

1 HB73
2 156000-1
3 By Representative Morrow
4 RFD: State Government
5 First Read: 14-JAN-14
6 PFD: 12/18/2013

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8 SYNOPSIS: Under existing law, the Retirement Systems
9 of Alabama are governed by Boards of Control
10 comprised of active and retired public employees
11 who serve by virtue of their election or in their
12 official capacities by virtue of their elected or
13 appointed position. The State Employees' Retirement
14 System and the Teachers' Retirement System each
15 have similarly comprised Boards of Control.

16 Under existing law, the day-to-day
17 operations of all of the Retirement Systems of
18 Alabama are managed by a secretary-treasurer who
19 serves at the pleasure of each Board of Control.

20 Under existing law, the Board of Control for
21 the Employees' Retirement System, by majority vote,
22 may make decisions regarding the operation and
23 functioning of the Employees' Retirement System and
24 the Judicial Retirement Fund and the Board of
25 Control of the Teachers' Retirement System, by
26 majority vote, may make decisions regarding the
27 operation of the Teachers' Retirement System. The

1 Board of Control of the Employees' Retirement
2 Systems of Alabama, by resolution, has provided
3 that all investment decisions of the
4 secretary-treasurer must be approved by a
5 three-person investment committee.

6 This bill would give the Secretary-Treasurer
7 of the Retirement Systems of Alabama the authority
8 to make investment decisions regarding moneys in
9 the Employees' Retirement System, the Teachers'
10 Retirement System, and the Judicial Retirement Fund
11 without approval of the Board of Control of either
12 the Employees' Retirement System or the Teachers'
13 Retirement System.

14
15 A BILL
16 TO BE ENTITLED
17 AN ACT
18

19 To amend Sections 16-25-20 and 36-27-25, Code of
20 Alabama 1975, to authorize the Secretary-Treasurer of the
21 Retirement Systems of Alabama to make investment decisions
22 without prior approval.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Sections 16-25-20 and 36-27-25, Code of
25 Alabama 1975, are amended to read as follows:

26 "§16-25-20.

1 "(a) (1) The Board of Control shall be the trustees
2 of the several funds of the Teachers' Retirement System
3 created by this chapter as provided in Section 16-25-21, ~~and.~~
4 The Secretary-Treasurer shall have full power to invest and
5 reinvest the funds, ~~through its Secretary-Treasurer,~~ in the
6 classes of bonds, mortgages, common and preferred stocks,
7 shares of investment companies or mutual funds, or other
8 investments ~~as the Board of Control may approve,~~ with the
9 care, skill, prudence, and diligence under the circumstances
10 then prevailing that a prudent man acting in a like capacity
11 and familiar with the matters would use in the conduct of an
12 enterprise of a like character and with like aims; and,
13 subject to like terms, conditions, limitations, and
14 restrictions, the ~~Board of Control, through its~~
15 Secretary-Treasurer, shall have full power to hold, purchase,
16 sell, assign, transfer, and dispose of any investments in
17 which the funds created herein shall have been invested, as
18 well as the proceeds of the investments and any moneys
19 belonging to the funds.

20 "(2) The Secretary-Treasurer shall have the
21 authority and it shall be his or her duty to carry out the
22 investment policies fixed by the Board of Control, and
23 pursuant thereto he or she shall examine all offers of
24 investments made to the funds, shall initiate inquiries as to
25 available investments therefor, shall review periodically the
26 investment quality and desirability of retention of
27 investments held, and shall make purchases and sales of

1 investments as he or she shall deem to the best interests of
2 the funds ~~and as the investment committee hereinafter provided~~
3 ~~for, and as the consultant to the Secretary-Treasurer, if any,~~
4 ~~appointed by the Board of Control hereunder, to the extent of~~
5 ~~the purpose for which it is appointed, shall approve. The~~
6 ~~Secretary-Treasurer may make investment decisions regarding~~
7 ~~all moneys under his or her control without approval from the~~
8 ~~board of control or any committee comprised of members of the~~
9 ~~board of control or any consultant appointed by the board of~~
10 ~~control.~~ The Teachers' Retirement System shall have full
11 authority to employ its own legal counsel and to conduct and
12 control any litigation in which it is involved through such
13 counsel.

