

1 SB309
2 130467-9
3 By Senator Marsh
4 RFD: Finance and Taxation General Fund
5 First Read: 31-MAR-11

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 To amend Sections 36-29-1, 36-29-7, 36-29-8,
12 36-29-10, 36-29-19.4, and 36-29-19.7 of the Code of Alabama
13 1975, relating to the State Employees' Health Insurance Plan;
14 to provide that the employer contribution may include
15 adjustments or surcharges based on a covered spouse's
16 eligibility for other health insurance; to provide that all
17 employees retiring after December 31, 2011, must have at least
18 10 years of creditable coverage in the State Employees' Health
19 Insurance Plan to be eligible for retiree coverage; to provide
20 that postsecondary institutions contribute to the State
21 Employees Insurance Fund for each of its employees retiring
22 after December 31, 2011, covered by the State Employees'
23 Health Insurance Plan; to provide that a two-thirds vote of
24 the State Employees' Insurance Board would no longer be
25 required to change the employee or retiree contribution to the
26 health insurance premium or other out-of-pocket expenses; to
27 provide that employees or retirees who knowingly and willfully

1 submit false or misleading information to the board or engage
2 in fraudulent activity be subject to disqualification from
3 coverage in the State Employees' Health Insurance Plan; to
4 provide that all employees retiring after December 31, 2011,
5 with certain exceptions, be subject to a sliding scale premium
6 calculation based on years of creditable coverage in the State
7 Employees' Health Insurance Plan; to provide that assistance
8 be given to low-income employees and retirees who fall within
9 300 percent of the federal poverty level; to provide that all
10 employees retiring after December 31, 2011, be subject to a
11 sliding scale premium calculation based on the difference
12 between the age of the employee at retirement and the Medicare
13 entitlement age; and to provide that for all employees
14 retiring after December 31, 2011, that the employer
15 contribution for a non-Medicare retiree may not exceed the
16 employer contribution for an active employee.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Sections 36-29-1, 36-29-7, 36-29-8,
19 36-29-10, 36-29-19.4, and 36-29-19.7 of the Code of Alabama
20 1975, are amended to read as follows:

21 "§36-29-1.

22 "When used in this chapter, the following terms
23 shall have the following meanings, respectively, unless the
24 context clearly indicates otherwise:

25 "(1) BOARD. The State Employees' Insurance Board.

26 "(2) CLASS. An employee or retiree shall be included
27 in one of the following classes: (i) active employee single,

1 (ii) active employee family, (iii) non-Medicare retiree
2 single, (iv) non-Medicare retiree family, (v) Medicare retiree
3 single, (vi) Medicare retiree family, (vii) non-Medicare
4 retiree with Medicare eligible dependent(s), or (viii)
5 Medicare retiree with non-Medicare dependent(s).

6 "(3) EMPLOYEE. A person who works full time for the
7 State of Alabama or for a county health department and who
8 receives his or her full compensation on a monthly basis
9 through means of a state warrant drawn upon the State Treasury
10 or by check drawn by the Treasurer of the Alabama State Port
11 Authority or by check drawn by the treasurer of the Alabama
12 state agency for surplus property other than those employees
13 covered by the federal Railroad Retirement Act. Full-time
14 employees of the county health department in all counties
15 having populations of not less than 300,000 nor more than
16 500,000 shall also be included in the definition of employee
17 for the purpose of this chapter, and the health department of
18 any such county is hereby authorized to pay the employer's
19 share of any contributions to the retirement fund; provided
20 further, that any district attorney or full-time employees in
21 the district attorney's office, of any judicial circuit shall
22 be included in the definition of employee for the purpose of
23 this chapter, and the respective judicial circuits are hereby
24 authorized to pay the employer's share of any contribution
25 therefor and any person employed part time by the State of
26 Alabama on a wage and hourly basis, excluding fee
27 compensations and other like arrangements, shall be included

1 in the definition of employee as defined in this chapter
2 provided such person shall agree to have deducted from his or
3 her hourly wage, as stipulated, a pro rata portion of the
4 premium cost of a full-time state employee based on the
5 percentage of time such person is employed by the state
6 according to rules and regulations established by the State
7 Employees' Insurance Board. The term shall also include an
8 employee who worked at least 10 years for the State Department
9 of Transportation in "captive county" circumstances as defined
10 by Section 23-1-100 and who was transferred to county
11 employment upon the adoption of Article 3A, Chapter 1, Title
12 23. Provided further, however, any costs incurred as a result
13 of including such employee in this term shall be payable from
14 funds of the State Department of Transportation.

