

1 HB663
2 151011-2
3 By Representative Treadaway (N & P)
4 RFD: Jefferson County Legislation
5 First Read: 23-APR-13

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ENROLLED, An Act,

To amend Act No. 556 of the Regular Session of the Legislature of Alabama of 1959, as amended by Act 2011-584 of the 2011 Regular Session, relating to the City of Birmingham Firemen's and Policemen's Supplement Pension System; to provide for a new member of the City of Birmingham Firemen's and Policemen's Supplemental Pension System Board of Managers, authorize the Board of Managers to appoint a temporary secretary, amend the investment powers of the Board of Managers to include interest of private investment, private investment funds, alternative investments and exclude direct investments in real estate and add a new Section 8.3 to Act No. 556 of the Regular Session of the Legislature of Alabama of 1959, as amended by Act 2011-584 of the 2011 Regular Session, transferring all assets and powers of the (City of Birmingham) Firemen's Pension and Relief Fund provided by Act No. 389 of the 1935 Regular Session of the Alabama Legislature as amended and the funding sources contained in Section 10C. of the (City of Birmingham) Firemen's Pension and Relief Fund provided by Act No. 389 of the 1935 Regular Session of the Alabama Legislature as amended to the City of Birmingham Firemen's and Policemen's Supplemental Pension System. All other funding sources provided by Act No. 389 of the 1935 Regular Session of the Alabama Legislature (Ala. Act 389, p.

1 847) as amended and restated by Act No. 307 of the 1943
2 Regular Session of the Alabama Legislature (Ala. Act 307, p.
3 264) as amended by Act No. 632 of the 1967 Regular Session of
4 the Alabama Legislature (Ala. Act 632, p. 1441) are hereby
5 repealed.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Section 4(a) and 4(b) of Act 556 of the
8 1959 Regular Session (Acts 1959, p. 1376), as amended, is
9 further amended to read as follows:

10 "Section 4. Board of Managers.

11 "(a) In order to assure representation of all
12 participants of this system, there shall be a Board of
13 Managers of ~~four~~ five members for the administration,
14 management, and control of the Supplemental Pension System,
15 including administration, management, control, acquisition,
16 and disbursement of the fund. The board shall consist of the
17 president of the governing body of the city, who shall be
18 chair of the board, and ~~three~~four associate members,
19 designated respectively as Member No. 1, Member No. 2, ~~and~~
20 Member No. 3, and Member No. 4.

21 "Member No. 1 shall be appointed by the Jefferson
22 County personnel board and shall be a person who at the time
23 of appointment has had five or more consecutive years
24 immediately preceding his or her appointment and has been an
25 officer of, or the occupant of an executive position in

1 insurance, actuarial, investment, banking, or as a certified
2 public accountant and shall serve for a term of four years.
3 Should the appointed Member No. 1 die, resign, or otherwise be
4 unable to serve, the vacancy thus created shall be filled for
5 the remainder of the term by the Jefferson County Personnel
6 Board. The personnel board in appointing Member No. 1 shall
7 select the person who in the opinion of the personnel board is
8 best qualified to discharge the duties of a member of the
9 Board of Managers. Member No. 2 shall be a firefighter who is
10 a participant of the system, ~~and~~ Member No. 3 shall be a
11 police officer who is a participant of the system. Member No.
12 4 shall be a retiree in the City of Birmingham Firemen's and
13 Policemen's Supplemental Pension System with a retirement
14 benefit from the System and shall be a qualified voter of the
15 State of Alabama. The firefighter participants of the
16 Supplemental Pension System shall elect Member No. 2 and the
17 police officer participants of the system shall elect Member
18 No. 3. The firefighter and the police officer receiving a
19 plurality of votes shall be elected. In the event a
20 participant representative shall die, resign, or otherwise be
21 unable to serve or no longer qualified, the participants from
22 the respective Member category shall by a plurality of the
23 votes cast elect a person who shall fill the unexpired term.
24 Member No. 4 shall be elected by a plurality of the votes cast
25 by the retirees in the system at an election to be held within

1 ninety days from the date on which this Act becomes effective.
2 At the first election to be held hereunder retirees belonging
3 to the System may vote for a retired fireman or policeman in
4 the System to hold the position to be occupied by Member No. 4
5 on the Board. In any election subsequent to the first
6 election, qualified retirees voting in such subsequent
7 election shall not vote for any retiree of the System
8 belonging to the same former department (that is fire
9 department or police department, as the case may be) as the
10 retiree last elected for a full term as Member No. 4. The
11 purpose of the next preceding sentence is to rotate Member No.
12 4 between qualified retirees from the fire department and the
13 police department of the City of Birmingham. In the event the
14 retirees representative shall cease to be retired, die,
15 resign, or otherwise be unable to serve or no longer
16 qualified, the said retirees of the system shall by a
17 plurality of the votes cast elect to fill the unexpired
18 portion of the term with a person who shall be a retiree of
19 the System and meet the qualifications of Member No. 4. Member
20 No. 2 and Member No. 3 may hold their positions until
21 elections for their respective Board Member positions are due
22 for election in April, 2016. Members of the board shall be
23 elected by secret ballot to serve a term of four years
24 commencing on the date the result of the election is declared.
25 Any member of the board may be removed by impeachment for

