

1 HB352  
2 216797-3  
3 By Representatives Meadows and Clouse  
4 RFD: Ways and Means General Fund  
5 First Read: 15-FEB-22



1           (1) BENEFICIARY. Any individual who receives a  
2 pension, annuity, a retirement allowance, or other benefit  
3 provided by Chapter 27 of Title 36, Code of Alabama 1975.

4           (2) BOARD OF CONTROL. The Board of Control of the  
5 State Employees' Retirement System established pursuant to  
6 Section 36-27-2, Code of Alabama 1975.

7           (3) FISCAL YEAR. The fiscal year of the state as may  
8 from time to time be provided by law.

9           (4) PERIODIC BONUS CHECKS. Periodic bonus checks  
10 granted by the State Employee Retirees' Trust Fund to retirees  
11 and beneficiaries of the State Employees' Retirement System.

12           (5) PERMITTED INVESTMENTS. All assets and properties  
13 in which the Retirement Systems of Alabama may invest as  
14 permitted by law.

15           (6) RETIRED EMPLOYEE. A former employee who is a  
16 participant in the State Employees' Retirement System pursuant  
17 to Chapter 27 of Title 36, Code of Alabama 1975, and who  
18 satisfies the definitions of retirement and employee as  
19 provided in Section 36-27-1, Code of Alabama 1975.

20           (7) TRUSTEE. A trustee serving on the Board of  
21 Control.

22           (8) TRUST FUND. The State Employee Retirees' Trust  
23 Fund created by this act.

24           Section 4. (a) There is created the State Employee  
25 Retirees' Trust Fund evidenced by a written trust instrument,  
26 the terms and conditions of which shall be determined by the  
27 Board of Control creating the trust fund.

1 (b) The trust shall be managed and controlled by its  
2 trustees. The trustees shall serve without compensation for  
3 their service as trustees, but may be reimbursed from the  
4 trust for all reasonable and necessary expenses that they  
5 incur in connection with their service as trustees.

6 Section 5. (a) A trustee may not be any of the  
7 following:

8 (1) Personally liable for any liability, loss, or  
9 expense suffered by the trust fund, unless the liability,  
10 loss, or expense arises out of, or results from, conduct  
11 described in Section 36-1-12, Code of Alabama 1975.

12 (2) Responsible for the adequacy of the trust fund  
13 to meet and discharge any obligation under the relevant  
14 pension plan.

15 (3) Required to take action to enforce the payment  
16 of any contribution or appropriation to the trust fund.

17 (b) A trustee is immune from suit to the same extent  
18 as the state, its agencies, officers, and employees.

19 (c) A trustee may be indemnified by the trust fund  
20 and from funds of the trust fund against costs, liabilities,  
21 losses, damages, and expenses including, but not limited to,  
22 attorney's fees, as may be more fully provided in a respective  
23 trust fund agreement, unless the cost, liability, loss,  
24 damage, or expense arises out of, or results from, the willful  
25 misconduct or intentional wrongdoing of the trustee.

26 Section 6. (a) The board of control, through the  
27 trustees, shall have all powers necessary for the management

1 and control of the trust fund and to carry out and effectuate  
2 the purposes of this act including, but not limited to, the  
3 following:

4 (1) To adopt, alter, and repeal rules for the  
5 operation and conduct of the affairs and business of the trust  
6 fund.

7 (2) To make, enter into, and execute contracts,  
8 agreements, and other instruments and to take other actions as  
9 necessary for the management and operation of the trust fund,  
10 to accomplish any purpose for which the trust fund was  
11 created, or to exercise any power granted by this act.

12 (3) To enter into contracts with, to accept aid and  
13 grants from, to cooperate with, and to do any and all things  
14 necessary to avail the trust fund of the aid and cooperation  
15 of the United States, the state, or any agency,  
16 instrumentality, or political subdivision of either, in  
17 furtherance of the purposes of this act.

18 (4) To appoint, employ, and contract with employees,  
19 agents, advisors, and consultants including, but not limited  
20 to, attorneys, accountants, actuaries, financial experts, and  
21 other advisors, consultants, and agents as determined  
22 necessary by the trustees and to establish any compensation to  
23 be paid from the funds of the trust fund.

24 (5) To invest the funds of the trust fund in any  
25 permitted investment.

26 (b) The expenses of making and disposing of  
27 investments, including brokerage commissions, legal expenses

1 referable to a particular transaction, transfer taxes, and  
2 other customary transactional expenses with respect to a trust  
3 shall be payable out of the funds of the trust fund.

4 Section 7. (a) (1) The sources of funding to the  
5 trust fund may consist of all of the following:

6 a. Investment income.

7 b. Proceeds of any gifts, grants, or contributions.

8 c. Revenue sources as directed by the Legislature.

9 d. Revenue sources other than direct appropriations  
10 by the Legislature.

