

1 SB413
2 129653-1
3 By Senator Marsh
4 RFD: Fiscal Responsibility and Accountability
5 First Read: 19-APR-11

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8 SYNOPSIS: Under current law, the general
9 administration and responsibility for the proper
10 operation of the Employees' Retirement System of
11 Alabama is statutorily vested in a 13-member Board
12 of Control. This bill would alter the membership of
13 the Board of Control and provide for additional
14 qualifications for members of the board.

15
16 A BILL
17 TO BE ENTITLED
18 AN ACT
19

20 To amend Section 36-27-23, Code of Alabama 1975,
21 relating to the Board of Control of the Employees' Retirement
22 System of Alabama, to alter the membership of the Board of
23 Control; and to provide additional qualifications for members
24 of the Board of Control.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Section 36-27-23 of the Code of Alabama
27 1975, is amended to read as follows:

1 "§36-27-23.

2 "(a) The general administration and responsibility
3 for the proper operation of the retirement system and for
4 making effective the provisions of this article are hereby
5 vested in a board of trustees which shall be known as the
6 Board of Control.

7 "(b) The board shall consist of 13 trustees as
8 follows:

9 "(1) The Governor, ex officio, who shall be
10 chairman.

11 "(2) The State Treasurer, ex officio.

12 "(3) The State Personnel Director, ex officio.

13 "(4) The Director of Finance, ex officio.

14 "~~(5) Three members of the retirement system, to be~~
15 ~~appointed by the Governor, no two of whom shall be from the~~
16 ~~same department of the state government nor from any~~
17 ~~department of which an ex officio trustee is the head. The~~
18 ~~state employees appointed pursuant to this section shall be~~
19 ~~Merit System employees with at least ten years of creditable~~
20 ~~state service and shall not be a department head or an~~
21 ~~assistant department head. The terms of office of the three~~
22 ~~members appointed by the Governor shall begin immediately~~
23 ~~after they have qualified and taken the oath of office. An~~
24 ~~employee of the state appointed by the Governor.~~

25 "~~(6) Two members of the State Employees' Retirement~~
26 ~~System who shall be vested in the system and elected by a~~
27 ~~majority vote of the participating full-time state employees~~

1 who are members of the system, through the use of a statewide
2 ballot conducted by the Secretary-Treasurer under rules
3 promulgated by the Board of Control. For their original terms,
4 one shall serve for a two-year term and one shall serve for a
5 three-year term. Thereafter, their successors each shall serve
6 for a four-year term. An employee of a city, county, or public
7 agency appointed by the Governor.

8 "At the expiration of terms of office of the
9 respective original trustees elected under this subdivision
10 and every four years thereafter, their successors shall be
11 elected in the same manner as provided by this subdivision.

12 "(7) One member from the ranks of retired state
13 employees and one member from the ranks of retired employees
14 of a city, a county, or a public agency each of whom is an
15 active beneficiary of the system shall be elected by a
16 majority vote of the participating retired beneficiaries of
17 the system. The retired state employee member shall serve for
18 a four-year term beginning October 1, 1984, the member who is
19 a retired employee of a city, a county or a public agency
20 shall serve for a three-year term, beginning October 1, 1984,
21 provided after the expiration date of the initial terms
22 provided in this subdivision each term shall be for a period
23 of three years. A retired state employee appointed by the
24 Governor.

25 "The retired members shall be elected in a statewide
26 ballot conducted by the Secretary-Treasurer under rules
27 promulgated by the Board of Control. The Board of Directors of

1 the Alabama Retired State Employees' Association shall submit
2 no more than two nominations for each retired member position.
3 The Board of Control shall determine the procedure for
4 selecting additional candidates. The ballots shall be
5 conducted prior to October 1, 1984, and each applicable year
6 thereafter in order that the trustees can take office by
7 October 1, next following such election.

8 " (8) Two members of the retirement system who shall
9 be employed by an employer participating pursuant to Section
10 36-27-6, who shall be elected by a majority vote of the
11 full-time employees of employers participating pursuant to
12 Section 36-27-6, and who are members of the system. For their
13 original terms one shall serve a three-year term and one shall
14 serve a four-year term. Thereafter, their successors each
15 shall serve for a four-year term. Two persons appointed by the
16 Governor.

17 "The election shall be conducted by the
18 Secretary-Treasurer through use of a statewide ballot in
19 accordance with rules promulgated by the Board of Control,
20 which shall include a nomination petition of not less than 50
21 eligible voters. The election provided herein shall be
22 conducted prior to October 1, 1991, and each applicable year
23 thereafter in order that the trustees can take office October
24 1, next following such election.

25 "(9) Two persons appointed by the Speaker of the
26 House of Representatives.

1 "(10) Two persons appointed by the President Pro
2 Tempore of the Senate.