1 corruption or malfeasance or misfeasance in office or for
2 habitual neglect of duty. Any member of the board may serve
3 beyond his or her term until a successor is appointed or
4 elected. The governing body of the city shall have the
5 authority to prescribe and to change rules and regulations
6 concerning the election of the participant-member of the board
7 provided that the rules and regulations as prescribed or
8 changed are not inconsistent with this act.

9 "The board shall meet on the second Wednesday in
10 each calendar month; however, the board shall not be required
11 to meet unless there is pending before the board some
12 application for pension, relief, or benefit or unless there is
13 pending some other matter requiring consideration by the board
14 and the board by resolution may change the regular meeting
15 date.

16 "The personnel director, of the Personnel Board of
17 Jefferson County, Alabama, shall be the secretary of the board
18 and shall be present at every meeting of the board, and keep a
19 record of all proceedings of the board and all orders and
20 decisions of the board. In the event the personnel director is
21 temporarily unable to fulfill his/her obligations, the board
22 may appoint a temporary replacement to take and record the
23 minutes of the meeting. Neither the secretary nor any member
24 of the board shall receive any salary or compensation. Any
25 three members of the board, when assembled either in regular

1 or special meeting, shall constitute a quorum for the
2 transaction of any and all business of the board, and the
3 affirmative vote of three members present shall be necessary
4 and sufficient to pass any motion or resolution. The board
5 shall meet in the office of the chair, or such other place as
6 the board may designate.

7 "The board is empowered to make rules and
8 regulations not inconsistent with the provisions of the system
9 in relation to its affairs and the system. The board shall
10 receive, investigate, and pass upon all applications for
11 retirement, disability, and survivors benefits and shall make
12 retirement, disability, and survivors benefits in accordance
13 with the system to all participants and their survivors
14 entitled thereto under the system, and its decisions upon all
15 such matters of fact shall be final and conclusive unless it
16 shall be affirmatively made to appear that its decision is
17 plainly and manifestly wrong.

18 "(b) (1) No money of the fund shall be invested, paid
19 out, or disbursed except pursuant to order or authorization of
20 the board. The board shall be the trustee, have entire
21 management and control of the fund, and shall direct
22 investment of monies of the fund not needed to meet
23 disbursements provided for in this act and in the loans to
24 members hereinafter referred to and shall be invested in the
25 classes of bonds, mortgages, common and preferred stocks,

1 shares of investment companies or mutual funds, real estate
2 investment trusts, international equity, corporate fixed
3 income, international fixed income, index funds, ~~derivative~~
4 ~~securities and investments recognized as alternative~~
5 ~~investments~~ interest of private investment, private investment
6 funds, or treasury bonds, notes, and bills of the United
7 States, and agencies of the United States as the board may
8 approve, derivative securities and investment recognized as
9 alternative investments (excluding direct investments in real
10 estate) subject to the limitations herein. The board may
11 invest in fixed income securities and bonds of corporations
12 organized under federal laws or under laws of any state of the
13 United States or in bonds registered with the Security and
14 Exchange Commission, mortgaged-backed securities or asset
15 backed securities, or in securities issued by federal agencies
16 and government sponsored entities, or may invest in Federal
17 Savings and Loan Associations or in other corporations having
18 Federal Savings and Loan Association's guarantee or in
19 certificates of deposit or bonds issued by banks organized
20 under federal laws or under the laws of the State of Alabama
21 and insured by the federal government. No funds may be
22 invested in fixed income securities or common or preferred
23 stocks and stocks of private corporations or other forms of
24 equity or fixed investment unless such common or preferred
25 stocks or other forms of equity or fixed investments are

1 registered with the Securities and Exchange Commission or are
2 traded through NASDAQ Stock Market or are Rule 144A securities
3 or are traded on an organized exchange and the aggregate value
4 of the funds invested in such common or preferred stock of
5 corporations or other forms of equity securities last referred
6 to above shall not exceed 60 percent of the value of all funds
7 available in the system. The aggregate value of the funds
8 invested in common or preferred stocks, mutual funds or other
9 forms of equity securities, shall not exceed 60 percent of
10 total investments of the fund. The total investment in fixed
11 income securities shall not be less than forty percent (40%)
12 of the fair market value of all the funds available in the
13 system for investment. Securities issued by any single
14 non-guaranteed agency or entity may not constitute more than
15 ten percent (10%) of the fixed income allocation of the fund
16 at the time of purchase. The fair market value of all funds
17 available in the system for investment is to be determined
18 periodically, but not less than annually. In exercising its
19 discretion to invest, reinvest, and have invested and
20 reinvested all funds of the system, the board shall act with
21 the care, skill, prudence and diligence under the
22 circumstances then prevailing that a prudent person acting in
23 a like capacity and familiar with such matters would use in
24 the conduct of an enterprise of a like character and with like
25 aims.

