

1 SB366
2 149152-5
3 By Senator Brewbaker (N & P)
4 RFD: Local Legislation No. 1
5 First Read: 04-APR-13

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Relating to the Employees' Retirement System of the
14 City of Montgomery; to combine, amend, and restate Act
15 2009-473, 2009 Regular Session (Acts 2009, p. 839), as
16 amended, to change the retirement age, creditable service
17 requirements, distribution options, employee contributions,
18 and benefits for certain employees who become members of the
19 system on or after October 1, 2013; to implement a new cash
20 balance plan for certain employees who become members of the
21 system on or after October 1, 2013, to provide certain
22 employees who were members of the system before October 1,
23 2013, an option to elect to participate in the new cash
24 balance plan, to authorize the board, with the mayor's
25 approval, to increase the number of years of creditable
26 service to qualify for a disability retirement allowance or
27 eliminate the disability retirement under any or all of the

1 retirement plans; to eliminate certain historical information
2 no longer necessary; to clarify the board's authority to hire
3 outside legal advisors and auditors; to provide minimum
4 qualifications for the auditors hired by the system; to add
5 provisions required to comply with the Internal Revenue Code;
6 to update the method of calculating the contributions by the
7 city; to eliminate certain provisions dealing with mandatory
8 retirement; and to define and redefine certain terms
9 applicable to the system.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Definitions. The following words and
12 phrases as used in this act, unless a different meaning is
13 plainly required by the context, shall have the following
14 meanings:

15 (1) "System" shall mean the Employees' Retirement
16 System of the City of Montgomery, as defined in Section 2.

17 (2) "City" shall mean the City of Montgomery,
18 Alabama, with respect to its employees, and any board or
19 boards of the city now existing or hereafter created and duly
20 authorized by the council to participate in the system with
21 respect to its employees.

22 (3) "Council" shall mean the duly elected Council
23 Members of the City (hereinafter sometimes referred to as
24 Councilors).

25 (4) "Board" shall mean the board of trustees of the
26 system provided for in Section 5B to administer the system,
27 but shall not include the investment trustee.

1 (5) "Medical Board" shall mean the board of
2 physicians provided for in Section 5D.

3 (6) "Employee" shall mean any regular and permanent
4 officer or employee of the city, whether full time or part
5 time, including elected or appointed officials, the Mayor and
6 councilors, and the regular employees of any board or
7 commission of the city other than the Water Works and Sanitary
8 Sewer Board, and any person or persons employed by the city
9 and performing the duties of a regular employee in the service
10 of the city, but shall not include anyone who is paid on a fee
11 or commission basis.

12 (7) "Member" shall mean any person included in the
13 membership of the system as provided in Section 3.

14 (8) "Service" shall mean service in the employment
15 of and paid for by the city.

16 (9) "Membership service" shall mean service as a
17 member for which credit is allowable as provided in subsection
18 (1) of Section 4.

19 (10) "Creditable service" shall mean total
20 membership service plus any prior service allowed under this
21 act.

22 (11) "Retirement allowance" shall mean annual
23 payments, payable in monthly installments, continuing to the
24 last payment prior to death.

25 (12) "Beneficiary" shall mean any person in receipt
26 of a retirement allowance or other benefit as provided by the
27 system.

1 (13) "Accumulated contributions" shall mean the sum
2 of the balance to a member's credit in the annuity savings
3 account as of December 31, 1968, plus all the amounts deducted
4 thereafter from his or her compensation and credited to his or
5 her individual account.

6 (14) "Earnable compensation" shall mean the full
7 rate of compensation that would be payable to a member if he
8 or she worked the full normal working time. Earnable
9 compensation shall not include overtime pay. In cases where
10 compensation includes maintenance, the board shall fix the
11 value of the part of compensation not paid in money.
12 Compensation in excess of \$200,000.00 shall be disregarded for
13 all purposes under this act. The amount shall be adjusted at
14 the same time and in the manner as permitted under Section
15 401(a)(17) of the Internal Revenue Code.

16 (15) "Average final compensation" shall mean (a)
17 with respect to members of the 20-Year Plan and the 25-Year
18 Plan, the earnable compensation of a member during the highest
19 12 consecutive months of the 60-month period immediately
20 preceding his or her retirement date and (b) with respect to
21 members of the Group II Age 62 Plan, the earnable compensation
22 of a member during the highest 36 consecutive months of the
23 120-month period immediately preceding his or her retirement
24 date. If at any time prior to or during the 60-month or
25 120-month period, as applicable, immediately preceding his or
26 her retirement date, a member served in a part-time capacity,
27 average final compensation, creditable service, and the

1 retirement allowance shall be determined in accordance with
2 the rules and regulations adopted by the board.

3 (16) "Equivalent actuarial value" shall mean equal
4 value when computed (a) for purposes of determining the
5 service retirement allowance under subsection (1)(b)(iii) of
6 Section 6, the applicable mortality table as specified under
7 Section 417(e) of the Internal Revenue Code and the interest
8 rate used for interest credits for the applicable year and (b)
9 for other purposes, the regular interest rate and mortality
10 tables last adopted by the board.

11 (17) "Operative date" shall mean the date the system
12 began operation as provided in Section 2.

13 (18) "Investment trustee" shall mean each of the
14 banks or other recognized advisory service or services that
15 the board of trustees selects. Each investment trustee shall
16 have the powers and duties prescribed by Section 5A. The board
17 of trustees may terminate the services of any investment
18 trustee upon thirty (30) days' written notice to the trustee,
19 and each trustee may likewise terminate its services upon
20 thirty (30) days' written notice to the board. After receipt
21 of the notice by either party the investment trustee concerned
22 shall make an accounting within forty-five (45) days of the
23 receipt of the notice.

24 (19) "ERIP option" shall mean the optional election
25 available to a member pursuant to Section 15.

26 (20) "ERIP calculation date" shall mean the first
27 day of the ERIP election period.

1 (21) "ERIP election period" shall mean the period of
2 exactly one (1), two (2) or three (3) years ending on a
3 member's actual retirement date. The ERIP election period
4 shall include only years actually worked by the member after
5 the ERIP eligibility date plus any buy-back years for military
6 service.

7 (22) "ERIP eligibility date" shall mean the date a
8 member is credited with 20 or more years of creditable service
9 or 25 or more years of creditable service, as applicable
10 pursuant to subsection (1) of Section 6, including buy-back
11 years purchased prior to January 1, 2005, but excluding
12 buy-back years purchased on or after January 1, 2005, or years
13 earned prior to a member's rehire date unless membership in
14 the system was retained until the rehire date.

15 (23) "Group I 20-Year Plan" shall mean the
16 retirement plan for each member in Group I or I-A who (a)
17 became a member of the system prior to October 1, 2005, (b)
18 did not elect to participate in the Group I 25-Year Plan, and
19 (c) does not elect to participate in the Group I Cash Balance
20 Plan.

21 (24) "Group I 25-Year Plan" shall mean the
22 retirement plan for each member in Group I or I-A who (a)
23 became a member of the system on or after October 1, 2005, but
24 before October 1, 2013, or elected to participate as if he or
25 she became a member on or after October 1, 2005, but before
26 October 1, 2013, and (b) does not elect to participate in the
27 Group I Cash Balance Plan.

1 (25) "Group I Cash Balance Plan" shall mean the
2 retirement plan for each member in Group I or I-A who becomes
3 a member of the system on or after October 1, 2013, or elects
4 to participate as if he or she became a member of the system
5 on or after October 1, 2013.

6 (26) " Group II 20-Year Plan" shall mean the
7 retirement plan for each member in Group II who (a) became a
8 member of the system prior to October 1, 2005, and (b) did not
9 elect to participate in the Group II 25-Year Plan.

10 (27) "Group II 25-Year Plan" shall mean the
11 retirement plan for each member in Group II who (a) became a
12 member of the system on or after October 1, 2005, but before
13 October 1, 2013, or (b) elected to participate as if he or she
14 became a member on or after October 1, 2005, but before
15 October 1, 2013.

16 (28) " Group II Age 62 Plan" shall mean the
17 retirement plan for each member in Group II who becomes a
18 member of the system on or after October 1, 2013.

19 (29) "20-Year Plan" shall mean the Group I 20-Year
20 Plan and the Group II 20-Year Plan collectively.

21 (30) "25-Year Plan" shall mean the Group I 25-Year
22 Plan and the Group II 25-Year Plan collectively.

23 (31) "Early retirement factor" shall mean the early
24 retirement factor set forth in subsection (1)(c)(iii) of
25 Section 6.

26 (32) "Annuity starting date" shall mean, with
27 respect to a person, the first day of the first period for

1 which an amount is paid as an annuity, or, in the case of a
2 benefit not payable in the form of an annuity, the first day
3 on which all events have occurred which entitles the person to
4 the benefit.

5 (33) "Pre-cash balance accumulated contributions"
6 shall mean with respect to an elective cash balance plan
7 member, the accumulated contributions credited to his or her
8 individual account while a member of the applicable previous
9 plan.

10 (34) "Cash balance accumulated contributions" shall
11 mean with respect to a member in the Group I Cash Balance
12 Plan, the accumulated contributions credited to his or her
13 individual account while a member of the Group I Cash Balance
14 Plan.