14 ~~"(3) The Board of Control shall elect an investment~~
15 ~~committee which shall consist of three members of the board,~~
16 ~~one of whom shall be the Director of Finance. The investment~~
17 ~~committee shall act as agent for the board and shall consider~~
18 ~~all investment recommendations made by the Secretary-Treasurer~~
19 ~~and shall either approve or disapprove the same in accordance~~
20 ~~with policies set by the board. The investment committee may~~
21 ~~act through the affirmative vote of any two of its members.~~
22 ~~Approvals may be secured informally in advance but shall in~~
23 ~~any event be confirmed by written authorization to be attached~~
24 ~~to the invoice of the transaction.~~

25 ~~"(4) The Board of Control may appoint and employ as~~
26 ~~consultant to the Secretary-Treasurer, in the purchase, sale,~~
27 ~~and review of investments of the funds, to the extent the~~

1 ~~board may designate, a bank having its principal office in the~~
2 ~~State of Alabama, having capital, surplus, and undivided~~
3 ~~profits of not less than three hundred million dollars~~
4 ~~(\$300,000,000), and having an organized investment department.~~
5 ~~The bank so appointed shall not sell securities to the~~
6 ~~retirement system, other than United States government~~
7 ~~securities, or repurchase agreements for which no commission~~
8 ~~shall be charged.~~

9 ~~"(5)(3)~~ The Secretary-Treasurer shall report to the
10 Board of Control all purchases and sales of investments made
11 by him or her pursuant hereto at least once semiannually.

12 "(b) The Board of Control shall allow annually
13 regular interest on the mean amount for the preceding year in
14 each of the funds, with the exception of the Expense Fund. The
15 amounts so allowed shall be due and payable to the funds and
16 shall be credited annually thereto by the Board of Control
17 from interest and other earnings on the moneys of the
18 retirement system. Any additional amount required to meet the
19 interest on the funds of the retirement system shall be paid
20 from the Pension Accumulation Fund, and any excess of earnings
21 over the amount required shall be paid to the Pension
22 Accumulation Fund. Regular interest shall mean the percent
23 rate or rates to be compounded annually as shall be set by the
24 Board of Control, the rate or rates to be limited to a minimum
25 of three percent and a maximum of four and three-fourths
26 percent.

1 "(c) Moneys accruing to the Annuity Savings Fund,
2 the Annuity Reserve Fund, the Pension Accumulation Fund, and
3 the Pension Reserve Funds shall be certified by the
4 Secretary-Treasurer for deposit in the State Treasury to the
5 credit of the Teachers' Retirement System. All moneys provided
6 in accordance with this chapter for administrative expense
7 shall be certified for deposit in the State Treasury to the
8 credit of the Teachers' Retirement System Expense Fund. All
9 payments from the funds shall be made by the State Treasurer
10 on warrants drawn by the state Comptroller upon vouchers
11 signed by two persons designated by the Board of Control. A
12 duly attested copy of a resolution of the Board of Control
13 designating the persons and bearing on its face specimen
14 signatures of the persons shall be filed with the state
15 Comptroller as his or her authority for drawing warrants upon
16 the vouchers.

17 "(d) Except as otherwise herein provided, no member
18 of the Board of Control and no employee of the board shall
19 have any direct interest in the gains or profits of any
20 investment made by the board, nor as such receive any pay or
21 emolument for his or her services. No member or employee of
22 the Board of Control shall, directly or indirectly, for
23 himself or herself or as an agent, in any manner use the same,
24 except to make the current and necessary payments as are
25 authorized by the board; nor shall any member or employee of
26 the Board of Control become an endorser or surety or in any

1 manner an obligor for moneys loaned or borrowed from the
2 board.

3 "§36-27-25.

4 "(a) The Board of Control shall be the trustees of
5 the several funds of the Employees' Retirement System created
6 by this article as provided in Section 36-27-24 ~~and. The~~
7 Secretary-Treasurer shall have full power to invest and
8 reinvest the funds, ~~through its Secretary-Treasurer~~ in the
9 classes of bonds, mortgages, common and preferred stocks,
10 shares of investment companies or mutual funds, or other
11 investments ~~as the Board of Control may approve,~~ with the
12 care, skill, prudence, and diligence under the circumstances
13 then prevailing that a prudent person acting in a like
14 capacity and familiar with such matters would use in the
15 conduct of an enterprise of a like character and with like
16 aims. Subject to like terms, conditions, limitations and
17 restrictions, the ~~Board of Control, through its~~
18 Secretary-Treasurer, shall have full power to hold, purchase,
19 sell, assign, transfer, and dispose of any investments in
20 which the funds created in Section 36-27-24 shall have been
21 invested as well as the proceeds of the investments and any
22 moneys belonging to the funds.

23 "(b) The Governor ex officio, shall be the Chair of
24 the Board of Control. At the board meeting when the new
25 positions created by Acts 1994, No. 94-616 are sworn into
26 office, the Board of Control shall elect from its membership a
27 vice-chair who shall have at least three years of service

1 experience on the board. The vice-chair shall serve a term
2 concurrent with that of the position of Investment Committee
3 Place No. 1.

