

1 SB366
2 174415-1
3 By Senator Albritton
4 RFD: Finance and Taxation Education
5 First Read: 17-MAR-16

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8 SYNOPSIS: Under existing law, certain pension,
9 annuity, or retirement allowance benefits under the
10 Teachers' Retirement System and the Employees'
11 Retirement System are exempt from state or
12 municipal taxes, levy, sale, garnishment,
13 attachment, or any other related process.

14 This bill would provide that restitution,
15 fines, court costs, fees, or any other financial
16 obligations in a felony criminal case ordered by a
17 circuit or district court judge in this state are
18 not subject to this exemption.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT

23
24 To amend Sections 16-25-23 and 36-27-28, Code of
25 Alabama 1975, to provide that certain pension, annuity, or
26 retirement allowance benefits under the Teachers' Retirement

1 System and the Employees' Retirement System are subject to
2 certain recovery action.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 16-25-23 and 36-27-28, Code of
5 Alabama 1975, are amended to read as follows:

6 "§16-25-23.

7 "(a) The Except as provided in subsection (b), the
8 right of a person to a pension; an annuity, or a retirement
9 allowance; to the return of contributions; the pension,
10 annuity or retirement allowance itself; any optional benefit
11 or any other right accrued or accruing to any person under the
12 provisions of this chapter; and the ~~moneys~~ monies in the
13 various funds created by this chapter are hereby exempt from
14 any state or municipal tax and exempt from levy and sale,
15 garnishment, attachment or any other process whatsoever, and
16 shall be unassignable except as in this chapter specifically
17 otherwise provided.

18 "(b) (1) Restitution, fines, court costs, fees, or
19 any other financial obligations in a criminal case ordered by
20 a circuit or district court judge in this state are not
21 subject to the exemption set out in subsection (a), provided
22 all of the following are satisfied:

23 "a. The amount of the restitution ordered is in the
24 amount of one thousand dollars (\$1,000) or greater.

25 "b. The person subject to the order is a retiree or
26 beneficiary who is currently receiving benefits from the
27 Teachers' Retirement System.

1 "c. The case has been assigned to the district
2 attorney's restitution recovery division.

3 "(2) If the requirements of subdivision (1) are met,
4 and upon motion filed by the district attorney, the circuit or
5 district court judge may order that the Teachers' Retirement
6 System pay to the circuit clerk of the court no more than 25
7 percent of the retiree's or beneficiary's gross monthly
8 benefit less any deductions for child support or health
9 insurance for any dependents, to be applied to the balance of
10 the restitution, fines, court costs, fees, or other financial
11 obligations ordered in the criminal case.

12 "(3) An order under subdivision (2) shall set out
13 all of the following:

14 "a. The individual's name, date of birth, and Social
15 Security number.

16 "b. The amount of restitution ordered is in the
17 amount of one thousand dollars (\$1,000) or greater.

18 "c. The amounts of restitution, fines, court costs,
19 fees, or any other financial obligations owed, detailed
20 individually.

21 "d. The relevant case numbers.

22 "e. The county in which the case was brought.

23 "f. The circuit clerk's name and mailing address.

24 "g. That the restitution, fines, court costs, fees,
25 or other financial obligations are payable as a result of a
26 criminal disposition.

1 "h. The amount or the percentage of funds to be
2 paid.

3 "(4) The district attorney shall notify the court
4 whenever the restitution, fines, court costs, fees, or other
5 financial obligations are paid in full. Thereafter, the court
6 shall issue an order to stop the diversion of the individual's
7 funds. Any payment received by the circuit clerk in an amount
8 over what was owed shall be paid back to the Teachers'
9 Retirement System within 60 days with the specific identifying
10 information as to the retiree or the beneficiary to whom it is
11 owed.

12 "§36-27-28.

13 "(a) ~~The~~ Except as provided in subsection (b), the
14 right of a person to a pension, an annuity, a retirement
15 allowance or to the return of contributions, the pension,
16 annuity or retirement allowance itself and any optional
17 benefit or any other right accrued or accruing to any person
18 under the provisions of this article and the moneys in the
19 various funds created by this chapter are hereby exempt from
20 any state or municipal tax and exempt from levy and sale,
21 garnishment, attachment or any other process whatsoever and
22 shall be unassignable except as in this article specifically
23 otherwise provided.

24 "(b) (1) Restitution, fines, court costs, fees, or
25 any other financial obligations in a criminal case ordered by
26 a circuit or district court judge in this state are not

1 subject to the exemption set out in subsection (a), provided
2 all of the following are satisfied:

3 "a. The amount of the restitution ordered is in the
4 amount of one thousand dollars (\$1,000) or greater.

5 "b. The person subject to the order is a retiree or
6 beneficiary who is currently receiving benefits from the
7 Employees' Retirement System.

8 "c. The case has been assigned to the district
9 attorney's restitution recovery division.

10 "(2) If the requirements of subdivision (1) are met,
11 and upon motion filed by the district attorney, the circuit or
12 district court judge may order that the Employees' Retirement
13 System pay to the circuit clerk of the court no more than 25
14 percent of the retiree's or beneficiary's gross monthly
15 benefit less any deductions for child support or health
16 insurance for any dependents, to be applied to the balance of
17 the restitution, fines, court costs, fees, or other financial
18 obligations ordered in the criminal case.

19 "(3) An order under subdivision (2) shall set out
20 all of the following:

21 "a. The individual's name, date of birth, and Social
22 Security number.

23 "b. The amount of restitution ordered is in the
24 amount of one thousand dollars (\$1,000) or greater.

25 "c. The amounts of restitution, fines, court costs,
26 fees, or any other financial obligations owed, detailed
27 individually.

1 "d. The relevant case numbers.

2 "e. The county in which the case was brought.

3 "f. The circuit clerk's name and mailing address.

4 "g. That the restitution, fines, court costs, fees,
5 or other financial obligations are payable as a result of a
6 criminal disposition.

7 "h. The amount or the percentage of funds to be
8 paid.

9 "(4) The district attorney must notify the court
10 whenever the restitution, fines, court costs, fees, or other
11 financial obligations are paid in full. Thereafter, the court
12 shall issue an order to stop the diversion of the individual's
13 funds. Any payment received by the circuit clerk in an amount
14 over what was owed shall be paid back to the Employees'
15 Retirement System within 60 days with the specific identifying
16 information as to the retiree or the beneficiary to whom it is
17 owed."

18 Section 2. The provisions of this act are severable.
19 If any part of this act is declared invalid or
20 unconstitutional, that declaration shall not affect the part
21 which remains.

22 Section 3. This act shall become effective on the
23 first day of the third month following its passage and
24 approval by the Governor, or its otherwise becoming law.