15 (35) "Cash balance account" shall mean the
16 hypothetical account established for a member in the Group I
17 Cash Balance Plan to receive pay credits and interest credits.

18 (36) "Pay credits" shall mean the allocations made
19 to a member's cash balance account pursuant to subsection
20 (1)(d) of Section 6.

21 (37) "Interest credits" shall mean the interest that
22 is credited to a person's cash balance account pursuant to
23 subsection (1)(f) of Section 6. The interest rate used for
24 accumulating a member's cash balance account as determined by
25 the board shall not exceed a market rate of return, and
26 regardless of the rate elected, an interest credit of less
27 than zero shall in no event result in the balance being less

1 than the aggregate amount of contributions credited to the
2 accounts.

3 (38) "Initial election date" shall mean with respect
4 to a member, the earlier of (a) the date that the member
5 elects to become a member of the Group I Cash Balance Plan or
6 (b) the latest date for an initial election to become a member
7 of the Group I Cash Balance Plan as set by the board.

8 (39) "Pre-election frozen benefit" shall mean the
9 service retirement allowance or vesting retirement allowance,
10 as applicable, a person would have received under the
11 applicable previous plan based on his or her average final
12 compensation and years of creditable service as of the date he
13 or she becomes a member in the Group I Cash Balance Plan.

14 (40) "Applicable previous plan" shall mean with
15 respect to an elective cash balance plan member, the plan that
16 the person was a member of immediately prior to electing to
17 become a member of the Group I Cash Balance Plan.

18 (41) "Regular interest" shall mean interest at the
19 per centum rate or rates compounded annually as shall be
20 determined by the board from time to time.

21 (42) "Elective cash balance plan member" shall mean
22 a member that is provided the option and elects to become a
23 member in the Group I Cash Balance Plan in accordance with
24 subsection (7) of Section 3.

25 (43) The masculine pronoun shall include the
26 feminine pronoun.

27 Section 2. Name and Operative Date.

1 The board shall be responsible for the management of
2 the system for the purpose of providing retirement allowances
3 and other benefits under the provisions of this act for
4 employees of the city. The system shall be a continuation of
5 the retirement system established under Ordinance No. 1659, as
6 amended prior to the effective date of this act, as the
7 Employees' Retirement System of the City of Montgomery, under
8 which name all of its business shall continue to be
9 transacted, all of its funds shall continue to be invested,
10 all warrants for money shall continue to be drawn and all
11 payments made, and all of its cash and securities and other
12 property shall continue to be held as hereinafter provided.
13 The operative date of the system shall continue to be the
14 first day of June, 1959.

15 Section 3. Membership.

16 (1) Any person who is a member of the system at the
17 time of the adoption of this act shall be a member of the
18 system and in addition any person becoming an employee
19 thereafter shall become a member of the system as a condition
20 of his or her employment. Provided however, that any person
21 who shall have become a member of and participate in the
22 retirement program of the Employees Retirement System of the
23 State of Alabama owing to the election of the Water Works and
24 Sanitary Sewer Board of the city to become a participating
25 employer respecting the state retirement program shall
26 thereafter cease to be a member of the system. Any employee
27 who is elected as a member of the council and who is a member

1 of the system at the time of the election may elect to
2 terminate his or her membership in the system at the time of
3 his or her election by filing with the board on a form
4 prescribed by the board a notice of his or her election to
5 terminate his or her membership in the system, and a duly
6 executed waiver of all prospective benefits which would
7 otherwise inure to him or her as a member, the notice to be
8 filed not later than the day on which he or she assumes his or
9 her duties as a member of the city council. Any person who is
10 elected as a member of the city council and who is not a
11 member at the time of his or her election shall become a
12 member unless he or she elects in the manner set forth above
13 not to become a member.

14 (2) Any employee whose membership in the system is
15 contingent on his or her own election and who elects not to
16 become a member may thereafter apply for and be admitted to
17 membership.

18 (3) It shall be the duty of the city's Finance
19 Department, and the corresponding departments of the city's
20 Airport Authority, to submit to the board a statement showing
21 the name, title, compensation, duties, date of birth and
22 length of service of each member, and any information
23 regarding other employees as the board may require, and on the
24 basis thereof the board shall classify each member in one of
25 the following groups:

26 Group I. General municipal employees.

27 Group I-A. Airport Employees.

1 Group II. Members of the Fire Department and the
2 Police Department of the city, trained in fire fighting or
3 police work and actively engaged in such work or subject to
4 call for such services.

5 Upon written request, the board shall certify to the
6 member the group in which he or she is placed and the date of
7 his or her admission to membership therein. When the duties of
8 a member so require, the board may classify him or her in
9 another group and shall certify to him or her the group to
10 which he or she has been reclassified, except that no member
11 having 15 or more years of service in one class may be so
12 reclassified.

13 (4) Should any member be absent from service more
14 than five consecutive years, or should he or she withdraw his
15 or her accumulated contributions or die or retire under the
16 provision of this act, he or she shall thereupon cease to be a
17 member.

18 (5) Participants who were members of the system
19 prior to October 1, 2005, were entitled to elect to have their
20 then current service retirement allowance frozen and
21 participate in the 25-Year Plan, provided that they had three
22 or more years remaining until they attained the mandatory
23 retirement age under the 25-Year Plan. Members who elected
24 shall earn benefits prospectively for creditable service
25 completed on and after October 1, 2005, or the first day of
26 the next month following the filing of their election,
27 whichever date is later, on the same basis as employees who

1 become members on or after that date; and, for creditable
2 service completed prior to October 1, 2005, or prior to the
3 first day of the next month following the filing of their
4 election, as the case may be, the electing member shall be
5 entitled at retirement to such benefits for such creditable
6 service based on the retirement allowance formula provided for
7 employees who became members prior to October 1, 2005, and did
8 not elect to participate in the 25-Year Plan.

9 (6) Any employee who became a member prior to
10 October 1, 2005, and did not elect to participate in the
11 25-Year Plan, upon the attainment of 25 years of creditable
12 service may elect, during the three-month period immediately
13 next following the attainment of 25 years of creditable
14 service, to participate thereafter and prospectively in the
15 25-Year Plan. Members desiring to so elect must file with the
16 board a written election on forms, and pursuant to rules and
17 regulations, adopted by the board, prior to the expiration of
18 the three-month period next following the member's attainment
19 of 25 years of creditable service. Members who so elect shall
20 be entitled at retirement to a retirement allowance for each
21 year of creditable service in excess of 25 based on the
22 benefit formula applicable to the member under the 25-Year
23 Plan. The retirement allowance for each year of the initial 25
24 years of creditable service shall be based on the benefit
25 formula applicable to the member under the 20-Year Plan.
26 Otherwise, an electing member shall thereafter participate in

1 the 25-Year Plan on the same basis as if the member were a
2 post-October 1, 2005, employee.

3 (7) Each member in Group II that becomes a member of
4 the system on or after October 1, 2013, including a previous
5 member who ceased to be a member of the system and is
6 reemployed by the city, shall be a member in the Group II Age
7 62 Plan. Each member in Group I or I-A that becomes a member
8 of the system on or after October 1, 2013, including a
9 previous member who ceased to be a member of the system and is
10 reemployed by the city, shall be a member in the Group I Cash
11 Balance Plan. The effective date of participation for such
12 persons in the Group I Cash Balance Plan shall be the date
13 they become a regular and permanent officer or employee of the
14 city, after the completion of any probationary period. The
15 following shall have the option to elect to become a member in
16 the Group I Cash Balance Plan: (1) each member in Group I or
17 I-A that became a member of the system prior to October 1,
18 2013, and remains in active service through the initial
19 election date, (2) each member that became a member of the
20 system prior to October 1, 2013, ceased to be an employee
21 prior to the initial election date, and subsequently returns
22 to the status of a Group I or I-A employee while still a
23 member of the system, and (3) each member that is reclassified
24 as a Group I or I-A member after the initial election date.
25 The elections shall be made in accordance with the procedures,
26 rules, and regulations, and the time periods established by
27 the board. If an eligible member fails to make a proper

1 election to become a member in the Group I Cash Balance Plan
2 in accordance with the procedures, rules, and regulations and
3 before the deadline established by the board, the member shall
4 remain in the 20-Year Plan or 25-Year Plan, as applicable. The
5 effective date of participation for a member electing to be a
6 member in the Group I Cash Balance Plan shall be the date
7 established by the board. All elections are irrevocable.

8 Section 4. Creditable Service.

9 (1) Each member shall receive membership service
10 credit for all service rendered while a member of the system
11 since he or she became a member, or since he or she last
12 became a member in the event of a break in his or her
13 membership, on account of which contributions are made by the
14 member.

15 (2) Each member claiming prior service credit shall
16 file a detailed statement of all service rendered by him or
17 her prior to the date for which he or she is eligible to claim
18 prior service credit, and other facts as the board may require
19 for the proper operation of the system. The board shall fix
20 and determine by appropriate rules and regulations how much
21 service, if any, in any year is equivalent to a year of
22 service, but in no case shall more than one year of service be
23 creditable for all service in one calendar year, nor shall the
24 board allow credit as service for any period of more than one
25 month's duration during which the employee was absent without
26 pay. The board shall verify, as soon as practicable after the
27 filing of the statements of service, the service therein

1 claimed. Except as expressly limited herein, a member claiming
2 prior service credit must claim all eligible prior service.

