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SYNOPSIS:

Under existing law, the Education Retirees' Trust Fund and State Employee Retirees' Trust Fund were created to provide periodic bonuses to the respective retirees subject to the availability of funds in the trust funds. The Legislature may not make direct appropriations into the trust funds, and certain revenue sources are restricted from being used to fund the trust funds.

This bill would allow the Legislature to provide retiree benefits and to make direct appropriations into the trust funds from any available revenue source.

Also under existing law, there is no formal procedure for funding an increase in the pension benefits earned by state and local government employees who have retired under the Retirement Systems of Alabama.

This bill would establish a procedure for the funding of benefit increases provided to retirees under the Employees' Retirement System and the Teachers' Retirement System by requiring the actual annual cost to be identified and provided for in the annual State General Fund appropriation act and the Education Trust Fund appropriation act.

This bill would provide that, in the event the



29 annual amounts are not identified and appropriated or
30 provided for, there will be no increased benefit
31 provided for that fiscal year, and that this procedure
32 shall be considered a one-year benefit increase that
33 does not affect the unfunded liability of the
34 Retirement Systems of Alabama because the benefit
35 increase will only be paid if the actual annual cost is
36 included in the annual appropriation acts.

37 This bill would also provide for legislative
38 findings.

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40

41

A BILL

42

TO BE ENTITLED

43

AN ACT

44

45 Related to retirement; to amend Sections 16-25D-7 and
46 36-27E-7, Code of Alabama 1975, to allow the Legislature to
47 provide retiree benefits and make direct appropriations into
48 the Education Retirees' Trust Fund and the State Employee
49 Retirees' Trust Fund from any available revenue sources; to
50 provide for an annualized benefit increase procedure for the
51 funding of future benefit increases to retirees of the State
52 Employees' Retirement System and the Teachers' Retirement
53 System in a manner that does not increase the unfunded
54 liability of either system; and to provide for legislative
55 findings.

56 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:



57 Section 1. Sections 16-25D-7 and 36-27E-7, Code of
58 Alabama 1975, are amended to read as follows:

59 "§16-25D-7

60 (a) ~~(1)~~ The sources of funding to the trust fund may
61 consist of all of the following:

62 ~~a.~~ (1) Investment income.

63 ~~b.~~ (2) Proceeds of any gifts, grants, or contributions.

64 ~~c.~~ (3) Revenue sources as directed by the Legislature.

65 ~~d. Revenue sources other than direct~~ (4) Direct

66 appropriations by the Legislature.

67 ~~(2) The sources of funding to the trust fund may not~~
68 ~~consist of Education Trust Fund revenue and those revenues are~~
69 ~~expressly prohibited from that use. The trust fund shall be~~
70 ~~funded from sources other than the Education Trust Fund.~~

71 (b) The agreements creating the trust fund shall be
72 irrevocable and the assets of the trust fund may not be
73 expended, disbursed, loaned, or transferred, or used for any
74 purpose other than to acquire permitted investments, pay
75 administrative expenses, and provide ~~periodic bonus checks~~
76 retiree benefits to or for retired employees and their
77 beneficiaries. The Legislature may not appropriate the assets
78 of the trust fund.

79 (c) Upon certification from the actuary of the
80 Teachers' Retirement System that the assets of the trust fund
81 are above and beyond the minimum trust fund balance of one
82 hundred million dollars (\$100,000,000) and sufficient to fund
83 ~~periodic bonus checks~~ retiree benefits as provided for by
84 legislation granting the ~~periodic bonus checks~~ retiree



85 benefits, the trustees shall transfer the amount of assets
86 certified by the board of control to the Teachers' Retirement
87 System to fund those ~~bonuses~~ benefits or increases.

88 (d) Notwithstanding subsection (c), the trustees may
89 amend or modify the trust fund, consistent with the
90 legislative intent of this chapter, in any of the following
91 circumstances:

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

95 (2) If, in the opinion of an independent accountant for
96 the trustees, it is necessary or advisable to cause the trust
97 fund to be considered a post-employment benefits trust fund in
98 accordance with generally accepted governmental accounting
99 principles as prescribed by the Governmental Accounting
100 Standards Board, or its successor.

101 (3) If, in response to a petition of the trustees
102 requesting that the trust fund be amended, a court of
103 competent jurisdiction determines that the amendment is
104 necessary or advisable to accomplish the purposes of this
105 chapter.