15 "(4) EMPLOYEE CONTRIBUTION. The amount of the total
16 health insurance premium to be paid by the employee or retiree
17 as determined by the board.

18 "(5) EMPLOYER CONTRIBUTION. The amount of the total
19 health insurance premium to be paid by the employer as
20 determined by the board.

21 "(6) FEDERAL POVERTY LEVEL. Income level determined
22 in Section 673(2) of the Community Services Block Grant Act 2
23 (42 U.S.C. § 9902(2)). Should the federal government no longer
24 derive or substantially change its derivation of the federal
25 poverty level, the State Employees' Insurance Board has the
26 authority to derive and apply an alternate poverty level to
27 carry out its obligations under this chapter.

1 "(7) HEALTH INSURANCE PREMIUM. The total health
2 insurance cost under the State Employees' Health Insurance
3 Plan with respect to each class of employees or retirees.
4 Individual premiums may include adjustments and surcharges for
5 (i) family size including, but not limited to, a husband and
6 wife both being covered by the State Employees' Health
7 Insurance Plan, (ii) spouse's eligibility for other health
8 insurance, (iii) smokers and users of tobacco products, ~~(iii)~~
9 (iv) preventative care and wellness care participation, and
10 ~~(iv)~~ (v) any such other categories of risk that the board
11 shall approve.

12 "(8) MEDICARE RETIREE. A retiree entitled to
13 benefits under the federal Medicare program (Subchapter XVIII
14 of the Social Security Act, 42 U.S.C. §§ 1395 et seq.).

15 "(9) NON-MEDICARE RETIREE. A retiree not entitled to
16 benefits under the federal Medicare program (Subchapter XVIII
17 of the Social Security Act, 42 U.S.C. §§ 1395 et seq.).

18 "(10) OTHER EMPLOYER GROUP HEALTH INSURANCE
19 COVERAGE. Group health insurance coverage available to an
20 employee or retiree through an employer other than the State
21 of Alabama. Other employer group health insurance coverage
22 does not include the State Employees' Health Insurance Plan,
23 the Public Education Employees' Health Insurance Plan, or the
24 local government health insurance plan.

25 "(11) RETIREE. An employee who retires from the
26 service of the State of Alabama, who, at the time of such
27 retirement has at least 10 years of creditable coverage, meets

1 the criteria set out in this chapter and who, following such
2 retirement, draws a monthly benefit from the Employees'
3 Retirement System of Alabama, the Judicial Retirement System
4 of Alabama, the Teachers' Retirement System of Alabama, or the
5 Alabama State Port Authority.

6 "(12) STATE EMPLOYEES' HEALTH INSURANCE PLAN. The
7 health benefit plan administered or offered by the State
8 Employees' Insurance Board for eligible employees and retirees
9 and their respective dependents. The State Employees'
10 Insurance Board may offer supplemental coverages and policies
11 in lieu of or in addition to coverage in the basic medical
12 plan of the State Employees' Health Insurance Plan. Also
13 referred to herein as "health insurance plan" or "plan."

14 "(13) SUPPLEMENTAL COVERAGE. Coverage offered to
15 employees and retirees by the State Employees' Insurance Board
16 in lieu of coverage in the basic medical plan of the State
17 Employees' Health Insurance Plan that supplements an
18 employee's or retiree's other employer group health insurance
19 coverage.

20 "(14) SUPPLEMENTAL POLICY. A policy offered to
21 employees and retirees by the State Employees' Insurance
22 Board, in lieu of or in addition to coverage in the basic
23 medical plan of the State Employees' Health Insurance Plan,
24 that provides a defined set of benefits.

25 "(15) THIRD PARTY ADMINISTRATOR. An entity
26 contracted by the State Employees' Insurance Board to provide

1 certain administrative services as it deems appropriate and
2 necessary to carry out its obligations under this chapter.