3 (3) Creditable service at retirement on which the
4 retirement allowance of a member shall be based shall consist
5 of his or her total membership service plus any prior service
6 verified by the board pursuant to subsection (2) of this
7 section.

8 (4) Anything in this act to the contrary
9 notwithstanding, credit for any period of absence due to
10 compulsory service in the armed forces of the United States
11 shall be allowed as service credit as if such service had been
12 service as an employee of the city, provided the employee
13 returns to city service within ninety days after becoming
14 entitled to an honorable discharge from the armed forces or
15 within ninety days after hospitalization continuing after
16 discharge for a period of not more than one year; and,
17 provided further that the employee contributes and pays to the
18 system a sum equal to the total contribution which he or she
19 would have made had he or she remained in service during the
20 leave less any amount actually contributed by the member for
21 such period, as determined in accordance with rules and
22 regulations adopted by the board. In the case of a death
23 occurring on or after January 1, 2007, if a member dies while
24 performing qualified military service (as defined in Section
25 414(u) of Internal Revenue Code), the survivors of the member
26 are entitled to any additional death benefits (other than
27 benefit accruals relating to the period of qualified military

1 service) provided under the retirement plan for which he or
2 she was a member as if the member had resumed and then
3 terminated employment on account of death. Anything herein to
4 the contrary notwithstanding, credit for military leave shall
5 be granted in compliance with all applicable federal laws,
6 rules and regulations.

7 (5) Notwithstanding any other provisions of this
8 act, an active and contributing member of the 20-Year Plan,
9 the 25-Year Plan, or the Group II Age 62 Plan with prior
10 employment with the State of Alabama as a state employee or as
11 an employee of the public education system under the State
12 Board of Education or an institution of higher education may
13 purchase up to four years of creditable service in the system
14 for the prior employment with the State of Alabama if the
15 member claiming the prior employment credit has at least 10
16 years of contributing membership service credit, exclusive of
17 military service credit, in the system and the member pays to
18 the system prior to his or her date of retirement from active
19 service a sum, for each year or partial year of service
20 purchased, equal to the total contribution which he or she and
21 the city would have made during the period for which he or she
22 is claiming credit. The total contribution will be based on
23 the annual income of the member at the time of payment and the
24 city's actuarial rate at the time of payment. A member is
25 prohibited from purchasing credit under the aforementioned
26 provisions for any prior service for which he or she has
27 received credit toward a benefit from any other public

1 retirement system except the federal Social Security program.
2 The member has the responsibility of providing a statement
3 from the Retirement Systems of Alabama that the member is not
4 eligible for any state retirement benefits for the prior
5 employment for which he or she is purchasing service credit
6 and for wage statements covering the time period of the
7 service credit being purchased.

8 (6) Any employee whose membership in the system was
9 contingent upon his or her own election and who elected not to
10 become a member, may apply for and be admitted to membership
11 with all prior service credit at any time, provided the
12 employee pays to the system a sum equal to the total
13 contributions which he or she would have made as a member
14 during his or her prior service; provided that the prior
15 service credit shall not apply if the employee becomes a
16 member of the Group I Cash Balance Plan.

17 (7) Any member of the 20-Year Plan, the 25-Year
18 Plan, or the Group II Age 62 Plan, who at one time worked as a
19 nonmember may receive credit for prior service and for the
20 years worked as a nonmember, provided the member pays to the
21 system, a sum equal to the total contributions which he or she
22 would have made as a member during his or her prior service

23 (8) Any member who ceased to be a member as a result
24 of being absent from service for more than five consecutive
25 years or as a result of withdrawing his or her accumulated
26 contributions and thereafter becomes a contributing member of
27 the 20-Year Plan, the 25-Year Plan, or the Group II Age 62

1 Plan shall be allowed credit for the previous service,
2 provided he or she pays the system a sum equal to the total
3 contribution he or she has withdrawn.

4 (9) Any law or part of law relating to the payment
5 of interest on contributions as a prerequisite to the granting
6 of credit for prior service under the system notwithstanding,
7 any eligible employee, member or retired member who claims
8 such prior service (including prior service claimed under
9 subsections (6), (7), and (8) but excluding prior service
10 claimed under subsections (4) and (5)) shall pay into the
11 system in addition to the contributions required, interest of
12 eight percent, compounded annually, on the contributions, as a
13 prerequisite to the granting of the service credit. Interest
14 shall be calculated in accordance with the rules and
15 regulations established by the board.

16 (10) Anything in this act to the contrary
17 notwithstanding, the employer cost for the granting of any
18 service credit granted under the provisions of this act shall
19 become the continuing liability of the employer for whom the
20 service was rendered.

21 Section 5. Administration.

22 A. Investment Trustee.

23 Each investment trustee shall be a state or
24 federally chartered bank with not less than \$500,000,000 in
25 assets, bonded for not less than the amount of the board's
26 assets held from time to time, and shall have the following
27 powers and duties (but no other):

1 (1) To retain inventoried assets delivered to it by
2 the board so long as the retention appears advisable,
3 including the right to retain investments previously made in
4 its stock, if any, by the board.

5 (2) To sell, exchange, assign, transfer and convey
6 any security or property, real or personal (whether in the
7 original inventory or acquired by purchase or otherwise), at
8 public or private sale, at the time and price and upon the
9 terms and conditions (including credit) as it may determine.

10 (3) To invest and reinvest in such stocks, bonds,
11 and other securities and properties as it may deem advisable,
12 including preferred stocks, common stocks, debentures, and
13 unsecured obligations, undivided interests, interests in
14 investment trusts, mutual funds, legal and discretionary
15 common trust funds, and leases and property either inside or
16 outside of Alabama.

17 (4) To register and carry any property in its own
18 name or in the name of its nominee or to hold it unregistered
19 but without thereby increasing or decreasing its liability as
20 fiduciary.

21 (5) To vote in person or by proxy any stock or
22 securities held and to grant the proxies and powers of
23 attorney to the person or persons as it may deem proper. The
24 board shall have the power to vote in person or by proxy any
25 stock in each investment trustee.

1 (6) To consent to and participate in any plan for
2 the liquidation, reorganization, consolidation or merger of
3 any corporation, any stock or security of which is held.

4 (7) To receive reasonable compensation for its
5 services either out of the fund administered by each
6 investment trustee or from the board, the amount or method of
7 computation and payment to be agreed upon between the board
8 and each investment trustee.

9 (8) To receive funds or appropriations from the
10 board or from the city to be held and administered hereunder,
11 and to have custody of all investments delivered to it,
12 subject to the directions of the board.

13 (9) To pay to the board on duly authorized vouchers
14 such funds as may be required to make current monthly payments
15 of retirement allowances and expenses.

16 (10) To invest and manage all assets delivered to
17 the trustee by the board and/or city in a professional and
18 prudent manner and exercising due care.

19 The powers and duties of each investment trustee
20 shall apply from and after its selection by the board and
21 delivery of assets to it, and no investment trustee shall have
22 any duties in reference to or any liabilities for any acts or
23 failures to act which occurred prior thereto.

24 B. Board of Trustees.

25 (1) Except for the powers and duties prescribed for
26 the investment trustee, the general administration and the
27 responsibility for the proper operation of the system and for

1 making effective the provisions of this act are hereby vested
2 in the board of trustees of the system.

3 (2) The board shall consist of nine voting trustees
4 as follows: one shall be a member employee in the Police
5 Department, one shall be a member employee in the Fire
6 Department, one shall be a member employee classified as a
7 general municipal employee, three may be either active or
8 retired members of the retirement system, one shall be a
9 retired member of the retirement system, and two may or may
10 not be members of the system. The terms of office of all
11 trustees so appointed shall be four years.

12 (3) If a vacancy occurs in the office of a trustee,
13 the vacancy shall be filled for the unexpired term in the same
14 manner as the office was previously filled.

15 (4) The trustees shall serve without compensation.

16 (5) Each trustee shall, within ten days after his or
17 her appointment, take an oath of office.

18 (6) Each trustee shall be entitled to one vote. Five
19 trustees shall constitute a quorum and a vote of a majority of
20 the trustees present at the meeting where a quorum is present
21 shall be the act of the board.

22 (7) Subject to the limitations of this act, the
23 board shall, from time to time, establish rules and
24 regulations for the administration of the system and for the
25 transaction of its business, including uniform standards for
26 determining who are employees within the meaning of this act.

1 (8) The board shall elect from its membership a
2 chairman and a vice chairman, and shall appoint a secretary
3 who may or may not be a member of the board. The board may
4 employ personnel for secretarial and other service as shall be
5 required.

6 (9) The board shall keep in convenient form such
7 data as shall be necessary for actuarial valuation of the
8 system and for checking the experience of the system.

9 (10) The board shall keep a record of all of its
10 proceedings, which shall be open to public inspection. It
11 shall submit to the council, annually, a report showing the
12 fiscal transactions of the system for the preceding year, the
13 amount of the accumulated cash and securities of the system,
14 and the last balance sheet indicating the financial condition
15 of the system as shown by an actuarial valuation of the assets
16 and liabilities of the system.

