

1 HB521
2 128621-2
3 By Representative Treadaway (N & P)
4 RFD: Jefferson County Legislation
5 First Read: 14-APR-11

1
2 ENROLLED, An Act,

3 Relating to The Board of Managers of the City of
4 Birmingham Retirement and Relief System, as created by Act
5 929, 1951 Regular Session and amended and restated in Act 339,
6 2006 Regular Session, to amend the City of Birmingham
7 Retirement and Relief System to comply with applicable
8 mandatory provisions of the Internal Revenue Code of 1986, as
9 amended (the "Code") and the regulations promulgated
10 thereunder, and to amend the investment powers to expand the
11 power of the Board to make investments to include alternative
12 investments, removing the requirement of not less than fifty
13 percent (50%) of fixed income be invested in bills, notes and
14 bonds of the United States government, removing the
15 restriction requiring international equity investments be
16 American Depository Receipts and removing the requirement
17 bonds be rated investment grade by at least one nationally
18 recognized credit rating agency.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. The Board of Managers of the City of
21 Birmingham Retirement and Relief System, as created by Act
22 929, 1951 Regular Session and amended and restated in Act 339,
23 2006 Regular Session, hereby amends Section 1 of Article II
24 thereof, which defines "Final Average Salary", to apply Code

1 Section 401(a) (17) limit on includible compensation, as follows:

2 "Final Average Salary." The sum of the three (3)
3 years of highest compensation, exclusive of overtime or other
4 forms of extra compensation but including longevity pay, in
5 the ten (10) years immediately preceding retirement after the
6 effective date of this plan, divided by thirty-six (36)
7 months. Effective July 1, 1996, compensation in excess of
8 \$150,000 (or such other amount provided in the Code) shall be
9 disregarded. Such amount shall be adjusted for increases in
10 the cost of living in accordance with Code Section
11 401(a) (17) (B), except that the dollar increase in effect on
12 January 1 of any calendar year shall be effective for the
13 Fiscal Years beginning with or within such calendar year.
14 Effective July 1, 2002, compensation in excess of \$160,000
15 shall be disregarded. Such amount shall be automatically
16 adjusted for increases in the cost of living in accordance
17 with Code Section 415(d), except that the dollar increase in
18 effect on January 1 of any calendar year shall be effective
19 for the Fiscal Years beginning with or within such calendar
20 year. If compensation for any prior determination period is
21 taken into account in determining a participant's benefits for
22 the current Fiscal Year, the compensation for such prior
23 determination period is subject to the applicable annual
24 compensation limit in effect for that prior period.

1 Section 2. The Board of Managers of the City of
2 Birmingham Retirement and Relief System, as created by Act
3 929, 1951 Regular Session and amended and restated in Act 339,
4 2006 Regular Session, hereby amends Section 1 of Article V
5 thereof, to satisfy funding requirements mandated under the
6 Pension Protection Act, as follows:

7 "(a) Each participant shall contribute to the cost
8 of the system, and the city shall deduct from said
9 participant's pay, an amount equal to not less than six
10 percent (6%) nor more than seven percent (7%) of actual
11 monthly salary, or an amount necessary to satisfy the funding
12 obligations of the system unless, in lieu of an increase in
13 contributions, future accrued benefits hereunder are reduced
14 such that the contributions satisfy the funding obligations of
15 the system as determined in accordance with Governmental
16 Accounting Standards Board Statements Numbers 25 and 27, said
17 amount to be immediately paid into the fund, said percentage
18 to be determined by an actuary of the board, annually, in
19 order that the plan shall remain solvent and insure payments
20 of accrued and future benefits."

21 Section 3. The Board of Managers of the City of
22 Birmingham Retirement and Relief System, as created by Act
23 929, 1951 Regular Session and amended and restated in Act 339,
24 2006 Regular Session, hereby amends Section 2 of Article VI

1 thereof, to apply Code Section 415 limits on benefits, as
2 follows:

3 "Section 2. Minimum and Maximum Normal Retirement
4 Benefit. The minimum retirement benefit payable under the
5 preceding Section 1 shall be Four Hundred Dollars (\$400.00)
6 per month. The maximum normal retirement benefit payable under
7 the preceding Section 1 shall be seventy-five percent (75%) of
8 final average salary, exclusive of sick leave bonus.