106 (e) All assets and income of the trust fund shall be
107 exempt from taxation by the state or any political subdivision
108 thereof. The assets of the trust fund are not subject to the
109 claims of creditors of the state, the board of control,
110 trustees, plan administrators, employees, retired employees,
111 or beneficiaries, and are not subject to execution,
112 attachment, garnishment, the operation of bankruptcy,



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

115 (f) The trustees shall prepare the annual financial
116 statements of the trust fund in accordance with generally
117 accepted governmental accounting principles and shall provide
118 for an audit of those financial statements for each fiscal
119 year to be conducted by a qualified independent certified
120 accounting firm in accordance with generally accepted auditing
121 standards."

122 "§36-27E-7

123 (a) ~~(1)~~ The sources of funding to the trust fund may
124 consist of all of the following:

125 ~~a.~~ (1) Investment income.

126 ~~b.~~ (2) Proceeds of any gifts, grants, or contributions.

127 ~~c.~~ (3) Revenue sources as directed by the Legislature.

128 ~~d. Revenue sources other than direct~~ (4) Direct

129 appropriations by the Legislature.

130 ~~(2) The sources of funding to the trust fund may not~~
131 ~~consist of State General Fund revenue, and those revenues are~~
132 ~~expressly prohibited from that use. The trust fund shall be~~
133 ~~funded from sources other than the State General Fund.~~

134 (b) The agreements creating the trust fund shall be
135 irrevocable, and the assets of the trust fund may not be
136 expended, disbursed, loaned, or transferred, or used for any
137 purpose other than to acquire permitted investments, pay
138 administrative expenses, and provide ~~periodic bonus checks~~
139 retiree benefits to or for retired employees and their
140 beneficiaries. The Legislature may not appropriate the assets



141 of the trust fund.

142 (c) Upon certification from the actuary of the State
143 Employees' Retirement System that the assets of the trust fund
144 are sufficient to fund ~~periodic bonus checks~~ retiree benefits
145 as provided for by legislation granting the ~~periodic bonus~~
146 ~~checks~~ retiree benefits, the trustees shall transfer the
147 amount of assets certified by the board of control to the
148 State Employees' Retirement System to fund those ~~bonuses~~
149 benefits or increases.

150 (d) Notwithstanding subsection (c), the trustees may
151 amend or modify the trust fund, consistent with the
152 legislative intent of this chapter, in any of the following
153 circumstances:

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

157 (2) If, in the opinion of an independent accountant for
158 the trustees, it is necessary or advisable to cause the trust
159 fund to be considered a post-employment benefits trust fund in
160 accordance with generally accepted governmental accounting
161 principles as prescribed by the Governmental Accounting
162 Standards Board, or its successor.

163 (3) If, in response to a petition of the trustees
164 requesting that the trust fund be amended, a court of
165 competent jurisdiction determines that the amendment is
166 necessary or advisable to accomplish the purposes of this
167 chapter.

168 (e) All assets and income of the trust fund shall be



169 exempt from taxation by the state or any political subdivision
170 thereof. The assets of the trust fund are not subject to the
171 claims of creditors of the state, the board of control,
172 trustees, plan administrators, employees, retired employees,
173 or beneficiaries, and are not subject to execution,
174 attachment, garnishment, the operation of bankruptcy,
175 insolvency laws, or any other process whatsoever, and no
176 assignment thereof shall be enforceable in any court.

177 (f) The trustees shall prepare the annual financial
178 statements of the trust fund in accordance with generally
179 accepted governmental accounting principles and shall provide
180 for an audit of those financial statements for each fiscal
181 year to be conducted by a qualified independent certified
182 accounting firm in accordance with generally accepted auditing
183 standards."

184 Section 2. (a) (1) Commencing in the fiscal year
185 beginning October 1, 2024, no benefit increase provided to
186 retirees and beneficiaries under the Employees' Retirement
187 System shall be paid unless the increase is granted by a
188 separate legislative act conforming to the requirements of
189 this subsection. The separate legislative act shall set the
190 amount of the increase and the class of eligible retirees and
191 beneficiaries. Retirees and beneficiaries whose employers
192 participate pursuant to Sections 36-27-6, 36-27-7, and
193 36-27-7.1, Code of Alabama 1975, may receive the increase only
194 if the employers elect to come under the separate legislative
195 act by official resolution. Any other benefit increases may be
196 granted by an additional separate legislative act.