3 "(16) YEARS OF CREDITABLE COVERAGE. The number of
4 years and months that an employee is covered under the State
5 Employees' Health Insurance Plan prior to retirement as
6 determined by the State Employees' Insurance Board, including
7 any periods of full-time permanent employment subsequent to
8 retirement up to a maximum of five years. Creditable coverage
9 shall also include months and years: (1) Related to service in
10 the United States Armed Forces; (2) as a part-time employee
11 prior to October 1, 2005; (3) as an employee as defined in
12 Sections 16-25A-1 and 16-25A-11; (4) as a full time employee
13 of a local legislative delegation office which participates in
14 the Employees' Retirement System if the employee is under the
15 state employees' insurance plan on the effective date of this
16 act; (5) as an employee of a postsecondary institution
17 eligible for Public Education Employees' Health Insurance Plan
18 coverage as a retiree whether the institution participates in
19 the Public Education Employees' Health Insurance Plan or has
20 its own plan of insurance for active employees, provided the
21 postsecondary institution contributes an amount to the State
22 Employees Insurance Fund for each of its retired employees
23 equal to any amount appropriated by the state to fund benefits
24 for retired employees as determined by the State Employees'
25 Insurance Board; or (6) as a juvenile probation officer
26 provided that the Administrative Office of Courts contributes
27 an amount to the State Employees Insurance Fund for each

1 retired juvenile probation officer equal to any amount
2 appropriated by the state to fund benefits for retired
3 employees as determined by the State Employees' Insurance
4 Board. For employees of the Alabama State Port Authority, the
5 term years of creditable coverage shall mean the sum of the
6 number of years and months of creditable service as determined
7 by the Employees' Retirement System, the Teachers' Retirement
8 System, or the Judicial Retirement System with regard to any
9 periods of time during which such employee was employed under
10 the Merit System plus the number of years and months of
11 creditable service as determined by the State Employees'
12 Insurance Board with regard to any period of time during which
13 such employee was employed by the Alabama State Port Authority
14 as a non-Merit System employee.

15 "~~(16)~~(17) YEARS OF SERVICE. The number of years and
16 months of creditable service by an employee prior to
17 retirement as determined by the Employees' Retirement System,
18 Teachers' Retirement System, or Judicial Retirement System
19 including any periods of full time permanent employment
20 subsequent to retirement up to a maximum of five years. Except
21 for creditable service related to service in the United States
22 Armed Forces, or as an employee as defined in Sections
23 16-25A-1 and 16-25A-11, or as an employee of a postsecondary
24 institution eligible for PEEHIP coverage as a retiree whether
25 the institution participates in PEEHIP or has its own plan of
26 insurance for active employees, the State Employees' Insurance
27 Board may exclude from years of service any years and months

1 of creditable service it determines was not related to service
2 as an employee as defined in Section 36-29-1. For employees of
3 the Alabama State Port Authority, the term years of service
4 shall mean the sum of the number of years and months of
5 creditable service as determined by the Employees' Retirement
6 System, the Teachers' Retirement System, or the Judicial
7 Retirement System with regard to any periods of time during
8 which such employee was employed under the Merit System plus
9 the number of years and months of creditable service as
10 determined by the State Employees' Insurance Board with regard
11 to any period of time during which such employee was employed
12 by the Alabama State Port Authority as a non-Merit System
13 employee.

14 "§36-29-7.

15 "(a) The board is hereby authorized to provide under
16 the provisions of this chapter that the employer's
17 contribution to the cost of such plan for coverage of the
18 employee and retiree shall be paid by the employer.

19 "(b) Each employee and retiree shall be entitled to
20 have his or her spouse and dependent children, as defined by
21 the rules and regulations of the board, included in the
22 coverage provided upon agreeing to pay the employee's
23 contribution of the health insurance premium for such
24 dependents. The board shall adopt regulations governing the
25 discontinuance and resumption by such employees and retirees
26 of coverage for dependents.

1 "(c) Subject to Section 36-29-19.3, any further
2 changes in employee or retiree contribution to the health
3 insurance premium or other out-of-pocket expenses including,
4 but not limited to, any surcharge, copay, or deductible may
5 only be enacted when: (1) the executive director certifies
6 that after proper evaluation the increase is justified and (2)
7 the change is approved by at least a ~~two-thirds~~ simple
8 majority vote of the board members present.

9 "(d) As used in this section, the employer shall
10 mean the fund from which the salaries of such employees are
11 paid. There is hereby appropriated annually from each fund
12 amounts sufficient to provide the employer's contribution of
13 the health insurance premium. In the case of those departments
14 supported wholly by transfers from other state funds, there is
15 hereby appropriated from the supporting funds such additional
16 amounts as may be necessary to pay the sums required to pay
17 the employer's contribution costs of employees and retirees of
18 each department so supported in the same proportion as the
19 other state funds contribute to the support and maintenance of
20 such department.

21 "(e) During any period in which an employee or an
22 employee's dependents are covered under this chapter, there
23 shall be withheld from the salary payment of such employee the
24 employee's contribution to the cost of coverage.