17 C. Legal Advisor

18 The board shall designate an attorney or attorneys
19 who shall be the legal advisor of the board on matters
20 regarding the operation of the system and who shall perform
21 such other duties as are required in connection therewith or
22 as may be designated by the board from time to time.

23 D. Medical Board

24 The board shall designate a Medical Board of one,
25 two or three physicians who are not eligible to participate in
26 the system. The Medical Board shall arrange for and pass upon
27 all medical examinations required under the provisions of this

1 act, shall investigate all essential statements and
2 certificates by or on behalf of a member in connection with
3 application for disability retirement, and shall report in
4 writing to the board its conclusions and recommendations upon
5 all the matters referred to it.

6 E. Duties of Actuary

7 (1) The board shall designate an actuary who shall
8 be the technical advisor of the board on matters regarding the
9 operation of the system and who shall perform such other
10 duties as are required in connection therewith.

11 (2) The board shall certify from time to time the
12 rates of contribution payable by the city and any other
13 participating employers under the provisions of this act, and
14 shall adopt for the system from time to time such mortality,
15 service and other tables as shall be deemed necessary, and on
16 the basis of such tables and the interest rate adopted by the
17 board for the purpose of determining the city's and other
18 participating employers' contributions to the system, the
19 actuary shall make annually an actuarial valuation of the
20 assets and liabilities of the system. At least once in each
21 five-year period the board shall cause an actuarial
22 investigation to be made into the mortality, service and
23 compensation experience of the members and beneficiaries of
24 the system.

25 F. Auditor

26 The board shall designate an independent accounting
27 firm to perform the audits for the system and other duties as

1 are required in connection therewith or as may be designated
2 by the board from time to time. The accounting firm performing
3 an audit for the system must meet the following minimum
4 standards: meet the independence standards of the American
5 Institute of Certified Public Accountants and the Department
6 of Labor and provide evidence of professional liability
7 insurance satisfactory to the board. In addition, the
8 accountant in charge of the audit must meet the following
9 minimum standards: be a certified public accountant in good
10 standing with the Alabama State Board of Public Accountancy,
11 have an adequate knowledge of defined benefit plan accounting,
12 and regularly engage in employee benefit plan audits.

13 Section 6. Benefits.

14 (1) Service Retirement Allowance.

15 (a) The minimum service retirement age shall be as
16 follows:

17 (i) For a member in the Group I 20-Year Plan, the
18 age at which he or she completes 20 years of creditable
19 service or age 65, whichever occurs first.

20 (ii) For a member in the Group II 20-Year Plan, the
21 age at which he or she completes 20 years of creditable
22 service or age 62, whichever occurs first.

23 (iii) For a member in Group I 25-Year Plan, the age
24 at which he or she completes 25 years of creditable service or
25 age 62, whichever occurs first.

1 (iv) For a member in the Group II 25-Year Plan, the
2 age at which he or she completes 25 years of creditable
3 service or age 55, whichever occurs first.

4 (v) For a member in the Group II Age 62 Plan the age
5 at which he or she completes 25 years of creditable service or
6 age 55 with at least 10 years of creditable service, whichever
7 occurs first.

8 (vi) For a member in the Group I Cash Balance Plan,
9 the age at which he or she completes 25 years of creditable
10 service or age 62, whichever occurs first; provided, however,
11 that with respect to an elective cash balance plan member with
12 a pre-election frozen benefit attributable to the Group I
13 20-Year Plan, the minimum service retirement age for such
14 pre-election frozen benefit shall be the age at which he or
15 she completes 20 years of creditable service or age 65,
16 whichever occurs first.

17 Any member in service who has attained his or her
18 minimum service retirement age shall be retired by the board
19 on a service retirement allowance upon his or her written
20 application setting forth at what time not less than 30 nor
21 more than 60 days next following the execution and filing
22 thereof, he or she desires to be retired, notwithstanding that
23 during the period of notification he or she may have separated
24 from service. The member shall be entitled to such retirement
25 allowance whether he or she voluntarily separates from service
26 or is dismissed for cause or for any other reason. In the
27 event the member is dismissed for cause or for any other

1 reason, he or she shall be entitled to make application for
2 and receive the retirement allowance hereinabove provided for
3 upon his or her giving the written notice herein mentioned.

4 (b) The service retirement allowance of a member in
5 Group I or I-A shall be as follows:

6 (i) For a member in the Group I 20-Year Plan, 2% of
7 his or her average final compensation multiplied by the number
8 of years of his or her creditable service not in excess of 20
9 plus 1% of such compensation for each year of creditable
10 service in excess of 20 years, subject to a maximum of 60% of
11 average final compensation.

12 (ii) For a member in the Group I 25-Year Plan, 2% of
13 his or her average annual final compensation multiplied by the
14 number of years of creditable service, subject to a maximum of
15 100% of average final compensation.

16 (iii) For a member in the Group I Cash Balance Plan,
17 (A) the service retirement allowance that is the equivalent
18 actuarial value of the member's cash balance account and (B)
19 with respect to an elective cash balance plan member, an
20 additional service retirement allowance or vesting retirement
21 allowance, as applicable, equal to the member's pre-election
22 frozen benefit.

23 (c) The service retirement allowance of a member in
24 Group II shall be as follows:

25 (i) For a member in the Group II 20-Year Plan, 2
26 1/2% of his or her average final compensation multiplied by
27 the number of years of his or her creditable service not in

1 excess of 20 years plus 1% of such compensation for each year
2 of creditable service in excess of 20 years, subject to a
3 maximum of 60% of average final compensation.

4 (ii) For a member in the Group II 25-Year Plan, 2
5 1/2% of his or her average final compensation multiplied by
6 the number of years of creditable service, subject to a
7 maximum of 100% of average final compensation.

8 (iii) For a member in the Group II Age 62 Plan, 2
9 1/2% of his or her average final compensation multiplied by
10 the number of years of creditable service, subject to a
11 maximum of 100% of average final compensation; provided that
12 the service retirement allowance shall be reduced by an early
13 retirement factor of 5/9% for each full month the annuity
14 starting date precedes the member's 62nd birthday and the
15 annuity starting date shall in no event be earlier than a
16 member's 55th birthday.

17 (d) For each year, a member in the Group I Cash
18 Balance Plan shall have the member's cash balance account
19 credited for that year with a pay credit equal to the
20 following amounts, which are inclusive of the member's
21 contribution:

22 (i) For a member with less than 10 years of
23 creditable service, 11% of the member's earnable compensation.

24 (ii) For a member with 10 or more years of
25 creditable service, but less than 15 years of creditable
26 service, 12% of the member's earnable compensation.

1 (iii) For a member with 15 or more years of
2 creditable service, but less than 20 years of creditable
3 service, 13% of the member's earnable compensation.

4 (iv) For a member with 20 or more years of
5 creditable service, but less than 25 years of creditable
6 service, 14% of the member's earnable compensation.

7 (v) For a member with 25 or more years of creditable
8 service, 15% of the member's earnable compensation.

9 (e) The determination of the number of years of
10 creditable service of a member under subsection (1)(d) of this
11 section shall be determined as of the first day of each
12 calendar year. The pay credit shall be credited as of the last
13 day of the calendar year; provided, however, that if a member
14 terminates employment during the calendar year, the member
15 shall be entitled to a pay credit on the earnable compensation
16 actually paid to the member prior to termination of employment
17 as soon as administratively feasible following separation from
18 service.

19 (f) For each calendar year continuing until the last
20 day of the calendar year before the payment of benefits
21 commence, each person's cash balance account shall be
22 credited, whether or not the person remains an employee or
23 member, with an interest credit determined by multiplying the
24 dollar amount representing the balance of the person's cash
25 balance account as of the first day of the calendar year and
26 all previous pay credits and interest credits, by the yield on
27 30-year Treasury constant maturities for the November

1 immediately preceding such calendar year or such other
2 interest crediting rate as determined by the board.

3 (g) Interest shall be credited as of the last day of
4 the calendar year. However, a person shall receive a pro rata
5 interest credit up to the date distributions commence and no
6 interest shall be credited for any period after payment of
7 benefits commence.

8 (h) Notwithstanding anything in subsection (1) of
9 this section, the board, with the approval of the mayor, may
10 change the amount of pay credits allocated to members' cash
11 balance accounts under subsection (1) (d) of this section
12 and/or change the interest credits allocated to members' cash
13 balance accounts under subsection (1) (f) of this section;
14 provided that any change in the interest credits will not
15 affect previously allocated interest credits and any change in
16 the pay credits will not affect previously allocated pay
17 credits.

18 (1.1) Spousal Benefit

19 (a) If any active member in the 20-Year Plan who has
20 been credited with 20 or more years of creditable service
21 should die, his or her surviving spouse, as hereinafter
22 defined, shall be entitled to a death benefit, provided the
23 spouse is the designated beneficiary.

24 (b) If any active member in the 25-Year Plan who has
25 been credited with 25 or more years of creditable service
26 should die, his or her surviving spouse, as hereinafter

1 defined, shall be entitled to a death benefit, provided the
2 spouse is the designated beneficiary.