9 Notwithstanding the foregoing and to the extent applicable to
10 "governmental plans" as such are defined in Code Section
11 414(d), in no event may the normal retirement benefit exceed
12 the annual dollar limits imposed by Code Section 415(b),
13 excluding contributions under Code Section 414(h) (2). Further,
14 no "Post Severance Compensation" shall be included for any
15 benefit hereunder. "Post Severance Compensation" means amounts
16 paid by the later of: (1) 2-1/2 months after an employee's
17 severance from employment with the Employer or (2) the end of
18 the limitation year that includes the date of severance from
19 employment with the Employer; and those amounts would have
20 been included in the definition of compensation if they were
21 paid prior to the employee's severance from employment.

22 However the payment must be for (a) unused accrued bona fide
23 sick, vacation, or other leave, but only if the employee would
24 have been able to use the leave if the employee had continued
25 in employment; or (b) received by an employee pursuant to a

1 nonqualified unfunded deferred compensation plan, but only if
2 the payment would have been paid to the employee at the same
3 time if the employee had continued in employment with the
4 Employer and only to the extent that the payment is includible
5 in the employee's gross income. Notwithstanding the foregoing,
6 in all events no benefit payments shall exceed limits imposed
7 on governmental plans by applicable law."

8 Section 4. The Board of Managers of the City of
9 Birmingham Retirement and Relief System, as created by Act
10 929, 1951 Regular Session and amended and restated in Act 339,
11 2006 Regular Session, hereby adds new Subsection (d) to
12 Section 3 of Article VI thereof, to apply Code Section 401(a)
13 requirements that prohibit the use of forfeitures for any
14 purpose other than reduction of future contributions or costs,
15 as follows:

16 "(d) That portion of a terminated participant's
17 benefit that is forfeited shall be used only to reduce future
18 costs of the system at such time as it becomes a forfeiture."

19 Section 5. The Board of Managers of the City of
20 Birmingham Retirement and Relief System, as created by Act
21 929, 1951 Regular Session and amended and restated in Act 339,
22 2006 Regular Session, hereby adds new Section 30 to Article VI
23 thereof, to comply with Code Section 401(a)(9) rules on
24 required minimum distributions to participants over age 70
25 1/2, as follows:

1 "Section 30. Required Minimum Distributions.

2 (a) Notwithstanding any provision in the Act to the
 3 contrary, the distribution of a participant's benefits shall
 4 be made in accordance with the following requirements and
 5 shall otherwise comply with Code Section 401(a) (9) and the
 6 Regulations thereunder (including Regulation 1.401(a) (9) (2),
 7 the provisions of which are incorporated herein by reference:

8 (i) A participant's benefits shall be distributed or
 9 must begin to be distributed not later than April 1st of the
 10 calendar year following the later of (A) the calendar year in
 11 which the participant attains age 70 1/2 or (B) the calendar
 12 year in which the participant retires. Such distributions
 13 shall be equal to or greater than any required distribution.

14 Alternatively, if the distribution is to be in the
 15 form of a joint and survivor annuity or single life annuity,
 16 then distributions must begin no later than the applicable
 17 April 1st as determined under the preceding paragraph and must
 18 be made over the life of the participant (or the lives of the
 19 participant and the participant's designated Beneficiary) in
 20 accordance with Regulations.

21 (ii) Distributions to a participant and the
 22 participant's Beneficiaries shall only be made in accordance
 23 with the incidental death benefit requirements of Code Section
 24 401(a) (9) (G) and the Regulations thereunder.

1 (b) For purposes of this section, the life
2 expectancy of a participant and a participant's spouse (other
3 than in the case of a life annuity) may, at the election of
4 the participant or the participant's spouse, be redetermined
5 in accordance with Regulations. The election, once made, shall
6 be irrevocable. If no election is made by the time
7 distributions must commence, then the life expectancy of the
8 participant and the participant's spouse shall not be subject
9 to recalculation. Life expectancy and joint and last survivor
10 expectancy shall be computed using the return multiples in
11 Tables V and VI of Regulation 1.72 9."