25 "(f) There is hereby created in the State Treasury a
26 fund to be known as the State Employees' Insurance Fund. Such
27 fund shall consist of and there shall be deposited into such

1 fund all appropriations made from employer funds, under the
2 provisions of subsection (d) of this section and all premiums
3 paid by employees and retirees under the provisions of
4 subsection (e) of this section and any other premiums paid
5 under the provisions of this chapter. The board shall
6 designate a custodian of this fund who shall be authorized to
7 make deposits into and payments therefrom in accordance with
8 contracts entered into by the board.

9 "§36-29-8.

10 "(a) All persons in the employment of the State of
11 Alabama who are eligible for coverage under the provisions of
12 this chapter and the rules and regulations of the board
13 adopted pursuant thereto shall have the option to be included
14 in such coverage and shall have an option as to whether they
15 will subscribe to such coverage for their dependents, such
16 option to be exercised in the manner and within the time
17 limitation prescribed by the board.

18 "(b) All persons who become employees of the State
19 of Alabama, as defined by the terms of this chapter and the
20 rules and regulations promulgated by the board pursuant
21 thereto, shall have the option to become members of the plan
22 hereby provided and shall have an option as to whether they
23 will subscribe to such coverage for their dependents;
24 provided, that the exercise of such option shall be contingent
25 upon acceptance by the board subject to proper documentation
26 of eligibility and such coverage may be deferred during any

1 reasonable waiting period provided in the contract or
2 contracts.

3 "(c) Any employee or retiree knowingly and willfully
4 submitting materially false information to the board ~~shall or~~
5 engaging in fraudulent activity that causes financial harm to
6 the plan, may, upon a determination by the board, (1) repay
7 all claims and other expenses, including an interest charge
8 based on the applicable interest rate paid by the state under
9 Section 40-1-44, incurred by the plan related to the
10 intentional submission of false or misleading information
11 submitted by the employee or retiree in addition to a charge
12 based on the applicable interest rate paid by the state under
13 Section 40-1-44 or fraudulent activity and (2) may be subject
14 to disqualification from coverage under the plan.

15 "§36-29-10.

16 "(a) Employees covered under the plan who retire
17 from active service before January 1, 2012, and begin
18 receiving monthly benefits from the Employees' Retirement
19 System of Alabama, Judicial Retirement System of Alabama, or
20 from the Teachers' Retirement System of Alabama may elect to
21 continue coverage under the plan by consenting to have the
22 employee contribution deducted from their monthly benefit
23 payment for coverage of such retired employees.

24 "(b) Employees covered under the plan who retire
25 from active service after December 31, 2011, with at least 10
26 years of creditable coverage and begin receiving monthly
27 benefits from the Employees' Retirement System of Alabama,

1 Judicial Retirement System of Alabama, or the Teachers'
2 Retirement System of Alabama may elect to continue coverage
3 under the plan by consenting to have the employee contribution
4 deducted from their monthly benefit payment for coverage of
5 such retired employees.

6 "(c) The premiums so deducted shall be transmitted
7 monthly to the board. Notwithstanding the foregoing provisions
8 no person otherwise eligible for coverage under the plan shall
9 be denied participation therein, for the reason that such
10 person is precluded from having the cost of his or her
11 coverage deducted from a monthly benefit payment.

12 "(d) The board shall adopt such rules and
13 regulations as they deem appropriate and necessary for
14 carrying out the provisions of this section.

15 "§36-29-19.4.

16 "The board shall provide assistance to low income
17 employees and retirees who meet the federal poverty levels
18 defined in this section, effective October 1, 2005, and for
19 each fiscal year thereafter.

20 "(1) For employees and retirees who contribute to
21 the cost of their health insurance premium and with annual
22 income (determined as provided below on an aggregate basis for
23 an employee or retiree and spouse) equal to or below ~~200~~ 300
24 percent of the federal poverty level, the employee or retiree
25 contribution shall be reduced as follows:

26 "a. For employees or retirees with annual income
27 equal to or less than 100 percent of the federal poverty

1 level, the employee contribution will be calculated using 50
2 percent of the applicable premium.

3 "b. For employees or retirees with annual income
4 equal to or less than ~~125~~ 150 percent of the federal poverty
5 level, but more than 100 percent of the federal poverty level,
6 the employee contribution shall be calculated using 60 percent
7 of the applicable premium.

8 "c. For employees or retirees with annual income
9 equal to or less than ~~150~~ 200 percent of the federal poverty
10 level, but more than ~~125~~ 150 percent of the federal poverty
11 level, the employee contribution shall be calculated using 70
12 percent of the applicable premium.