3 (c) If any active member in the Group II Age 62 Plan
4 who has been credited with 25 or more years of creditable
5 service should die, his or her surviving spouse, as
6 hereinafter defined, shall be entitled to a death benefit
7 payable at such time as the deceased member would have
8 otherwise been entitled to commence payment under the Group II
9 Age 62 Plan if he or she had terminated on the day of his or
10 her death and survived through the annuity starting date,
11 provided the spouse is the designated beneficiary. In
12 accordance with the rules and procedures established by the
13 board, the surviving spouse may elect an annuity starting date
14 that is any date after the deceased member would have
15 otherwise been entitled to commence payment.

16 (d) If any active member in the Group I Cash Balance
17 Plan who has been credited with 10 or more years of creditable
18 service should die, his or her surviving spouse, as
19 hereinafter defined, shall be entitled to a death benefit,
20 provided the spouse is the designated beneficiary.

21 (e) Surviving Spouse as used in this subsection
22 shall mean the legally married spouse of the member on the
23 date of his or her death.

24 (f) No death benefit shall be payable if the
25 deceased member is not survived by a spouse at the annuity
26 starting date or the surviving spouse is not the designated
27 beneficiary.

1 (g) The death benefit shall be as follows:

2 (i) With respect to a member in the 25-Year Plan or
3 the 20-Year Plan, the monthly income, payable for the life of
4 the surviving spouse equal to the service retirement allowance
5 that would have been payable to the member's surviving spouse
6 if he or she had retired on the day immediately preceding his
7 or her death, selected the 50% survivorship option, and
8 designated his or her surviving spouse as beneficiary.

9 (ii) With respect to a member in the Group II Age 62
10 Plan, the monthly income, payable for the life of the
11 surviving spouse equal to the service retirement allowance
12 that would have been payable to the member's surviving spouse
13 if he or she terminated employment on the day of his or her
14 death, survived through the annuity starting date, selected
15 the 50% survivorship option, designated his or her surviving
16 spouse as beneficiary, and died the day after the annuity
17 starting date. The monthly income will be calculated using any
18 applicable early retirement factor that would have otherwise
19 applied to the member at the annuity starting date.

20 (iii) With respect to a member in Group I Cash
21 Balance Plan, (A) 50% of the member's cash balance account,
22 payable in one lump sum payment in cash and (B) with respect
23 to an elective cash balance plan member an additional death
24 benefit equal to the death benefit that such person would have
25 received under the applicable previous plan, if any, based on
26 the member's pre-election frozen benefit.

1 (h) Notwithstanding and in lieu of the death
2 benefits set forth in subsection (1.1)(g) (i) and (ii) above,
3 the surviving spouse may elect to receive on demand a lump sum
4 payment equal to the member's accumulated contributions at the
5 date of his or her death.

6 (i) Notwithstanding and in lieu of the death benefit
7 set forth in subsection (1.1)(g)(iii)(A) above, the surviving
8 spouse may elect to receive on demand a lump sum payment equal
9 to the member's cash balance accumulated contributions at the
10 date of his or her death.

11 (j) Notwithstanding and in lieu of the death benefit
12 set forth in subsection (1.1)(g)(iii)(B) above, the surviving
13 spouse may elect to receive on demand a lump sum payment equal
14 to the member's pre-cash balance accumulated contributions at
15 the date of his or her death.

16 (2) Disability Retirement Allowance

17 (a) Any member in the 20-Year Plan or 25-Year Plan
18 in service and who has had 5 years or more of creditable
19 service and any member in the Group II Age 62 Plan in service
20 and who has had 10 years or more of creditable service may be
21 retired for disability upon application of the member to the
22 board and upon recommendation of the head of the division in
23 which the member is employed, provided he or she meets the
24 following requirements:

25 (i) The Medical Board after medical examination of
26 the member shall certify that he or she is mentally or
27 physically incapacitated for the further performance of duty;

1 that the incapacity is likely to be permanent; and that the
2 member should be retired for physical or mental disability.

3 (ii) The disability did not result from service in
4 the armed forces of the United States, chronic alcoholism,
5 addiction to narcotics, intentionally self-inflicted injuries,
6 or injuries received while committing a felony.

7 (iii) Except for temporary and/or partial disability
8 workers' compensation benefits, medical payments and
9 educational or training benefits, he or she is not receiving
10 and has not received any payments for such disability from the
11 city under workers' compensation or any other type of
12 employer-provided payment for disability payable from the
13 participating employer's general or self-insured funds;
14 provided, however, that in the event the employee is entitled
15 to any other benefits from the city or any of its boards he or
16 she may elect by filing with the board up to the time of the
17 commencement of the benefits, his or her choice of the two
18 benefits. In the event he or she chooses not to accept
19 benefits under the system he or she shall withdraw his or her
20 accumulated contributions in a lump sum.

21 (b) The disability retirement allowance shall be
22 computed as a service retirement allowance on the basis of his
23 or her average final compensation and creditable service at
24 disability retirement and shall not be reduced by any early
25 retirement factor.

26 (c) Should a member in the 20-Year Plan or the
27 25-Year Plan with 5 or more years of creditable service become

1 disabled under circumstances which fail to meet the
2 requirements set forth in (i), (ii), and (iii) of subsection
3 (2) (a) of this section, he or she may elect in lieu of a
4 return of his or her accumulated contributions as provided
5 under subsection (4) (a) of this section, to receive a
6 deferred retirement allowance commencing at such age as he or
7 she would be eligible to receive a vesting retirement
8 allowance.

9 (d) No member shall be entitled to a disability
10 retirement allowance unless he or she meets the requirements
11 of (i), (ii), and (iii) of subsection (2) (a) of this section,
12 regardless of whether the member is eligible for benefits for
13 total (100%) disability under the federal system guidelines.

14 (e) Notwithstanding anything in subsection (2) of
15 this section, the board, with the approval of the mayor, may
16 increase the number of years of creditable service required to
17 qualify for a disability retirement allowance under any or all
18 of the retirement plans or eliminate the disability retirement
19 allowance altogether for any or all of the retirement plans.
20 If the disability retirement allowance is eliminated, members
21 will be entitled to a vesting retirement allowance or service
22 retirement allowance as applicable provided they meet the
23 requirements for such retirement allowance.

24 (f) If a member of the Group I Cash Balance Plan
25 terminates employment due to disability, he or she shall not
26 be entitled to a disability retirement allowance attributable
27 to the member's cash balance account but shall be entitled to

1 a vesting retirement allowance or service retirement allowance
2 as applicable provided that he or she meets the requirements
3 for such retirement allowance at the time of his or her
4 disability; provided, however, that an elective cash balance
5 plan member who would have qualified for a disability
6 retirement allowance under the applicable previous plan if he
7 or she had remained a member of the applicable previous plan
8 shall be entitled to a disability retirement allowance
9 computed as a service retirement allowance on the basis of his
10 or her pre-election frozen benefit.

11 (3) Vesting Retirement Allowance

12 (a) Should any member in the 20-Year Plan or the
13 25-Year Plan be or have been involuntarily separated from
14 service for any cause other than fault or delinquency on his
15 or her part after having completed ten or more years of
16 creditable service, he or she may elect to receive a deferred
17 retirement allowance commencing twenty years for members of
18 the 20-Year Plan or twenty-five years for members of the
19 25-Year Plan, as applicable pursuant to subsection (1) of this
20 section, from the beginning of creditable service with the
21 city or age 50, whichever occurs first. Failure of reelection
22 of a member elected by vote of the people shall not be
23 construed as fault or delinquency on the part of the member.

24 (b) Anything herein to the contrary notwithstanding,
25 any member separating from service after having completed ten
26 or more years of creditable service but prior to qualifying

1 for a service retirement allowance, may elect to receive a
2 deferred retirement allowance commencing as follows:

3 (i) For a member in the Group I 20-Year Plan, at the
4 age of 65.

5 (ii) For a member in the Group II 20-Year Plan, at
6 the age of 62.

7 (iii) For a member in the Group I 25-Year Plan, at
8 the age of 62.

9 (iv) For a member in the Group II 25-Year Plan, at
10 the age of 55.

11 (v) For a member in the Group II Age 62 Plan, the
12 age of 62.

13 (vi) For a member in the Group I Cash Balance Plan,
14 (A) with respect to the vesting retirement allowance
15 attributable to the member's cash balance account as set forth
16 in subsection (3)(c)(iii)(A) of this section, the age of 62
17 and (B) with respect to the vesting retirement allowance
18 attributable to an elective cash balance plan member's
19 pre-election frozen benefit as set forth in subsection
20 (3)(c)(iii)(B), if any, at such time as the vesting retirement
21 allowance would have been paid under the applicable previous
22 plan.

23 Any member who separates from service without
24 completing ten years of creditable service or qualifying for a
25 disability retirement allowance shall not receive any vesting
26 retirement allowance and shall only be entitled to receive the

1 amount of his or her accumulated contributions under the
2 provisions of subsection (4)(a) of this section.

3 (c) The vesting retirement allowance shall be
4 computed as follows:

5 (i) For a member in the 20-Year Plan or the 25-Year
6 Plan, as a service retirement allowance on the basis of the
7 member's average final compensation and creditable service at
8 the time of separation from service.

9 (ii) For a member in the Group II Age 62 Plan, as a
10 service retirement allowance on the basis of the member's
11 average final compensation and creditable service at the time
12 of separation from service.