197 (2) The Employees' Retirement System shall pay the
198 benefit increase to the eligible retirees and beneficiaries,
199 except those whose employer participates in the Employees'
200 Retirement System pursuant to Sections 36-27-6, 36-27-7, and
201 36-27-7.1, Code of Alabama 1975, only if the annual cost of
202 the increase as estimated by the actuary of the system is
203 included and appropriated in the State General Fund
204 appropriation act for that fiscal year by a separate employer
205 rate. Participating employers, except those whose employer
206 participates in the Employees' Retirement System pursuant to
207 Sections 36-27-6, 36-27-7, and 36-27-7.1, Code of Alabama
208 1975, shall pay the separate employer rate to pay the benefit
209 increase included in the State General Fund appropriation act
210 in the same manner and from the same source of funds as
211 salaries of active members are paid. In any fiscal year in
212 which the required separate employer rate is not identified
213 and appropriated in the appropriation act, eligible retirees
214 and beneficiaries shall not receive, and the Employees'
215 Retirement System shall not be required to pay, the increase
216 in that fiscal year. The benefit increase may be resumed in
217 any subsequent fiscal year if included in that year's
218 appropriation act.

219 (3) The Employees' Retirement System shall pay the
220 benefit increase to the eligible retirees and beneficiaries
221 whose employer participates in the Employees' Retirement
222 System pursuant to Sections 36-27-6, 36-27-7, and 36-27-7.1,
223 Code of Alabama 1975, and elected to come under the separate
224 legislative act by official resolution, only if the annual



225 cost of the increase as estimated by the actuary of the system
226 is paid by a separate employer rate to the Employees'
227 Retirement System in the same manner and from the same source
228 of funds as salaries of active members are paid. In any fiscal
229 year in which the cost is not paid by separate employer rate,
230 eligible retirees and beneficiaries shall not receive, and the
231 Employees' Retirement System shall not be required to pay, the
232 increase in that fiscal year. The benefit increase may be
233 resumed in any subsequent fiscal year in which the cost is
234 paid by separate employer rate.

235 (b) Commencing in the fiscal year that beginning
236 October 1, 2024, no benefit increase provided to retirees and
237 beneficiaries under the Teachers' Retirement System shall be
238 paid unless the increase is granted by separate legislative
239 act conforming to this subsection. The separate legislative
240 act shall set the amount of the increase and the class of
241 eligible retirees and beneficiaries. Any other benefit
242 increases shall be granted by an additional separate
243 legislative act. The Teachers' Retirement System shall pay the
244 benefit increase to the eligible retirees and beneficiaries
245 only if the annual cost of the increase as estimated by the
246 actuary of the system is included and appropriated in the
247 Education Trust Fund appropriation act for that fiscal year by
248 a separate employer rate. Participating employers shall pay
249 the separate employer rate to pay the benefit increase
250 included in the Education Trust Fund appropriation act in the
251 same manner and from the same source of funds as salaries of
252 active members are paid. In any fiscal year in which the



253 required separate employer rate is not identified and
254 appropriated in the appropriation act, eligible retirees and
255 beneficiaries shall not receive and the Teachers' Retirement
256 System shall not be required to pay the increase in that
257 fiscal year. The benefit increase may be resumed in any
258 subsequent fiscal year if included in that year's
259 appropriation act.

260 (c) (1) The Legislature finds and declares that any
261 benefit increase provided for the retirees and beneficiaries
262 of the Employees' Retirement System and the Teachers'
263 Retirement System pursuant to this section shall not increase
264 the unfunded liability of those retirement systems due to the
265 annual authorization and full annual funding required by this
266 section.

267 (2) Any accounting standards that may imply otherwise
268 and that do not recognize the clear language of this section,
269 declaring that no future liability shall be attributed to the
270 Retirement Systems of Alabama pursuant to this section, shall
271 be disregarded and any audits conducted of the finances of the
272 Retirement Systems of Alabama shall clearly note that those
273 accounting standards do not apply to a benefit increase
274 granted under this section.

275 (d) This section is not applicable to and shall not
276 affect any previous cost-of-living increase or one-time bonus
277 provided to retirees under acts previously passed by the
278 Legislature.

279 Section 3. This act shall become effective immediately.