12 Section 6. The Board of Managers of the City of
13 Birmingham Retirement and Relief System, as created by Act
14 929, 1951 Regular Session and amended and restated in Act 339,
15 2006 Regular Session, hereby adds new Section 31 to Article VI
16 thereof, to comply with Code Section 401(a)(31) rules
17 permitting direct rollovers of lump sum distributions, as
18 follows:

19 "Section 31. Direct Rollovers.

20 (a) Notwithstanding any provision of the Act to the
21 contrary that would otherwise limit a 'distributee's' election
22 under this Section, a 'distributee' may elect, at the time and
23 in the manner prescribed by the Board, to have any portion of
24 an "eligible rollover distribution" that is equal to at least

1 \$500 paid directly to an 'eligible retirement plan' specified
2 by the 'distributee' in a 'direct rollover.'

3 (b) For purposes of this Section 31 the following
4 definitions shall apply:

5 (i) An 'eligible rollover distribution' is any
6 distribution of all or any portion of the balance to the
7 credit of the 'distributee,' except that an 'eligible rollover
8 distribution' does not include: any distribution that is one
9 of a series of substantially equal periodic payments (not less
10 frequently than annually) made for the life (or life
11 expectancy) of the 'distributee' or the joint lives (or joint
12 life expectancies) of the 'distributee' and the
13 'distributee's' designated beneficiary, or for a specified
14 period of ten years or more; any distribution to the extent
15 such distribution is required under Code Section 401(a)(9);
16 the portion of any other distribution that is not includible
17 in gross income (determined without regard to the exclusion
18 for net unrealized appreciation with respect to employer
19 securities); any hardship distribution described in Code
20 Section 401(k)(2)(B)(i)(IV); and any other distribution that
21 is reasonably expected to total less than \$200 during a year.

22 (ii) An 'eligible retirement plan' is an individual
23 retirement account described in Code Section 408(a), an
24 individual retirement annuity described in Code Section
25 408(b), an annuity plan described in Code Section 403(a), a

1 Roth IRA described in Code Section 408A(b), or a qualified
2 trust described in Code Section 401(a), that accepts the
3 'distributee's' 'eligible rollover distribution.'

4 (iii) A 'distributee' includes an Employee or former
5 Employee. In addition, the employee's or former Employee's
6 surviving spouse and the Employee's or former Employee's
7 spouse or former spouse who is the alternate payee under a
8 qualified domestic relations order, as defined in Code Section
9 414(p), are 'distributees' with regard to the interest of the
10 spouse or former spouse.

11 (iv) A 'direct rollover' is a payment by the Plan to
12 the 'eligible retirement plan' specified by the distributee.

13 (v) For distributions after December 31, 2009, a
14 non-spouse beneficiary who is a 'designated beneficiary' under
15 Code Section 401(a) (9) (E) and the Regulations thereunder, by a
16 direct trustee-to-trustee transfer ('direct rollover'), may
17 roll over all or any portion of his or her distribution to an
18 Individual Retirement Account (IRA) the beneficiary
19 establishes for purposes of receiving the distribution. In
20 order to be able to roll over the distribution, the
21 distribution otherwise must satisfy the definition of an
22 'eligible rollover distribution' under Code Section
23 401(a) (31)."

24 Section 7. The Board of Managers of the City of
25 Birmingham Retirement and Relief System, as created by Act

1 929, 1951 Regular Session and amended and restated in Act 339,
2 2006 Regular Session, hereby adds new Section 32 of Article VI
3 thereof, to comply with mandatory provisions of the Pension
4 Protection Act of 2006, and the Heroes Earnings Assistance and
5 Relief Tax Act of 2008 (HEART Act) as follows:

6 "Section 32. Heroes Earnings Assistance and Relief
7 Tax Act of 2008 (HEART Act) Provisions.

8 In the case of a death or disability occurring on or
9 after January 1, 2007, if a Participant dies while performing
10 qualified military service (as defined in Code Section
11 414(u)), the survivors of the Employee are entitled to any
12 additional benefits (other than benefit accruals relating to
13 the period of qualified military service) provided under the
14 Plan as if the Participant had resumed and then terminated
15 employment on account of death."

