959 Regular Session (Acts. 1959, p.  
9 1376), as amended by Act 2007-503 of the 2007 Regular Session  
10 (Acts 2007, p. 1072), as last amended by Act 2011-584 of the  
11 2011 Regular Session (Acts. 2011, p. 1280). All other funding  
12 sources provided by Act No. 389 of the 1935 Regular Session of  
13 the Alabama Legislature (Ala. Act 389, p. 847) as amended and  
14 restated are hereby repealed.

15 Section 3. The provisions of this act are severable.  
16 If any part of this act is declared invalid or  
17 unconstitutional, that declaration shall not affect the part  
18 which remains.

19 Section 4. This act shall become effective on the  
20 first day of the third month following its passage and  
21 approval by the Governor, or its otherwise becoming law.