1 "(2) From the fund of the system created by this
2 act, the Board of Managers shall pay to the fund of the
3 General Retirement and Relief System of the City of Birmingham
4 amounts hereinafter specified. When any firefighter or police
5 officer retires on length of service, as hereinafter provided
6 for in Section 8, the Board of Managers shall pay from the
7 fund of this system the amount specified during each month
8 between the due date on which the participant retires and the
9 date on which the participant would have been entitled to
10 receive a retirement allowance from the General Retirement and
11 Relief System for 30 years service had the participant not
12 retired, but had continued to serve without interruption as a
13 participant of the General Retirement and Relief System until
14 entitled to receive from said last named system a retirement
15 system pension based upon 30 years service. The amount which
16 the Board of Managers shall pay to the fund of the General
17 Retirement and Relief System, during the period specified,
18 shall be the sum of the amount which the city would have
19 deducted from the salary of the participant and would have
20 paid into the fund of the General Retirement and Relief System
21 had the participant continued to be employed by the city
22 during the period specified had the participant retired under
23 Section 8 of this act plus the amount which the city during
24 the same period would have paid from the funds of the city
25 into the General Retirement and Relief System to match the

1 deductions had the participant continued to work until
2 entitled to retire on a pension based upon 30 years' service.

3 Section 2. Section 8 of Act 556 of the 1959 Regular
4 Session is further amended to add a new Section 8.3 to
5 transfer all assets and powers of the (City of Birmingham)
6 Firemen's Pension and Relief Fund created and provided by Act
7 No. 389 of the 1935 Regular Session of the Alabama Legislature
8 (Ala. Act 389, p. 847) as amended and restated by Act No. 307
9 of the 1943 Regular Session of the Alabama Legislature (Ala.
10 Act 307, p. 264) as amended by Act No. 632 of the 1967 Regular
11 Session of the Alabama Legislature (Ala. Act 632, p. 1441) to
12 the City of Birmingham Firemen's and Policemen's Supplemental
13 Pension System and to repeal all laws, in conflict herewith.
14 No pension benefits or obligations under the Firemen's Pension
15 and Relief Fund provided by Act No. 389 of the 1935 Regular
16 Session of the Alabama Legislature (Ala. Act 389, p. 847) as
17 amended and restated by Act No. 307 of the 1943 Regular
18 Session of the Alabama Legislature (Ala. Act No. 307, p. 264)
19 as amended by Act No. 632 of the 1967 Regular Session of the
20 Alabama Legislature (Ala. Act No. 632, p. 1441) which amended
21 Act 307 of the 1943 Session of the Legislature of Alabama and
22 created a Board of Trustees of the Firemen's Pension and
23 Relief Fund is hereby repealed and all powers of said Board of
24 Trustees shall be transferred to the City of Birmingham
25 Firemen's and Policemen's Supplemental Pension System Board of

1 Managers. All obligations of all funding sources provided in
2 Section 10C. under Act No. 389 of the 1935 Regular Session of
3 the Alabama Legislature (Ala. Act 389, p. 847) as amended and
4 restated by Act No. 307 of the 1943 Regular Session of the
5 Alabama Legislature (Ala. Act 307, p. 264) as amended by Act
6 No. 632 of the 1967 Regular Session of the Alabama Legislature
7 (Ala. Act 632, p. 1441) shall continue. The funds paid by the
8 funding source provided in Section 10C. of the Firemen's
9 Pension and Relief Fund shall become a part of the City of
10 Birmingham Firemen's and Policemen's Supplemental Pension
11 System to be used consistent with Section 4(b)(1) and Section
12 4(b)(2) of Act 556 of the 1959 Regular Session (Acts. 1959, p.
13 1376), as amended by Act 2007-503 of the 2007 Regular Session
14 (Acts 2007, p. 1072), as last amended by Act 2011-584 of the
15 2011 Regular Session (Acts. 2011, p. 1280). All other funding
16 sources provided by Act No. 389 of the 1935 Regular Session of
17 the Alabama Legislature (Ala. Act 389, p. 847) as amended and
18 restated are hereby repealed.

19 Section 3. The provisions of this act are severable.
20 If any part of this act is declared invalid or
21 unconstitutional, that declaration shall not affect the part
22 which remains.

23 Section 4. This act shall become effective on the
24 first day of the third month following its passage and
25 approval by the Governor, or its otherwise becoming law.