16 Section 8. The Board of Managers of the City of
17 Birmingham Retirement and Relief System, as created by Act
18 929, 1951 Regular Session and amended and restated in Act 339,
19 2006 Regular Session, hereby adds new Section 33 to Article VI
20 thereof, to comply with applicable provisions of the Pension
21 Funding Equity Act of 2004, as follows:

22 "Section 33. Pension Funding Equity Act of 2004
23 ("PFEA"). Solely for purposes of calculating DROP benefits and
24 for converting lump sum amounts for compliance with Code
25 Section 415, if the system provides a benefit in a form that

1 is subject to the minimum present value requirements of Code
2 section 417(e) (3) in a Fiscal Year beginning in 2004 or 2005,
3 the actuarially equivalent straight life annuity that is used
4 for demonstrating compliance with Code section 415 shall be
5 the greater of: (i) the straight life annuity determined using
6 the Plan rate and Plan mortality table and (ii) the straight
7 life annuity determined using 5.5% and the applicable
8 mortality table. A benefit is subject to the minimum present
9 value requirements of Code section 417(e) (3) if it is any
10 benefit other than a nondecreasing annuity payable for a
11 period of not less than the life of the Participant (or, in
12 the case of a qualified preretirement survivor annuity, the
13 life of the surviving spouse), or such other benefit described
14 in the Act."

15 Section 9. The Board of Managers of the City of
16 Birmingham Retirement and Relief System, as created by Act
17 929, 1951 Regular Session and amended and restated in Act 339,
18 2006 Regular Session, hereby amends Section 4 of Article VIII
19 thereof, to comply with mandatory provisions for members of
20 the armed services, as follows:

21 "Section 4. Members in Armed Forces.

22 ~~"(a) If any participant, either before July 1, 1945,~~
23 ~~and after October 16, 1940, or after July 1, 1945, and prior~~
24 ~~to declaration by the Congress or President of the United~~
25 ~~States of termination of the unlimited national emergency~~

1 ~~declared by the President in his proclamation of May 27, 1941,~~
2 ~~shall have left the service for the purpose of entering the~~
3 ~~Armed Forces of the United States, after having been in the~~
4 ~~service for at least one year next before such leaving, and~~
5 ~~shall have left in the fund all contributions made by him/her~~
6 ~~prior to such leaving, and shall have resumed a position of~~
7 ~~qualified employee in the service of the city within forty~~
8 ~~days after his/her separation from such Armed Forces, and, in~~
9 ~~any event, within one year after declaration by the Congress~~
10 ~~or the President of the United States of termination of the~~
11 ~~unlimited national emergency declared by said President in~~
12 ~~said proclamation of May 27, 1941, and shall not have been~~
13 ~~dishonorably discharged from such Armed Forces, then, and in~~
14 ~~all such events, the city shall promptly pay into the fund an~~
15 ~~amount double that which the participant would have~~
16 ~~contributed to the fund from his/her salary had he continued~~
17 ~~in the service of the city as a participant throughout the~~
18 ~~period between the time of so leaving the service and the time~~
19 ~~of resumption of position in the service at the same rate of~~
20 ~~pay he/she was receiving at the time he/she so left the~~
21 ~~service, and, upon such payment into the fund, the participant~~
22 ~~shall be entitled to count as credited service the entire~~
23 ~~aforsaid period, provided, however, that if such participant~~
24 ~~becomes disabled to perform his/her customary duties at any~~
25 ~~time within two years after such resumption of position, the~~

1 amount of any benefits to which he/she might otherwise be
2 entitled hereunder for any period shall be reduced by any
3 amount paid or payable to him/her by the federal government
4 for the same period, and provided further that no part of such
5 payment by the city shall be returnable by the fund under any
6 provision of the system for return of contributions made by
7 participants. In order to extend the benefits of this Section
8 to some "Korean Veterans" to whom such benefits would not
9 otherwise extend, the unlimited national emergency declared by
10 the President of the United States in his proclamation of May
11 27, 1941, shall, for the purposes of this Section, be deemed
12 to have been by the Congress or the said President declared
13 terminated at midnight, January 31, 1955, the time designated
14 by the President in Executive Order No. 10585, dated January
15 1, 1955, "as the date of termination of combatant activities"
16 in the Korean Zone and also the time fixed by said President
17 in Proclamation No. 3080, dated January 1, 1955, as a terminal
18 time for various purposes in respect of service in the Armed
19 Forces Notwithstanding any provision of this Act to the
20 contrary, contributions, benefits and service credit with
21 respect to qualified military service shall be provided in
22 accordance with Code section 414(u).

