

1 HB492  
2 167378-2  
3 By Representative Treadaway (N & P)  
4 RFD: Jefferson County Legislation  
5 First Read: 14-APR-15

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

ENROLLED, An Act,

Relating to the Board of Managers of the City of Birmingham Retirement and Relief System; to further amend Section 4 of Act 556, 1959 Regular Session (Acts 1959, p. 1376), as amended by Act 2013-438, 2013 Regular Session; to amend the investment powers of the board of managers to require not less than 25 percent of investments to be in fixed income securities and remove the requirement of not more than 60 percent of equity securities as the total investments of the fund.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 4 of Act 556, 1959 Regular Session (Acts 1959, p. 1376), as amended by Act 2013-438, 2013 Regular Session, is further amended to read as follows:

"Section 4. Board of Managers.

"(a) In order to assure representation of all participants of this system, there shall be a Board of Managers of five members for the administration, management, and control of the Supplemental Pension System, including administration, management, control, acquisition, and disbursement of the fund. The board shall consist of the president of the governing body of the city, who shall be chair of the board, and four associate members, designated

1       respectively as Member No. 1, Member No. 2, Member No. 3, and  
2       Member No. 4.

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

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

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

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

23 "The personnel director, of the Personnel Board of  
24 Jefferson County, Alabama, shall be the secretary of the board  
25 and shall be present at every meeting of the board, and keep a

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

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

1           "(b) (1) No money of the fund shall be invested, paid  
2 out, or disbursed except pursuant to order or authorization of  
3 the board. The board shall be the trustee, have entire  
4 management and control of the fund, and shall direct  
5 investment of monies of the fund not needed to meet  
6 disbursements provided for in this act and in the loans to  
7 members hereinafter referred to and shall be invested in the  
8 classes of bonds, mortgages, common and preferred stocks,  
9 shares of investment companies or mutual funds, real estate  
10 investment trusts, international equity, corporate fixed  
11 income, international fixed income, index funds, interest of  
12 private investment, private investment funds, or treasury  
13 bonds, notes, and bills of the United States, and agencies of  
14 the United States as the board may approve, derivative  
15 securities and investment recognized as alternative  
16 investments (excluding direct investments in real estate)  
17 subject to the limitations herein. The board may invest in  
18 fixed income securities and bonds of corporations organized  
19 under federal laws or under laws of any state of the United  
20 States or in bonds registered with the Security and Exchange  
21 Commission, mortgaged-backed securities or asset backed  
22 securities, or in securities issued by federal agencies and  
23 government sponsored entities, or may invest in Federal  
24 Savings and Loan Associations or in other corporations having  
25 Federal Savings and Loan Association's guarantee or in

1 certificates of deposit or bonds issued by banks organized  
2 under federal laws or under the laws of the State of Alabama  
3 and insured by the federal government. No funds may be  
4 invested in fixed income securities or common or preferred  
5 stocks and stocks of private corporations or other forms of  
6 equity or fixed investment unless such common or preferred  
7 stocks or other forms of equity or fixed investments are  
8 registered with the Securities and Exchange Commission or are  
9 traded through NASDAQ Stock Market or are Rule 144A securities  
10 or are traded on an organized exchange, ~~and the aggregate~~  
11 ~~value of the funds invested in such common or preferred stock~~  
12 ~~of corporations or other forms of equity securities last~~  
13 ~~referred to above shall not exceed 60 percent of the value of~~  
14 ~~all funds available in the system. The aggregate value of the~~  
15 ~~funds invested in common or preferred stocks, mutual funds or~~  
16 ~~other forms of equity securities, shall not exceed 60 percent~~  
17 ~~of total investments of the fund. The total investment in~~  
18 fixed income securities shall not be less than ~~forty~~  
19 twenty-five percent ~~(40%)~~ (25%) of the fair market value of  
20 all the funds available in the system for investment.  
21 Securities issued by any single non-guaranteed agency or  
22 entity may not constitute more than ten percent (10%) of the  
23 fixed income allocation of the fund at the time of purchase.  
24 The fair market value of all funds available in the system for  
25 investment is to be determined periodically, but not less than

1 annually. In exercising its discretion to invest, reinvest,  
2 and have invested and reinvested all funds of the system, the  
3 board shall act with the care, skill, prudence and diligence  
4 under the circumstances then prevailing that a prudent person  
5 acting in a like capacity and familiar with such matters would  
6 use in the conduct of an enterprise of a like character and  
7 with like aims.

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

1       deducted from the salary of the participant and would have  
2       paid into the fund of the General Retirement and Relief System  
3       had the participant continued to be employed by the city  
4       during the period specified had the participant retired under  
5       Section 8 of this act plus the amount which the city during  
6       the same period would have paid from the funds of the city  
7       into the General Retirement and Relief System to match the  
8       deductions had the participant continued to work until  
9       entitled to retire on a pension based upon 30 years' service."

10               Section 2. The provisions of this act are severable.  
11       If any part of this act is declared invalid or  
12       unconstitutional, that declaration shall not affect the part  
13       which remains.

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