13 (iii) For a member in the Group I Cash Balance Plan,
14 (A) as a service retirement allowance that is the equivalent
15 actuarial value of the member's cash balance account and (B)
16 with respect to an elective cash balance plan member, an
17 additional vesting retirement allowance equal to the member's
18 pre-election frozen benefit.

19 (d) Notwithstanding the foregoing the member may at
20 any time prior to the commencement of his or her vesting
21 retirement allowance revoke such election and receive in lieu
22 of such benefits the amount of his or her accumulated
23 contributions under the provisions of subsection (4)(a) of
24 this section. In the event of the death prior to the
25 commencement of the vesting retirement allowance of a member
26 who has made the election provided for herein, the amount of
27 his or her accumulated contributions shall be paid under the

1 provisions of subsection (4)(b) of this section in lieu of any
2 other benefit provided for in this section.

3 (4) Return of Contributions or Cash Balance Account

4 (a) Should a member cease to be an employee for any
5 reason and not be awarded a retirement allowance, he or she
6 shall be paid on demand his or her accumulated contributions.
7 Notwithstanding and in lieu of the vesting retirement
8 allowance set forth in subsection (3)(c) (i) and (ii) of this
9 section, the member may elect to receive on demand a lump sum
10 payment equal to the member's accumulated contributions.

11 Notwithstanding and in lieu of the vesting retirement
12 allowance set forth in subsection (3)(c)(iii)(A) of this
13 section, the member may elect to receive on demand a lump sum
14 payment equal to the greater of the member's cash balance
15 account or his or her cash balance accumulated contributions.
16 Notwithstanding and in lieu of the vesting retirement
17 allowance set forth in subsection (3)(c)(iii)(B) of this
18 section, the member may elect to receive on demand a lump sum
19 payment equal to the member's pre-cash balance accumulated
20 contributions.

21 (b) Upon the receipt of proof, satisfactory to the
22 board, of the death of a member and that the member's
23 beneficiary is not eligible for a spousal benefit under
24 subsection (1.1) of this section, his or her accumulated
25 contributions shall be paid to the person, if any, as he or
26 she shall have nominated by written designation duly

1 acknowledged and filed with the board if the person survives
2 him or her, otherwise to the estate of the member.

3 (5) Reexamination of Beneficiaries Retired on
4 Account of Disability

5 (a) The board may at any time and as often as it
6 sees fit, not in excess of once in each 12 months, require any
7 beneficiary receiving a retirement allowance due to a
8 disability to undergo a medical examination if he or she has
9 not yet attained his or her minimum service retirement age,
10 the examination to be made at the place of residence of the
11 beneficiary, the office of a physician selected by the board,
12 or other place mutually agreed upon. Should the beneficiary
13 refuse to submit to the medical examination his or her
14 retirement allowance may be discontinued by the board until
15 his or her withdrawal of the refusal, and should his or her
16 refusal continue for over one year, all his or her rights in
17 and to that portion of his or her retirement allowance which
18 is provided by the contributions of the city may be revoked by
19 the board.

20 (b) In the event a member who is receiving a
21 retirement allowance due to a disability secures gainful
22 employment, including employment with the city, paying more
23 than the difference between his or her retirement allowance
24 and his or her average final compensation, the amount of his
25 or her retirement allowance shall be reduced to an amount
26 which, together with the amount earnable by him or her, shall
27 equal the amount of his or her average final compensation but,

1 in no event, to an amount less than the portion of his or her
2 allowance provided by his or her accumulated contributions.
3 Should his or her earning capacity be later changed, the
4 amount of his or her retirement allowance may be further
5 modified in like manner. Any member receiving a retirement
6 allowance due to a disability shall advise the board of any
7 gainful employment. The board may make an investigation at any
8 time in reference to any gainful employment of any retired
9 member, up to the time he or she attains his or her minimum
10 service retirement age, and the member shall answer any
11 question and furnish information, including copies of federal
12 income tax returns, as the board may require. In the event
13 that the member fails or refuses to comply with the board's
14 request, then his or her retirement allowance may be
15 discontinued by the board until his or her withdrawal of the
16 refusal, and should his or her refusal continue for over one
17 year, all his or her rights in and to that portion of his or
18 her retirement allowance which is provided by the
19 contributions of the city may be revoked by the board.

20 (6) Restoration of Beneficiaries to Membership

21 Should a member receiving a retirement allowance due
22 to a disability be restored to or be in service at a
23 compensation equal to or greater than his or her average final
24 compensation at retirement, or should any other beneficiary be
25 restored to service, his or her retirement allowance shall
26 cease, any election of an optional benefit shall become void,
27 he or she shall again become a member of the system as a

1 member of the retirement plan from which he or she was
2 receiving the disability allowance and shall contribute
3 thereafter at the then prevailing rate. An amount equal to the
4 actuarial reserve held for the part of his or her retirement
5 allowance provided by his or her contributions shall be
6 credited to him or her as accumulated contributions. Any
7 creditable service to which he or she was entitled when he or
8 she retired shall be restored to him or her, and upon
9 subsequent retirement his or her retirement allowance shall be
10 based on his or her compensation and creditable service before
11 and after the period of prior retirement; provided that if he
12 or she does not complete three years of creditable service
13 after his or her restoration to service, the part of his or
14 her retirement allowance upon subsequent retirement payable
15 with respect to creditable service rendered before the period
16 of his or her previous retirement shall be equal to his or her
17 previous retirement allowance with all of the provisions of
18 any option restored, if one was elected, with respect to such
19 part of his or her retirement allowance.

20 (7) Optional Allowances

21 Until the date of his or her retirement and, in the
22 case of a member eligible for a vesting retirement allowance,
23 the date as of which the allowance is to commence, any member
24 may elect to convert the retirement allowance otherwise
25 payable to him or her into a modified retirement allowance of
26 equivalent actuarial value in accordance with one of the
27 optional forms named below. The election shall become

1 effective on the member's retirement date or the date as of
2 which his or her vesting retirement allowance is to commence,
3 as the case may be.

4 Option 1. A reduced retirement allowance payable
5 during the life of the retired member, with the provision that
6 if he or she dies before he or she has received in payments of
7 his or her allowance the amount of his or her accumulated
8 contributions at the time of his or her retirement, the
9 balance of such amount shall be paid to the person, if any, as
10 he or she shall have nominated by written designation duly
11 acknowledged and filed with the board if the person survives
12 him or her, otherwise to the retired member's estate; or

13 Option 2. A reduced retirement allowance payable
14 during the life of the retired member, with the provision that
15 upon his or her death his or her reduced retirement allowance
16 shall be continued throughout the life of and paid to such
17 person as he or she shall have nominated by written
18 designation duly acknowledged and filed with the board at the
19 time of retirement; or

20 Option 3. A reduced retirement allowance payable
21 during the life of the retired member, with the provision that
22 upon his or her death one-half of his or her reduced
23 retirement allowance shall be continued throughout the life of
24 and paid to such person as he or she shall have nominated by
25 written designation duly acknowledged and filed with the board
26 at the time of retirement; or

1 Option 4. A reduced retirement allowance payable
2 during the life of the retired member, with the provision that
3 upon his or her death some other benefit shall be payable,
4 provided that the total value of the allowance during his or
5 her life and the succeeding benefit shall be computed to be of
6 equivalent actuarial value to the retirement allowance which
7 he or she would receive without optional modification and
8 provided that the benefit shall be approved by the board.

9 Option 5. With respect to members of the Group I
10 Cash Balance Plan only and only with respect to the retirement
11 allowance attributable to the cash balance account, one
12 lump-sum payment in cash equal to his or her cash balance
13 account. An elective cash balance plan member may receive his
14 or her retirement allowance attributable to the cash balance
15 account in one lump-sum payment in cash and also receive his
16 or her retirement allowance attributable to the pre-election
17 frozen benefit in accordance with one of the other forms of
18 payment permitted under this act.

19 (7.1) Anything herein to the contrary
20 notwithstanding, a member may elect to convert the retirement
21 allowance otherwise payable to him or her into a modified
22 retirement allowance of equivalent actuarial value in
23 accordance with one of the optional forms named in subsection
24 (7) of this section.

25 Whenever any member has elected an optional
26 allowance and has nominated his or her spouse to receive all
27 amounts and benefits payable on or after the member's death as

1 a result of the election, the member may revoke the election
2 any time after the death of the spouse or the entry of a final
3 judgment and complete divorce from the spouse so nominated.
4 Upon revocation, the member shall return to the single
5 lifetime only retirement allowance otherwise payable to him or
6 her. The revocation shall be effective on the first day of the
7 month following the month in which the revocation is filed
8 with the board and once filed shall be final and irrevocable.
9 Beneficiary elections and changes to the election, if allowed
10 by the board, shall be made in accordance with the policies
11 and procedures established by the board.

12 (8) Preservation of Benefits Accrued Under the
13 System Prior Hereto

14 Anything herein contained to the contrary
15 notwithstanding, the retirement allowance payable under the
16 system to a member immediately prior to the effective date of
17 this act, who continued without a break in membership to his
18 or her retirement date or termination of employment entitling
19 him or her to a benefit hereunder, shall not be less than the
20 benefit which would otherwise be payable to him or her under
21 the system as in effect prior to the effective date of this
22 act, based on his or her creditable service to and his or her
23 compensation earned prior to the effective date of this act.