23 "In order to extend the benefits of this Section to
24 other veterans to whom such benefits would not otherwise
25 extend, it is hereby, provided that if any participant shall

1 ~~have left the service prior to April 20, 1954, for the purpose~~
2 ~~of serving in the Armed Forces of the United States after~~
3 ~~having been in the service for at least one year next before~~
4 ~~leaving, and shall have entered such Armed Forces promptly~~
5 ~~after such leaving, and shall have left in the fund all~~
6 ~~contributions made by him/her prior to such leaving, and shall~~
7 ~~have resumed a position of participant in the service within~~
8 ~~forty days after his/her separation from such Armed Forces,~~
9 ~~and in any event prior to the 21st day of May, 1956, and shall~~
10 ~~not have been dishonorably discharged from such Armed Forces,~~
11 ~~then and in all such events, the city shall promptly pay into~~
12 ~~the fund an amount double that which the employee would have~~
13 ~~contributed to the fund from his/her salary had he/she~~
14 ~~continued in the service as a participant throughout the~~
15 ~~period between the time of so leaving the service and the time~~
16 ~~of resumption of position in the service at the same rate of~~
17 ~~pay he/she was receiving at the time he/she so left the~~
18 ~~service, and, upon such payment into the fund, the participant~~
19 ~~shall be entitled to count as credited service the entire~~
20 ~~aforsaid period, provided, however, that if such participant~~
21 ~~becomes disabled to perform his/her customary duties at any~~
22 ~~time within two years after such resumption of position, the~~
23 ~~amount of any benefits to which he/she might otherwise be~~
24 ~~entitled hereunder for any period shall be reduced by any~~
25 ~~amount paid or payable to him/her by the federal government~~

1 ~~for the same period, and provided further that no part of such~~
 2 ~~payment by the city shall be returnable by the fund under any~~
 3 ~~provision of the system for return of contributions made by~~
 4 ~~Participants."~~

5 Section 10. The Board of Managers of the City of
 6 Birmingham Retirement and Relief System, as created by Act
 7 929, 1951 Regular Session and amended and restated in Act 339,
 8 2006 Regular Session, hereby adds new Section 5 to Article
 9 VIII thereof, to describe the actuarial methods used to
 10 calculate contributions and valuations of the system, as
 11 follows:

12 "Section 5. Actuarial Assumptions.

13 (a) Effective date. Except as provided by the
 14 Pension Benefit Guaranty Corporation (PBGC) and IRS, the
 15 limitations of this Section shall first apply in determining
 16 the amount payable to a Participant having an annuity starting
 17 date in a Fiscal Year beginning on or after January 1, 2008.

18 (b) Applicable interest rate. For purposes of the
 19 Fund's provisions relating to the calculation of the present
 20 value of a benefit payment that is subject to Code Section
 21 417(e), as well as any other Fund provision referring directly
 22 or indirectly to the 'applicable interest rate' or 'applicable
 23 mortality table' used for purposes of Code Section 417(e), any
 24 provision prescribing the use of the annual rate of interest
 25 on 30-year U.S. Treasury securities shall be implemented by

1 instead using the rate of interest determined by applicable
2 interest rate described by Code Section 417(e) after its
3 amendment by PPA. Specifically, the applicable interest rate
4 shall be the adjusted first, second, and third segment rates
5 applied under the rules similar to the rules of Code Section
6 430(h)(2)(C) for the calendar month (lookback month) before
7 the first day of the Fiscal Year in which the annuity starting
8 date occurs (stability period). For this purpose, the first,
9 second, and third segment rates are the first, second, and
10 third segment rates which would be determined under Code
11 Section 430(h)(2)(C) if:

