

1 HB578
2 159861-1
3 By Representatives Nordgren, Williams (D), Johnson (R),
4 Hammon, Rich, Butler, Farley, Tuggle, Patterson, Greer, Wood,
5 Hill, Weaver, Harper, Treadaway, Johnson (K), Carns, Chesteen,
6 Lee, Henry, Vance and Hubbard (M)
7 RFD: Ways and Means Education
8 First Read: 05-MAR-14

2
3
4
5
6
7
8 SYNOPSIS: Currently, the Public Education Employees
9 Health Insurance Board, as Trustees of the Alabama
10 Retired Education Employees' Health Care Trust may
11 distributed up to 10% of the full market value of
12 the trust in any given year. This bill will allow
13 the distribution to be 20%.

14
15 A BILL
16 TO BE ENTITLED
17 AN ACT

18
19 To amend Section 36-36-6, Code of Alabama 1975, to
20 provide further for the distribution of the assets of the
21 Alabama Retired Education Employees' Health Care Trust.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Section 36-36-6, Code of Alabama 1975, is
24 amended to read as follows:

25 "§36-36-6.

26 "(a) The sources of funding to the Alabama Retired
27 State Employees' Health Care Trust may be: (1) appropriations

1 made by the Legislature; (2) contributions by employees and
2 retired employees; (3) employer contributions; (4) investment
3 income; (5) proceeds of any gifts, grants, or contributions;
4 (6) transfers from the State Employees' Insurance Fund; and
5 (7) all other sources permitted by law.

6 "(b) The sources of funding to the Alabama Retired
7 Education Employees' Health Care Trust may be: (1)
8 appropriations made by the Legislature; (2) contributions by
9 employees and retired employees; (3) employer contributions;
10 (4) investment income; (5) proceeds of any gifts, grants, or
11 contributions; (6) transfers from the Public Education
12 Employees' Health Insurance Fund; and (7) all other sources
13 permitted by law.

14 "(c) The agreements creating the trusts shall be
15 irrevocable and the assets of the trusts shall not be expended
16 or disbursed or loaned or transferred or used for any purpose
17 other than to acquire permitted investments, pay
18 administrative expenses, and provide post-employment health
19 care benefits to or for retired employees and their
20 dependents. The Legislature shall have no authority or power
21 to appropriate the assets of the trusts.

22 "(d) During each fiscal year, distributions from a
23 trust to provide post-employment health care benefits to or
24 for retired employees and their dependents shall not exceed ~~10~~
25 20 percent of the fair market value of the assets of such
26 trust as of the last business day of the immediately preceding
27 fiscal year. No distribution from a trust to provide

1 post-employment health care benefits to or for retired
2 employees and their dependents shall be made during the first
3 fiscal year of the trust.

4 "(e) Notwithstanding the above, as long as such
5 amendment is consistent with the legislative intent of this
6 chapter, the trustees of the trusts shall have the authority
7 to amend or modify their respective trust: (1) if, in the
8 opinion of counsel for the trustees of the respective trust,
9 it is necessary or otherwise advisable to obtain any material
10 tax advantage or avoid any material adverse tax result; (2)
11 if, in the opinion of the independent accountant for the
12 trustees of the respective trust, it is necessary or otherwise
13 advisable to cause the trust to be considered another
14 post-employment benefits trust in accordance with generally
15 accepted governmental accounting principles, as prescribed by
16 the Governmental Accounting Standards Board or its successor;
17 or (3) if, in response to a petition of the respective
18 trustees of the trust requesting that the trust be amended, a
19 court of competent jurisdiction determines that such amendment
20 is necessary or otherwise advisable to accomplish one or more
21 purposes of this chapter.

22 "(f) The trusts may be terminated by the boards only
23 if all state plans or programs providing such post-employment
24 health care benefits for which the trust is established are
25 repealed or terminated and there is no future obligation of
26 the state to provide such post-employment health care
27 benefits. In such event, the then remaining assets of the

1 trust shall revert, in the case of the Alabama Retired State
2 Employees' Health Care Trust, to the State Treasury to and for
3 the credit of the State Employees' Insurance Board and, in the
4 case of the Alabama Retired Education Employees' Health Care
5 Trust, to the State Treasury to and for the credit of the
6 Public Education Employees' Health Insurance Board.

7 "(g) All assets and income of the trusts shall be
8 exempt from taxation by the state or any political subdivision
9 thereof. Distributions from the trusts will not be taxable
10 income to the retired employees or their dependents. The
11 assets of the trusts will not be subject to the claims of
12 creditors of the state, the boards, trustees, plan
13 administrators, employees, retired employees, or dependents,
14 and will not be subject to execution, attachment, garnishment,
15 the operation of bankruptcy, the insolvency laws, or other
16 process whatsoever, nor shall any assignment thereof be
17 enforceable in any court.

18 "(h) The trusts shall not be deemed to be invalid by
19 reason of any indefiniteness or uncertainty of the persons
20 designated as beneficiaries in the agreements creating the
21 trusts, nor shall they be deemed to be invalid as violating
22 any existing law against perpetuities or against suspension of
23 the power of alienation of title to property or against trusts
24 for the purpose of the accumulation of income; but each trust
25 may continue for such a time as may be necessary to accomplish
26 the purpose for which it was created.

1 "(i) The trustees shall cause the annual financial
2 statements of the trust to be prepared in accordance with
3 generally accepted accounting principles and an audit by a
4 qualified independent certified accounting firm to be
5 conducted of those financial statements of the respective
6 trust for each fiscal year in accordance with generally
7 accepted auditing standards."

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