

1 HB17
2 172333-3
3 By Representative Hill (M)
4 RFD: State Government
5 First Read: 02-FEB-16
6 PFD: 01/14/2016

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8 SYNOPSIS: Under existing law, the State Personnel
9 Board has established a tax deferred compensation
10 plan for employees of the state or a municipality,
11 county, or other public entity electing to
12 participate in the plan.

13 This bill would authorize entities
14 participating in the plan to enroll employees in
15 the plan upon employment for a certain amount per
16 pay period with an option to opt out of the plan
17 within 90 days after enrollment.

18
19 A BILL
20 TO BE ENTITLED
21 AN ACT
22

23 To amend Section 36-26-14, Code of Alabama 1975, as
24 amended by Act 2015-83, providing for the establishment of a
25 tax deferred compensation plan by the State Personnel Board,
26 to authorize entities participating in the plan to enroll
27 employees in the plan for a certain amount per pay period with

1 provisions for the employee to opt out under certain
2 conditions.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 36-26-14, Code of Alabama 1975,
5 as amended by Act 2015-83, is amended to read as follows:

6 "§36-26-14.

7 "(a) The personnel board may adopt, establish, and
8 maintain a deferred compensation plan or plans, except under
9 Internal Revenue Code Section 403 (b), for the employees of
10 the State of Alabama or any city, town, county, or public
11 entity or corporation organized pursuant to the laws of this
12 state. Notwithstanding the foregoing, prior to the employees
13 of a county or political subdivision of the county
14 participating in a plan, the employing county or political
15 subdivision of the county shall approve participation in the
16 plan. The personnel board may include in any such plan any
17 provision that does not cause the plan to fail to qualify for
18 its tax-favored treatment under the United States Internal
19 Revenue Code, including, but not limited to, participant
20 loans, unforeseeable emergency or hardship distributions, Roth
21 deferrals, rollovers, transfers to purchase service credit,
22 and distributions to purchase a retired public safety
23 officer's health insurance.

24 "(b) The State of Alabama Personnel Board may adopt
25 and arrange for consolidated billing and efficient investment,
26 trustee, administrative, and professional services in order
27 that any such plans adopted shall operate without cost to or

1 contribution from the State of Alabama except for incidental
2 expenses associated with administering any such plan, the
3 payroll salary-reductions and the remittance thereof to the
4 trustee or custodian of the plan or plans.

5 "(c) Subject to subsection (h), Alabama state
6 employees, or the employees of any city, town, county, or
7 public entity or corporation organized pursuant to the laws of
8 this state may participate in these plans on a voluntary basis
9 by authorizing in writing to their employer a reduction in
10 their cash remuneration to be placed in the plan or plans.

11 "(d) The Finance Director, Comptroller, or other
12 appropriate official is hereby authorized and directed to
13 initiate payroll deductions for the plans as directed by each
14 employee.

15 "(e) Participants who are receiving monthly benefits
16 from the Employees' Retirement System of Alabama, the Judicial
17 Retirement Fund of Alabama, the Teachers' Retirement System of
18 Alabama, or any other public retirement plan may opt to have
19 the cost of their retiree health insurance deducted from their
20 deferred compensation distribution in accordance with the
21 guidelines of the United States Internal Revenue Service.

22 "(f) It is expressly provided that any benefits
23 under the provisions of this section shall be in addition to
24 any other benefits provided by law for any employees of the
25 State of Alabama, and this section is specifically made
26 supplemental to and shall be construed in pari materia with
27 the provisions of the employees' retirement law of Alabama.

1 "(g) Except as otherwise required under the Internal
2 Revenue Code, each such deferred compensation plan and its
3 trust shall be established and maintained for the exclusive
4 benefit, as defined by law of the plan's participants and
5 their beneficiaries, and all assets of any such plan shall be
6 held for the exclusive benefit of the plan's participants and
7 their beneficiaries. For the purposes and within the meaning
8 of Section 19-3B-102, each such plan is declared to be a trust
9 created by statute and is therefore required to be
10 administered in the manner of an express trust.

11 "(h) (1) After the effective date of the act adding
12 this subsection, the board, in the case of state employees, or
13 the employing entity for other employees, may require each
14 person who is employed or returns to employment after a break
15 in service who is eligible to participate in an established
16 plan provided for in subsection (a) to be automatically
17 enrolled in the plan as provided in this subsection.

18 "(2) An employee enrolled in the plan may opt out of
19 the plan and withdraw without any penalty his or her
20 contribution within 90 days after the date of the employee's
21 first contribution to the plan.

22 "(3) An employee enrolled in the plan pursuant to
23 this subsection shall contribute each pay period the amount of
24 ten dollars (\$10) of the employee's pre-tax includible
25 compensation to the employee's account in the same manner as
26 otherwise provided for the operation of the plan. An employee
27 automatically enrolled in the plan pursuant to this subsection

1 may change the employee's contribution as otherwise provided
2 for by the plan.

3 "(4) During the 90-day permissible withdrawal
4 period, the plan shall invest all contributions made by the
5 employee in an appropriate investment option with limited
6 exposure to market volatilities as determined by the plan or
7 as otherwise determined by the employee. Thereafter, an
8 employee enrolled in the plan may change his or her investment
9 options and invest funds in his or her account in the same
10 manner as other participants in the plan.

11 "(5) The board, in the case of a state employee, or
12 the employing entity for other employees, shall provide notice
13 in writing to an employee automatically enrolled in the plan.
14 The notice shall include information on the right of the
15 employee to opt out of the plan during the 90-day opt out
16 period and information on investment options under the plan.
17 Notwithstanding the foregoing, the failure to provide notice
18 pursuant to this subdivision shall create an additional
19 obligation or liability on the part of the state, the board,
20 or the plan administrators."

21 Section 2. This act shall become effective on the
22 first day of the third month following its passage and
23 approval by the Governor, or its otherwise becoming law.