12 (i) Code Section 430(h)(2)(D) were applied by
13 substituting the average yields for the month described in the
14 preceding paragraph for the average yields for the 24-month
15 period described in such section, and

16 (ii) Code Section 430(h)(2)(G)(i)(II) were applied
17 by substituting 'Section 417(e)(3)(A)(ii)(II)' for 'Section
18 412(b)(5)(B)(ii)(II),' and

19 (iii) The applicable percentage under Code Section
20 430(h)(2)(G) is treated as being 20% in 2008, 40% in 2009, 60%
21 in 2010, and 80% in 2011.

22 (c) Applicable mortality assumption. For purposes of
23 the Fund's provisions relating to the calculation of the
24 present value of a benefit payment that is subject to Code
25 Section 417(e), as well as any other Fund provision referring

1 directly or indirectly to the 'applicable interest rate,' any
2 provision directly or indirectly prescribing the use of the
3 mortality table described in Revenue Ruling 2001-62 shall be
4 amended to prescribe the use of the applicable annual
5 mortality table within the meaning of Code Section
6 417(e) (3) (B), as initially described in Revenue Ruling
7 2007-67.

8 Section 11. The Board of Managers of the City of
9 Birmingham Retirement and Relief System, as created by Act
10 929, 1951 Regular Session and amended and restated in Act 339,
11 2006 Regular Session, hereby amends Section 9 of Article III
12 thereof as follows:

13 Section 9. The Fund and its investment.

14 (a) In each instance in which any provision of this
15 Section 9 requires a determination of the value of a security,
16 or securities, in the fund, the fair market value of such
17 security or securities as determined by pricing sources
18 acceptable to the custodian, shall be deemed to be the value
19 thereof.

20 (b) The fund shall include all assets of the fund in
21 any form, and the city director of finance shall be, ex
22 officio, the custodian of the fund. The custodian shall keep a
23 separate account of the fund and of all assets and liabilities
24 thereof and of all receipts and disbursements thereof and of
25 all prior service time and paid membership time of employee

1 members. The custodian shall keep all monies of the fund in a
2 separate bank account. The custodian shall keep in force and
3 effect a bond in a penal amount equal to the total amount of
4 monies and securities in such custodian's custody or
5 possession, but in no event in excess of fifty thousand
6 dollars (\$50,000), payable to the board and conditioned for
7 faithful performance of such custodian's duties and for
8 faithful accounting to the board for all monies, securities
9 and property coming into his/her control, custody or
10 possession as such custodian. Such bond shall be executed by a
11 surety company authorized to do business in the State of
12 Alabama, and the premium on such bond, and all necessary
13 expenses of the board, shall be paid out of the fund upon
14 order of the board. All bonds and securities acquired for the
15 fund shall be registered by the custodian, or his/her
16 designated representative, in the name of the system promptly
17 upon acquisition and shall remain so registered until sold or
18 otherwise disposed of by authority of the Board. The board
19 shall select a financial institution as sub-custodian of
20 securities, with authority to collect and remit to the
21 custodian dividends, principal and interest of securities
22 entrusted to its custody as the same may mature, and pay it
23 such reasonable fees or compensation for its services as the
24 Board may deem proper, and the board may, if it sees fit,
25 waive any bond otherwise required of such institution as

1 sub-custodian so long as the net worth of the sub-custodian
2 exceeds one and one-half times the total value of the
3 securities entrusted to its custody. Securities in the custody
4 of such sub-custodian shall not be counted as in the custody
5 of the custodian for the purpose of computing the amount of
6 the custodian's bond. The board is authorized to accept and
7 receive gifts, donations, or legacies for the fund, and to
8 administer same as may be directed by the board. No member or
9 employee of the board of managers shall, directly or
10 indirectly, for himself or herself or as an agent in any
11 manner use the fund, except to make current and necessary
12 payments authorized by the board, nor shall any member or
13 employee of the board of managers become an endorser or surety
14 or in any manner an obligor for moneys loaned to or borrowed
15 from the board. In the adjudication of claims against the
16 fund, the records of the city director of finance and
17 sub-custodian made and kept for the purpose of this act shall
18 be deemed prima facie, to speak the truth.