4 "(c) The Secretary-Treasurer shall have the
5 authority and it shall be his or her duty to carry out the
6 investment policies fixed by the Board of Control and,
7 pursuant thereto, he or she shall examine all offers of
8 investments made to the funds, shall initiate inquiries as to
9 available investments therefor, shall review periodically the
10 investment quality and desirability of retention of
11 investments held and shall make purchases and sales of
12 investments as he or she shall deem to the best interests of
13 the funds ~~and as the Investment Committee provided for in~~
14 ~~subsection (d) of this section and as the consultant to the~~
15 ~~Secretary-Treasurer, if any, appointed by the Board of Control~~
16 ~~under subsection (e) of this section, to the extent of the~~
17 ~~purpose for which it is appointed, shall approve. The~~
18 Secretary-Treasurer may make investment decisions regarding
19 all moneys under his or her control without approval from the
20 board of control or any committee comprised of members of the
21 board of control or any consultant appointed by the board of
22 control. The Employees' Retirement System shall have full
23 authority to employ its own legal counsel and to conduct and
24 control any litigation in which it is involved through such
25 counsel.

26 "~~(d) The Board of Control shall provide for an~~
27 ~~investment committee which shall consist of three members of~~

1 the board, one of whom shall be the Director of Finance. At
2 the first board meeting held after April 26, 1994, two members
3 of the board, who individually have at least three years of
4 service experience on the board, shall be elected to serve on
5 the Investment Committee in positions designated as Places No.
6 1 and No. 2. The person elected to serve in Place No. 1 shall
7 serve for an initial term of one year while the person elected
8 to serve in Place No. 2 shall serve for an initial term of two
9 years. Successor terms for both places on the committee shall
10 be for two years and successor candidates for the elected
11 places shall meet the aforementioned board service experience
12 requirement. The Investment Committee shall act as agent for
13 the board and shall consider all investment recommendations
14 made by the Secretary-Treasurer and shall either approve or
15 disapprove the same in accordance with policies set by the
16 board. The Investment Committee may act through the
17 affirmative vote of any two of its members. Approvals may be
18 secured informally in advance but shall in any event be
19 confirmed by written authorization to be attached to the
20 invoice for the transaction.

21 "(e) The Board of Control may appoint and employ as
22 consultant to the Secretary-Treasurer in the purchase, sale,
23 and review of investments of the funds, to the extent as the
24 board may designate, a bank having its principal office in the
25 State of Alabama, having capital, surplus and undivided
26 profits of not less than three hundred million dollars
27 (\$300,000,000) and having an organized investment department.

1 ~~The bank so appointed shall not sell securities to the~~
2 ~~retirement system other than U.S. government securities, or~~
3 ~~repurchase agreements for which no commission shall be~~
4 ~~charged.~~

5 "~~(f)~~ (d) The Secretary-Treasurer shall report to the
6 Board of Control all purchases and sales of investments made
7 by him or her pursuant to this section at least once
8 semiannually.

9 "~~(g)~~ (e) The Board of Control shall allow annually
10 regular interest on the mean amount for the preceding year in
11 each of the funds, with the exception of the Expense Fund. The
12 amounts so allowed shall be due and payable to the funds and
13 shall be credited annually to the funds by the Board of
14 Control from interest and other earnings on the moneys of the
15 retirement system. Any additional amount required to meet the
16 interest on the funds of the retirement system shall be paid
17 from the Pension Accumulation Fund, and any excess of earnings
18 over the amount required shall be paid to the Pension
19 Accumulation Fund. Regular interest shall mean the percentage
20 rate or rates to be compounded annually as shall be set by the
21 Board of Control, the rate or rates to be limited to a minimum
22 of three percent and a maximum of four and three-fourths
23 percent.

24 "~~(h)~~ (f) Funds accruing to the Annuity Savings Fund,
25 the Annuity Reserve Fund, the Pension Accumulation Fund, and
26 the Pension Reserve Fund shall be certified by the
27 Secretary-Treasurer for deposit in the State Treasury to the

1 credit of the Employees' Retirement System. All moneys
2 provided in accordance with this chapter for administrative
3 expenses shall be certified for deposit in the State Treasury
4 to the credit of the Employees' Retirement System Expense
5 Fund. All payments from the funds shall be made by the State
6 Treasurer on warrants drawn by the State Comptroller upon
7 vouchers signed by two persons designated by the Board of
8 Control. A duly attested copy of the resolution of the Board
9 of Control designating the persons and bearing on its face
10 specimen signatures of the persons shall be filed with the
11 State Comptroller as his or her authority for drawing warrants
12 upon the voucher.

13 "~~(i)~~(g) Except as otherwise provided in this
14 article, no member of the Board of Control and no employee of
15 the board shall have any direct interest in the gains or
16 profits of any investment made by the board nor as such
17 receive any pay or emolument for his or her services. No
18 member or employee of the Board of Control shall, directly or
19 indirectly, for himself or herself or as an agent in any
20 manner use the same, except to make the current and necessary
21 payments authorized by the board, nor shall any member or
22 employee of the Board of Control become an endorser or surety
23 or in any manner an obligor for moneys loaned to or borrowed
24 from the board."

25 Section 2. This act shall become effective
26 immediately following its passage and approval by the
27 Governor, or its otherwise becoming law.