13 "d. For employees or retirees with annual income
14 equal to or less than ~~175~~ 250 percent of the federal poverty
15 level, but more than ~~150~~ 200 percent of the federal poverty
16 level, the employee contribution shall be calculated using 80
17 percent of the applicable premium.

18 "e. For employees or retirees with annual income
19 equal to or less than ~~200~~ 300 percent of the federal poverty
20 level, but more than ~~175~~ 250 percent of the federal poverty
21 level, the employee contribution shall be calculated using 90
22 percent of the applicable premium.

23 ~~"(2) For employees or retirees with children
24 otherwise eligible for the federal Children's Health Insurance
25 Program, such children shall receive the same level of
26 benefits as children covered under the Children's Health
27 Insurance Program.~~

1 "~~(3)~~(2) An application procedure shall be devised
2 and implemented by the board through which employees and
3 retirees may apply for the federal poverty level assistance
4 described in this section. For purposes of applying for
5 federal poverty level assistance, the annual income of an
6 employee or retiree shall be aggregated with the annual income
7 of the spouse of such employee or retiree and shall include
8 all sources of income including, but not limited to, wages,
9 pension benefits, and Social Security benefits, that may be
10 included in gross income for purposes of federal income
11 taxation. Applicants must submit with their application a copy
12 of their federal tax return and, if the applicant did not file
13 a joint return with his or her spouse, a copy of the spouse's
14 federal tax return. Any reduction in an employee's or
15 retiree's contribution pursuant to this section shall not be
16 considered income of the employee or retiree for purposes of
17 determining Medicaid eligibility for such employee or retiree.

18 "§36-29-19.7.

19 "(a) The board shall set forth the employer
20 contribution to the health insurance premium for each retiree
21 class.

22 "(b) For employees who retire other than for
23 disability after September 30, 2005, but before January 1,
24 2012, the employer contribution to the health insurance
25 premium set forth by the board for each retiree class shall be
26 reduced by two percent for each year of service less than 25
27 and increased by two percent for each year of service over 25,

1 subject to adjustment by the board for changes in Medicare
2 premium costs required to be paid by a retiree. In no case
3 shall the employer contribution of the health insurance
4 premium exceed 100 percent of the total health insurance
5 premium cost for the retiree.

6 "(c) (1) Except as provided in subdivision (2), for
7 employees who retire after December 31, 2011, the employer
8 contribution to the health insurance premium set forth by the
9 board for each retiree class shall be reduced by four percent
10 for each year of creditable coverage less than 25 and
11 increased by two percent for each year of creditable coverage
12 over 25, subject to adjustment by the board for changes in
13 Medicare premium costs required to be paid by a retiree. In no
14 case shall the employer contribution of the health insurance
15 premium exceed 100 percent of the total health insurance
16 premium cost for the retiree.

17 "(2) Employees who retire on disability after
18 December 31, 2011, and apply for Social Security Disability
19 shall be exempt from this subsection for a period of two years
20 and thereafter if the employee is approved for Social Security
21 Disability.

22 "(d) For employees who retire after December 31,
23 2011, who are not covered by Medicare, regardless of years of
24 coverage, the employer contribution to the health insurance
25 premium set forth by the board for each retire class shall be
26 reduced by a percentage equal to one percent multiplied by the
27 difference between the Medicare entitlement age and the age of

1 the employee at the time of retirement as determined by the
2 board. This reduction in the employer contribution will cease
3 upon notification to the board of the attainment of Medicare
4 coverage.

5 "(e) No later than October 1, 2016, the net employer
6 contribution to the health insurance premium for employees who
7 retire after December 31, 2011, without Medicare coverage
8 shall not exceed the amount of the employer contribution to
9 cover the cost of an active employee.

10 "(f) For an employee who has elected to participate
11 in the Deferred Retirement Option Plan (DROP) as defined under
12 Sections 16-25-150 and 36-27-170, the date participant entered
13 DROP is his or her retirement date for purposes of this act
14 only, provided that the DROP participant: (1) Does not
15 voluntarily terminate participation in DROP within the first
16 three years; and (2) withdraws from service at the end of DROP
17 participation period."

18 Section 2. This act shall become effective
19 immediately following its passage and approval by the
20 Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Finance and Taxation General Fund ... 31-MAR-11

Read for the second time and placed on the calen-
dar with 1 substitute and 5 amendments 21-APR-11

Read for the third time and passed as amended 25-MAY-11

Yeas 19
Nays 13

Patrick Harris
Secretary