19 (c) The board of managers shall have the sole and
20 absolute discretion, if the board deems it advisable to
21 invest, reinvest and have invested and reinvested all funds of
22 the system, real and personal, in the classes of bonds,
23 mortgages, common and preferred stocks, shares of investment
24 companies or mutual funds, real estate investment trusts,
25 international equity (~~American Depository Receipts~~), corporate

1 fixed income, international fixed income, index funds, ~~and~~
2 derivative securities, and investments recognized as
3 alternative investments or other investments as the board of
4 managers may approve, subject to the limitations herein
5 provided. No money or the fund shall be invested, paid out or
6 disbursed except pursuant to order or authorization of the
7 board given prior, at the time or subsequent to same. The
8 board shall be trustee, and have entire management and control
9 of the fund, and shall direct or subsequently approve
10 investment of monies of the fund not needed to meet
11 disbursements provided for in this Act, in the loans to
12 members hereinabove referred to, in bills, notes and bonds of
13 the United States Government, or general obligation bonds of
14 the State of Alabama, or in common or preferred stock of
15 corporations or in bonds registered with the Security and
16 Exchange Commission, mortgaged-back securities, or
17 asset-backed securities ~~rated investment grade by at least one~~
18 ~~nationally recognized credit rating agency~~, or in securities
19 issued by federal agencies and government sponsored entities,
20 or may invest in Federal Saving and Loan Associations or in
21 other corporations having Federal Savings and Loan
22 Association's guarantee or in certificates of deposit or bonds
23 issued by banks organized under Federal laws or under laws of
24 the State of Alabama and insured by the federal government or
25 in such other assets as the board may prudently approve, with

1 due regard to their suitability and creditworthiness; provided
2 however, that no funds shall be invested in common or
3 preferred stocks of corporations unless such common or
4 preferred stocks are listed upon Exchanges registered with and
5 subject to the jurisdiction of the United States Securities
6 and Exchange Commission or are traded through NASDAQ Stock
7 Market or are Rule 144A securities, or are traded on an
8 organized exchange, ~~that the total investment in common or~~
9 ~~preferred stock of corporations last referred to above shall~~
10 ~~not exceed sixty-five percent (65%) of the fair market value~~
11 ~~of all the funds available in the system for investment, the~~
12 ~~remaining funds available shall be invested in fixed income~~
13 ~~securities, of which not less than fifty percent (50%) be~~
14 ~~invested in bills, notes and bonds of the United States~~
15 ~~government or securities fully guaranteed as to payment of~~
16 ~~principal and interest by the United States government.~~
17 ~~Securities issued by agencies and entities that receive the~~
18 ~~unconditional guarantee of the United States government shall~~
19 ~~be considered permissible United States government guaranteed~~
20 ~~investments. Securities issued by agencies and other entities~~
21 ~~not directly guaranteed by the United States government may be~~
22 ~~included with these fixed income securities but not to~~
23 ~~exceed twenty-five percent (25%) of the total fixed income~~
24 ~~securities~~ and that the total investment in fixed income
25 securities shall not be less than thirty-five percent (35%) of

1 the fair market value of all the funds available in the system
2 for investment. Securities issued by any single non-guaranteed
3 agency or entity may not constitute more than ten percent
4 (10%) of the fixed income allocation of the fund at the time
5 of purchase. The fair market value of all of the funds
6 available in the system for investment is to be determined
7 periodically, but not less than annually. In exercising its
8 discretion to invest, reinvest, and have invested and
9 reinvested all funds of the system, the board shall act with
10 the care, skill, prudence and diligence under the
11 circumstances then prevailing that a prudent person acting in
12 a like capacity and familiar with such matters would use in
13 the conduct of an enterprise of a like character and with like
14 aims.

15 Section 12. The provisions of this act are
16 severable. If any part of this act is declared invalid or
17 unconstitutional, that declaration shall not affect the part
18 which remains.

19 Section 13. This act shall become effective
20 immediately.

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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 26-MAY-11.

Greg Pappas
Clerk

Senate

02-JUN-11

Passed