24 (9) The payment of benefits shall begin no later
25 than the 60th day after the close of the calendar year in
26 which the latest of the following events occur: (a) the date
27 on which the former employee attains the earlier age of 65 or

1 his or her minimum service retirement age specified in the
2 act; (b) the 10th anniversary of the year in which the
3 employee or former employee became a member of the system; or
4 (c) the date the member employee's employment with the city is
5 terminated. All distributions will be determined and made in
6 accordance with Section 401(a) (9) of the Internal Revenue Code

7 (10) The maximum amount payable to a member under
8 the system in any calendar year when expressed as a straight
9 life annuity commencing at normal retirement age shall be
10 \$160,000.00. The dollar limitations shall be adjusted annually
11 as provided in Section 415(d) of the Internal Revenue Code
12 pursuant to the regulations, effective as of January 1 of each
13 calendar year. The limitations, adjustments, definitions,
14 special rules, and other requirements prescribed by this act
15 shall at all times comply with the provisions of Section 415
16 of the Internal Revenue Code and the regulations thereunder as
17 applicable to government plans, the terms of which are
18 specifically incorporated herein by reference.

19 (11) Notwithstanding any provision of this act to
20 the contrary, a distributee may elect, at the time and in the
21 manner prescribed by the board, to have any eligible rollover
22 distribution, or any portion of an eligible rollover
23 distribution, paid directly to an eligible retirement plan
24 specified by the distributee in a direct rollover in
25 accordance with Section 402(c) of the Internal Revenue Code.

26 Section 7. All of the assets of the system shall be
27 credited, according to the purpose for which they are held,

1 among three accounts, namely, the Members' Account, the
2 Accumulation Account and the Expenses Account.

3 (1) Members' Account.

4 (a) The Members' Account shall be the account in
5 which shall be held the accumulated contributions of members.
6 The Member's Account shall include accumulated contributions
7 under the applicable previous plan.

8 (b) The city shall cause to be deducted from the
9 compensation of each member on each and every payroll for each
10 and every payroll period the following:

11 (i) For each member in the Group I 20-Year Plan, 6%
12 of his or her earnable compensation.

13 (ii) For each member in the Group I 25-Year Plan, 6%
14 of his or her earnable compensation.

15 (iii) For each member in the Group II 20-Year Plan,
16 6% of his or her earnable compensation.

17 (iv) For each member in the Group II 25-Year Plan,
18 6% of his or her earnable compensation.

19 (v) For each member in the Group I Cash Balance
20 Plan, 6% of his or her earnable compensation.

21 (vi) For each member in the Group II Age 62 Plan, 7%
22 of his or her earnable compensation.

23 Notwithstanding the foregoing, the mayor, with the
24 approval of the board, may increase the member contribution
25 amount for any or all of the plans by up to one percent
26 annually not to exceed eight percent of the member's earnable
27 compensation. In determining the amount earnable by a member

1 in a payroll period, the board may consider the rate of
2 compensation payable to the member on the first day of a
3 payroll period as continuing throughout the payroll period,
4 and it may omit deduction from compensation of any period less
5 than a full payroll period.

6 (c) The deductions provided for herein shall be made
7 notwithstanding that the minimum compensation provided by law
8 for any member shall be reduced thereby. Every member shall be
9 deemed to consent and agree to the deductions made and
10 provided for herein and shall receipt for his or her full
11 salary or compensation, and payment of salary or compensation
12 less the deduction shall be a full and complete discharge and
13 acquittance of all claims and demands whatsoever for the
14 services rendered by the person during the period covered by
15 the payment, except as to the benefits provided under this
16 act.

17 (d) The proper authority or officer responsible for
18 making up the payroll shall certify to the board the amounts
19 deducted on each and every payroll, and each of the amounts
20 shall be paid into the Members' Account and credited to the
21 individual account of the member from whose compensation the
22 deduction was made.

23 (e) The accumulated contributions of a member paid
24 upon his or her death or withdrawn by him or her, as provided
25 in this act, shall be paid from the Members' Account. Upon the
26 retirement of a member or other commencement of benefits
27 hereunder, his or her accumulated contributions shall be

1 transferred from the Members' Account to the Accumulation
2 Account.

3 (2) Accumulation Account.

4 (a) The Accumulation Account shall be the account in
5 which shall be accumulated all contributions made by the city
6 to provide benefits under the system and from which shall be
7 paid all retirement allowances and other benefits under the
8 system, other than those payable from the Members' Account.

9 Regular Contributions by the City

10 (b) On account of each member there shall be paid
11 annually into the Accumulation Account a certain percentage of
12 the compensation of each member to be known as the normal
13 contribution, and an additional percentage of his or her
14 compensation to be known as the accrued liability
15 contribution. The rates per centum of the contribution shall
16 be fixed on the basis of the liabilities of the system as
17 shown by actuarial valuation.

18 (c) The normal contribution rate shall be determined
19 after each actuarial valuation. The normal contribution rates
20 shall be determined, on the basis of regular interest and the
21 tables last adopted by the board, as the uniform and constant
22 percentages of the compensation of Group I and Group I-A, or
23 Group II members, as the case may be, which, if contributed on
24 the basis of the prospective compensation of such members
25 throughout their entire period of active service, would be
26 sufficient to provide for the payment of the portion of any
27 retirement allowance or other benefit payable on their account

1 not provided by his or her own contributions and accumulated
2 in total past service liabilities.

3 (d) The accrued liability contribution rates shall
4 be computed as the rate per centum of the total annual
5 compensation of all Group I and Group I-A, or Group II
6 members, as the case may be, which is an amortization, for a
7 period to be established by the board and not to exceed thirty
8 years, that is level percentage of the projected payroll (or a
9 level dollar amount at the discretion of the board) of the
10 total past service liabilities related to the payment of any
11 retirement allowance or other benefit to be payable on their
12 account in excess of the Accumulation Account, which is not
13 dischargeable by the aforesaid normal contributions made on
14 account of such members during the remainder of their active
15 service.

16 (e) The total amount payable by the city in each
17 year to the Accumulation Account shall be not less than the
18 sum of the rates per centum known as the normal contribution
19 rate and the accrued liability contribution rate, of the total
20 compensation of all members in Group I, I-A, and in Group II,
21 respectively, during the preceding year; provided, however,
22 that the total amount payable by the city shall be at least
23 the amount provided for in Statement No. 27 of Governmental
24 Accounting Standards Board (or successor thereof), and that
25 the aggregate payment shall be sufficient, when combined with
26 the amount in the account, to provide the retirement

1 allowances and other benefits payable to members and
2 beneficiaries during the year then current.

3 (f) All interest and dividends earned on the funds
4 of the system shall be credited to the Accumulation Account.

5 (g) All retirement allowances to beneficiaries, and
6 benefits in lieu thereof, shall be paid from the Accumulation
7 Account.

8 (3) Expense Account

9 The Expense Account shall be the account from which
10 shall be paid all the expenses necessary in connection with
11 the administration and operation of the system. Persons
12 assigned to and working for the system shall be employees of
13 the city, and their salaries and other accrued benefits for
14 such employees shall be paid proportionately by the city and
15 the City of Montgomery Airport Authority, based upon each
16 organization's relative percentage of covered member payroll.
17 All other expenses and costs incurred in connection with the
18 administration and operation of the retirement system,
19 including, but not limited to, the fees and costs paid to the
20 system's investment trustees and advisors, shall be the sole
21 responsibility of, and shall be paid by, the retirement system
22 itself from its investment income.

23 (4) Appropriations

24 On or before the first day of June of each year the
25 board shall file with the council its certification of the
26 amount of the appropriation necessary to pay the normal and
27 accrued liability contributions to the retirement fund for the

1 ensuing year, and the amount of appropriation required to
2 cover the expenses necessary in connection with the
3 administration and operation of the system, and the amounts
4 shall be included in the budget, in accordance with legal
5 budget procedure.

6 (5) Member Contributions

7 (a) Contributions which the city causes pursuant to
8 subsection (1) of this section to be deducted from the
9 compensation of each member employee and contributed to the
10 member's account under the act shall be treated for purposes
11 of Section 414(h) (2) of the Internal Revenue Code as being
12 paid by the city in lieu of contributions by any member
13 employee.

14 (b) The member employee contributions which are
15 picked up will continue to be designated employee compensation
16 for determining the amount of the contribution to be so picked
17 up; the total amount of the contribution of each member
18 employee to the system shall not be reduced by this section;
19 the amount of the retirement allowance of each member shall
20 not be affected by this section, no other changes in the
21 method of computation and transmittal of these picked up
22 employee contributions shall be affected by this section; and
23 the total amount paid to and on behalf of each member employee
24 will not be increased or decreased by this section.

25 (c) The procedure whereby the member employees'
26 contribution to the system is picked up shall apply equally to
27 each and every employee who participates in the system; no

1 employee shall be given any option concerning this pick up;
2 and this procedure of pick up shall be mandatory on all member
3 employees.

