

1 HB396
2 156295-2
3 By Representative Treadaway (N & P)
4 RFD: Jefferson County Legislation
5 First Read: 04-FEB-14

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2 ENROLLED, An Act,

3 Relating to the Board of Managers of the City of
4 Birmingham Retirement and Relief System, to amend Section 9 of
5 Article III of Act 929, 1951 Regular Session (Acts 1951, p.
6 1579), as amended and restated in Act 2006-339, 2006 Regular
7 Session (Acts 2006, p. 851), and further amended by Act
8 2011-585, 2011 Regular Session (Acts 2011, p. 1289); to
9 provide that the investment powers of the board may not be
10 less than 25 percent of investments in fixed income
11 securities.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Section 9 of Article III of Act 929, 1951
14 Regular Session (Acts 1951, p. 1579), as amended and restated
15 in Act 2006-339, 2006 Regular Session (Acts 2006, p. 851), and
16 further amended by Act 2011-585, 2011 Regular Session (Acts
17 2011, p. 1289), is amended to read as follows:

18 "Section 9.

19 "(a) In each instance in which any provision of this
20 Section 9 requires a determination of the value of a security,
21 or securities, in the fund, the fair market value of such
22 security or securities as determined by pricing sources
23 acceptable to the custodian, shall be deemed to be the value
24 thereof.

1 "(b) The fund shall include all assets of the fund
2 in any form, and the city director of finance shall be, ex
3 officio, the custodian of the fund. The custodian shall keep a
4 separate account of the fund and of all assets and liabilities
5 thereof and of all receipts and disbursements thereof and of
6 all prior service time and paid membership time of employee
7 members. The custodian shall keep all monies of the fund in a
8 separate bank account. The custodian shall keep in force and
9 effect a bond in a penal amount equal to the total amount of
10 monies and securities in such custodian's custody or
11 possession, but in no event in excess of fifty thousand
12 dollars (\$50,000), payable to the board and conditioned for
13 faithful performance of such custodian's duties and for
14 faithful accounting to the board for all monies, securities
15 and property coming into his/her control, custody or
16 possession as such custodian. Such bond shall be executed by a
17 surety company authorized to do business in the State of
18 Alabama, and the premium on such bond, and all necessary
19 expenses of the board, shall be paid out of the fund upon
20 order of the board. All bonds and securities acquired for the
21 fund shall be registered by the custodian, or his/her
22 designated representative, in the name of the system promptly
23 upon acquisition and shall remain so registered until sold or
24 otherwise disposed of by authority of the Board. The board
25 shall select a financial institution as sub-custodian of

1 securities, with authority to collect and remit to the
2 custodian dividends, principal and interest of securities
3 entrusted to its custody as the same may mature, and pay it
4 such reasonable fees or compensation for its services as the
5 Board may deem proper, and the board may, if it sees fit,
6 waive any bond otherwise required of such institution as
7 sub-custodian so long as the net worth of the sub-custodian
8 exceeds one and one-half times the total value of the
9 securities entrusted to its custody. Securities in the custody
10 of such sub-custodian shall not be counted as in the custody
11 of the custodian for the purpose of computing the amount of
12 the custodian's bond. The board is authorized to accept and
13 receive gifts, donations, or legacies for the fund, and to
14 administer same as may be directed by the board. No member or
15 employee of the board of managers shall, directly or
16 indirectly, for himself or herself or as an agent in any
17 manner use the fund, except to make current and necessary
18 payments authorized by the board, nor shall any member or
19 employee of the board of managers become an endorser or surety
20 or in any manner an obligor for moneys loaned to or borrowed
21 from the board. In the adjudication of claims against the
22 fund, the records of the city director of finance and
23 sub-custodian made and kept for the purpose of this act shall
24 be deemed prima facie, to speak the truth.

1 "(c) The board of managers shall have the sole and
2 absolute discretion, if the board deems it advisable to
3 invest, reinvest and have invested and reinvested all funds of
4 the system, real and personal, in the classes of bonds,
5 mortgages, common and preferred stocks, shares of investment
6 companies or mutual funds, real estate investment trusts,
7 international equity (~~American Depository Receipts~~), corporate
8 fixed income, international fixed income, index funds, and
9 derivative securities, and investments recognized as
10 alternative investments or other investments as the board of
11 managers may approve, subject to the limitations herein
12 provided. No money ~~or~~ of the fund shall be invested, paid out
13 or disbursed except pursuant to order or authorization of the
14 board given prior, at the time or subsequent to same. The
15 board shall be trustee, and have entire management and control
16 of the fund, and shall direct or subsequently approve
17 investment of monies of the fund not needed to meet
18 disbursements provided for in this Act, in the loans to
19 members hereinabove referred to, in bills, notes and bonds of
20 the United States Government, or general obligation bonds of
21 the State of Alabama, or in common or preferred stock of
22 corporations or in bonds registered with the Security and
23 Exchange Commission, mortgaged-back securities, or
24 asset-backed securities, or in securities issued by federal
25 agencies and government sponsored entities, or may invest in

1 Federal Saving and Loan Associations or in other corporations
2 having Federal Savings and Loan Association's guarantee or in
3 certificates of deposit or bonds issued by banks organized
4 under Federal laws or under laws of the State of Alabama and
5 insured by the federal government or in such other assets as
6 the board may prudently approve, with due regard to their
7 suitability and creditworthiness; provided however, that no
8 funds shall be invested in common or preferred stocks of
9 corporations unless such common or preferred stocks are listed
10 upon Exchanges registered with and subject to the jurisdiction
11 of the United States Securities and Exchange Commission or are
12 traded through NASDAQ Stock Market or are Rule 144A
13 securities, or are traded on an organized exchange, and that
14 the total investment in fixed income securities shall not be
15 less ~~then thirty-five percent (35%)~~ than 25 percent of the
16 fair market value of all the funds available in the system for
17 investment. Securities issued by any single non-guaranteed
18 agency or entity may not constitute more than ten percent
19 (10%) of the fixed income allocation of the fund at the time
20 of purchase. The fair market value of all of the funds
21 available in the system for investment is to be determined
22 periodically, but not less than annually. In exercising its
23 discretion to invest, reinvest, and have invested and
24 reinvested all funds of the system, the board shall act with
25 the care, skill, prudence and diligence under the

1 circumstances then prevailing that a prudent person acting in
2 a like capacity and familiar with such matters would use in
3 the conduct of an enterprise of a like character and with like
4 aims."

5 Section 2. The provisions of this act are severable.
6 If any part of this act is declared invalid or
7 unconstitutional, that declaration shall not affect the part
8 which remains.

9 Section 3. This act shall become effective
10 immediately following its passage and approval by the
11 Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 11-MAR-14.

Jeff Woodard
Clerk

Senate	<hr/> 01-APR-14 <hr/>	Amended and Passed
House	<hr/> 01-APR-14 <hr/>	Concurred in Sen- ate Amendment