11 (2) The sources of funding to the trust fund may not  
12 consist of ~~Education Trust~~ State General Fund revenue and  
13 those revenues are expressly prohibited from that use. The  
14 trust fund shall be funded from sources other than the  
15 ~~Education Trust~~ State General Fund.

16 (b) The agreements creating the trust fund shall be  
17 irrevocable and the assets of the trust fund may not be  
18 expended, disbursed, loaned, or transferred, or used for any  
19 purpose other than to acquire permitted investments, pay  
20 administrative expenses, and provide periodic bonus checks to  
21 or for retired employees and their beneficiaries. The  
22 Legislature may not appropriate the assets of the trust fund.

23 (c) Upon certification from the actuary of the State  
24 Employees' Retirement System that the assets of the trust fund  
25 are sufficient to fund periodic bonus checks as provided for  
26 by legislation granting the periodic bonus checks, the  
27 trustees shall transfer the amount of assets certified by the

1 board of control to the State Employees' Retirement System to  
2 fund those bonuses or increases.

3 (d) Notwithstanding subsection (c), the trustees may  
4 amend or modify the trust fund, consistent with the  
5 legislative intent of this act, in any of the following  
6 circumstances:

7 (1) If, in the opinion of counsel for the trustees,  
8 it is necessary or advisable to obtain any material tax  
9 advantage or avoid any material adverse tax result.

10 (2) If, in the opinion of an independent accountant  
11 for the trustees, it is necessary or advisable to cause the  
12 trust fund to be considered a post-employment benefits trust  
13 fund in accordance with generally accepted governmental  
14 accounting principles as prescribed by the Governmental  
15 Accounting Standards Board, or its successor.

16 (3) If, in response to a petition of the trustees  
17 requesting that the trust fund be amended, a court of  
18 competent jurisdiction determines that the amendment is  
19 necessary or advisable to accomplish the purposes of this act.

20 (e) All assets and income of the trust fund shall be  
21 exempt from taxation by the state or any political subdivision  
22 thereof. The assets of the trust fund are not subject to the  
23 claims of creditors of the state, the board of control,  
24 trustees, plan administrators, employees, retired employees,  
25 or beneficiaries, and are not subject to execution,  
26 attachment, garnishment, the operation of bankruptcy,

1 insolvency laws, or any other process whatsoever, and no  
2 assignment thereof shall be enforceable in any court.

3 (f) The trustees shall prepare the annual financial  
4 statements of the trust fund in accordance with generally  
5 accepted governmental accounting principles and shall provide  
6 for an audit of those financial statements for each fiscal  
7 year to be conducted by a qualified independent certified  
8 accounting firm in accordance with generally accepted auditing  
9 standards.

10 Section 8. (a) It is the intent of the Legislature  
11 that the State Employees' Retirement System invest the funds  
12 of the trust fund and the trustees operate the trust fund in  
13 compliance with the Internal Revenue Code in a manner that  
14 could allow the trust fund to maximize investment earnings  
15 while minimizing the costs to the trust fund. It is also the  
16 intent of the Legislature that the trust fund be operated in a  
17 manner that satisfies the definition of other post-employment  
18 benefits trusts under generally accepted governmental  
19 accounting principles.

20 (b) The trust fund is not subject to any law which  
21 conflicts with the intent of the Legislature as expressed in  
22 subsection (a) or prevents or unreasonably hinders the  
23 accomplishment of the purposes of this act.

24 Section 9. Nothing in this act shall be construed to  
25 define or otherwise grant any right or privilege to periodic  
26 bonus checks or other pension benefits to any person other  
27 than those periodic bonus checks, rights, and privileges



1 previously or already granted to employees and retired  
2 employees and their beneficiaries by the State Employees'  
3 Retirement System pension plan. The rights and privileges, if  
4 any, shall be governed by the terms of the pension plan, if  
5 any. This act is not intended to assure or deny any existing  
6 or future employee or retired employee, or any of their  
7 beneficiaries or any other person of any right of employment  
8 or entitlement to any periodic bonus check or to otherwise  
9 restrict the ability of the state to modify or eliminate any  
10 existing or future increase benefit.

11 Section 10. All personnel employed and vendors hired  
12 by contract with funds available to the trust fund and  
13 trustees under subdivision (b)(4) of Section 36-36-5, Code of  
14 Alabama 1975, shall reflect the racial and ethnic diversity of  
15 the state.

16 Section 11. This act shall become effective on the  
17 first day of the third month following its passage and  
18 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Ways and Means  
General Fund..... 15-FEB-22

Read for the second time and placed  
on the calendar 1 amendment ..... 02-MAR-22

Read for the third time and passed  
as amended..... 15-MAR-22

Yeas 100, Nays 0, Abstains 0

Jeff Woodard  
Clerk