4 (d) Forfeitures, if any, arising from severance of
5 employment, death, or for any other reason, may not be used to
6 increase benefits for employee members or their beneficiaries
7 who would otherwise receive under the system at any time prior
8 to termination of the system or the complete discontinuance of
9 city contributions. Forfeitures, if any, are to be used as
10 soon as possible to reduce subsequent city contributions.

11 Section 8. Management of Funds.

12 (1) Investments shall be managed by the investment
13 trustee. The board shall otherwise manage the system.

14 (2) The board shall designate one of its members,
15 with an appropriate bond, or a bank or trust company, to be
16 the custodian of the funds of the system other than those in
17 the possession of the investment trustee. All payments from
18 the funds of the system shall be made only upon regular
19 vouchers signed by two persons designated by the board, each
20 of whom shall be bonded. A duly attested copy of a resolution
21 of the board designating the persons and bearing upon its face
22 specimen signatures of the persons shall be filed with the
23 custodian as his or her authority for making payments upon the
24 vouchers. No voucher shall be drawn unless it shall have been
25 previously authorized by resolution of the board. All persons
26 authorized to sign the vouchers shall be bonded in an amount
27 or amounts established by the board from time to time and

1 commensurate with the applicable fiscal responsibilities and
2 risks.

3 (3) For the purpose of meeting disbursements for
4 retirement allowances and other payments there shall be kept
5 on deposit available cash in an amount to be determined from
6 time to time by the board. The board shall notify the
7 investment trustee in writing of the amount determined by the
8 board to be desirable. No voucher shall be drawn unless it
9 shall have been previously authorized by resolution of the
10 board.

11 (4) Except as otherwise herein provided, no member
12 nor employee of the board, the City of Montgomery Airport
13 Authority, or of the city, shall have any direct or indirect
14 interest in the gains or profits of any investment made by the
15 board or the investment trustee, nor as a member of the board
16 receive any pay or emolument for his or her services. No
17 member nor employee of the board shall, directly or
18 indirectly, for himself or herself or as an agent in any
19 manner use the same, except to make the current and necessary
20 payments as are authorized by the board.

21 (5) The board shall cause the accounts and
22 operations of the retirement system to be audited by an
23 independent outside auditor annually, and, an audit of its
24 management practices and procedures every three years, or more
25 often if necessary to maintain security and efficiency.

26 Section 9. Member To Elect Between Service
27 Retirement and Other City Payments.

1 Anything in this act to the contrary
2 notwithstanding, any person who is entitled to receive
3 benefits directly from the city or from the funds of the city
4 or from any board or commission connected with the city, for
5 any disability, shall elect on forms, and in accordance with
6 rules and regulations adopted by the board, between those
7 benefits and the service retirement benefits under this
8 system. In the event the person does not elect to receive a
9 service retirement benefit, then he or she shall receive no
10 service retirement benefits but shall be entitled to a return
11 of his or her accumulated contributions.

12 Section 10. Return of Contributions.

13 Wherever in this act provision is made for return of
14 contributions of a member, the return shall be made without
15 payment of interest for the period subsequent to December 31,
16 1968, or the return of interest paid by the member when
17 purchasing past service.

18 Section 11. Assignments Prohibited.

19 The property and funds of the system, the
20 contributions of members deducted from their compensation, the
21 right of a person to a retirement allowance or other benefit,
22 and any other right accrued or accruing to any person under
23 the provisions of this act and the moneys in the accounts
24 created by this act shall not be subject to taxation by the
25 city nor by the State of Alabama, nor be subject to execution,
26 garnishment, attachment, the operation of bankruptcy or
27 insolvency law or any other process of law whatsoever to

1 satisfy any debt or liability of any member, and shall be
2 unassignable except as in this act specifically provided.

3 Section 12. Protection Against Fraud

4 Whoever with intent to deceive shall make any
5 statements or reports required under this act which are
6 untrue, or shall falsify or permit to be falsified any record
7 or records of this system shall be fined not to exceed one
8 thousand dollars (\$1,000), or imprisoned not to exceed six
9 months, or both.

10 Section 13. Errors.

11 Should any change or error in the records result in
12 any member or beneficiary receiving from the system more or
13 less than he or she would have been entitled to receive had
14 the records been correct, the board shall have the power to
15 correct the error, and as far as practicable, to adjust the
16 payments in the manner that benefits of equivalent actuarial
17 value to the benefit to which the member or beneficiary was
18 correctly entitled shall be paid.

19 Section 14. General Conditions.

20 (1) The board shall have the continuing right and
21 power to amend or supplement the retirement plans created by
22 this act and the terms and conditions thereof at any time,
23 which right and power is hereby expressly reserved, but no
24 amendment shall be adopted which will reduce the then accrued
25 benefits of employees or beneficiaries below the extent they
26 are then covered by accumulated reserves, which reserves shall
27 constitute a trust fund for the payment of the benefits,

1 except that any amendment or supplement which would result in
2 additional contributions by the city shall be approved by the
3 board, the council, and the governing body of the
4 participating employer. At least every two years, the board
5 will review the retirement allowances being paid to
6 beneficiaries and make a determination as to whether or not to
7 recommend a cost-of-living adjustment to the mayor and the
8 council.

9 (2) All provisions of any act inconsistent with the
10 provisions of this act are hereby repealed to the extent of
11 the inconsistency.

12 (3) If any section or part of any section of this
13 act is declared to be unconstitutional, the remainder of the
14 act shall not thereby be invalidated.

15 (4) No amendment or supplement to the plan shall be
16 effective if it authorizes or permits any part of the trust
17 fund, other than such part as is required to pay
18 administrative expenses and taxes if any, to be used for or
19 diverted to any purpose other than for the exclusive benefit
20 of member employees or their beneficiaries or estates, or
21 causes any reduction in the then accrued benefits of member
22 employees or their beneficiaries below the extent they are
23 then covered by accumulated reserves.

24 Section 15. Employee Retention Incentive Program
25 ("ERIP").

26 (1) Effective January 1, 2005, a member in the
27 20-Year Plan or the 25-Year Plan who is actively employed may

1 make an election to participate in the ERIP option. The
2 election shall be made during the period of 30 to 60 days
3 prior to the member's actual retirement date. A member
4 electing the ERIP option shall specify the ERIP election
5 period.

6 (2) A member who has elected the ERIP option shall
7 receive the following benefits:

8 (a) A retirement allowance as if the member had
9 actually retired on the ERIP calculation date, based on
10 creditable service and average final compensation on such
11 date; and

12 (b) A lump sum payment calculated based upon the
13 retirement allowance calculated in (a) above multiplied by the
14 number of months in the ERIP election period plus annual com-
15 pound interest at the rate of 5%. The following factors shall
16 be multiplied by the retirement allowance to determine the
17 lump sum payment:

ERIP Election Period	Factor
12 months	12.3226
24 months	25.2613
36 months	38.8469

22 (3) The lump sum benefit calculated pursuant to (2)
23 above shall be paid to the member as promptly as

1 administratively practicable following the member's actual
2 retirement date.

3 (4) A member who has previously elected the ERIP
4 option and received a lump sum payment hereunder and who is
5 rehired as an employee on or after January 1, 2008, shall be
6 subject to the following rules:

7 (a) In the event the member repays the lump sum plus
8 annual compound interest at the rate of seven percent (7%)
9 within 30 days of his or her rehire date, the prior election
10 of the ERIP option shall be disregarded for all purposes. As
11 of the member's subsequent retirement date, the member, if he
12 or she is a member in the 20-Year Plan or the 25-Year Plan,
13 may again elect the ERIP option, subject to the rules set
14 forth above. In determining the member's retirement allowance
15 at the subsequent retirement, all creditable service,
16 including the prior ERIP election period shall be taken into
17 account, but excluding service in any subsequent ERIP election
18 period.

19 (b) In the event the member does not repay the lump
20 sum plus annual compound interest at the rate of seven percent
21 (7%) within 30 days of his or her rehire date and the period
22 of creditable service following the member's rehire date is
23 longer than the initial ERIP election period, the member's
24 retirement allowance as of his or her subsequent retirement
25 date shall be based upon all creditable service excluding the
26 original ERIP election period.

1 (c) In the event the member does not repay the lump
2 sum plus annual compound interest at the rate of seven percent
3 (7%) within 30 days of his or her rehire date and the period
4 of creditable service following the member's rehire date is
5 less than the initial ERIP election period, the member's
6 retirement allowance as of his or her subsequent retirement
7 date shall be based upon all creditable service including the
8 original ERIP election period and reduced by the actuarial
9 equivalent of the lump sum payment received as a result of
10 electing the original ERIP option. For purposes of determining
11 actuarial equivalence, the interest rate shall be seven
12 percent (7%) and the member's life expectancy shall be based
13 upon the Static 1994 Group Annuity Mortality Table.

14 (5) The board may suspend or eliminate the ERIP
15 program at any time, other than with respect to a member who
16 has made an ERIP election prior to the date of the suspension
17 or elimination of the ERIP program. Notwithstanding the
18 foregoing, the provisions of subsection (4) of this section
19 shall continue in effect following the suspension or
20 elimination.

21 (6) Members of the Group II Age 62 Plan and the
22 Group I Cash Balance Plan are not eligible to elect to
23 participate in the ERIP option.

24 Section 16. This act shall become effective on the
25 first day of the third month following its passage and
26 approval by the Governor, or its otherwise becoming law.