3 "(c) Appointed members shall serve three-year terms.
4 Qualifying members may be reappointed for successive terms.
5 With the exception of those members serving on the Board of
6 Control by virtue of their respective offices, all members of
7 the Board of Control shall be an expert in the field of
8 investments, market analysis, or financial planning, or on
9 similar matters commensurate with the duties and
10 responsibilities of the proper operation of the Employees'
11 Retirement System. Additionally, with the exception of those
12 members appointed pursuant to subdivision (b) (5) and
13 subdivision (b) (6) of this section, no member of the Board of
14 Control shall hold a full-time office or position of
15 employment with the state, any county or municipality in the
16 state, any educational institution, or any instrumentality,
17 agency, or subdivision of the foregoing. Furthermore, no
18 person employed by a business or firm doing business with the
19 Retirement Systems of Alabama shall be allowed to serve as a
20 member of the Board of Control. If a vacancy occurs in the
21 office of a trustee, the vacancy, within 30 days, shall be
22 filled for the unexpired term in the same manner as the office
23 was previously filled, except that of the trustees elected
24 under subdivision (7) of subsection (b). In that event the
25 vacancy for the unexpired term shall be filled by an
26 appointment by the Board of Control of the Employees'
27 Retirement System from a list of three retired employees

1 ~~furnished him by the Board of Directors of the Alabama Retired~~
2 ~~State Employees' Association~~ by the appropriate appointing
3 authority.

4 "(d) The trustees shall serve without compensation
5 for their services as trustees, but they shall be reimbursed
6 from the Expense Fund for all necessary expenses that they may
7 incur through service on the Board of Control.

8 "(e) Each trustee shall, within 10 days after his
9 appointment, take an oath of office that, so far as it
10 devolves upon him, he will diligently and honestly administer
11 the affairs of the Board of Control and that he will not
12 knowingly violate or willingly permit to be violated any of
13 the provisions of law applicable to the retirement system.
14 Such oath shall be subscribed to by the member making it,
15 certified by the officer before whom it is taken and
16 immediately filed in the office of the Secretary of State.

17 "(f) Each trustee shall be entitled to one vote in
18 the Board of Control. Seven votes in favor of any decision
19 shall be necessary for a decision by the trustees at any
20 meeting of said board.

21 "(g) Subject to the limitations of this article, the
22 Board of Control shall, from time to time, establish rules and
23 regulations for the administration of the funds created by
24 this article and for the transaction of its business.

25 "(h) The Board of Control, by a majority vote of all
26 trustees, shall elect a Secretary-Treasurer who shall serve as
27 the chief executive officer of the retirement system. The

1 Board of Control shall engage such actuarial and other special
2 services as shall be required to transact the business of the
3 retirement system. The compensation of all persons engaged by
4 the board, with the exception of clerical employees who shall
5 be employed under the provisions of the Merit System Act, and
6 all other expenses of the board necessary for the operation of
7 the retirement system shall be paid at such rates and in such
8 amounts as the board shall approve.

9 "(i) The Board of Control shall keep in convenient
10 form such data as shall be necessary for actuarial valuation
11 of the various funds of the retirement system and for checking
12 the experience of the system.

13 "(j) The Board of Control shall keep a record of all
14 its proceedings which shall be open to public inspection. It
15 shall publish annually a report showing the fiscal
16 transactions of the retirement system for the preceding year,
17 the amount of the accumulated cash and securities of the
18 system and the last balance sheet showing the financial
19 condition of the system by means of an actuarial valuation of
20 the assets and liabilities of the retirement system.

21 "(k) The Attorney General of the state shall be the
22 legal adviser of the Board of Control.

23 "(l) The Board of Control shall designate a medical
24 board to be composed of three physicians not eligible to
25 participate in the retirement system. If required, other
26 physicians may be employed to report on special cases. The
27 medical board shall arrange for and pass upon all medical

1 examinations required under the provisions of this chapter and
2 shall investigate all essential statements and certificates by
3 or on behalf of a member in connection with an application for
4 disability retirement and shall report in writing to the Board
5 of Control its conclusions and recommendations upon all
6 matters referred to it.

7 "(m) The Board of Control shall designate an actuary
8 who shall be the technical adviser of the Board of Control on
9 matters regarding the operation of the funds created by the
10 provisions of this article and shall perform such other duties
11 as are required in connection therewith.

12 "(n) Immediately after the establishment of the
13 retirement system the actuary shall make such investigation of
14 the mortality, service and compensation experience of the
15 members of the system as he shall recommend and the Board of
16 Control shall authorize, and, on the basis of such
17 investigation, he shall recommend for adoption by the Board of
18 Control such tables and such rates as are required in
19 subsection (o) of this section. The Board of Control shall
20 adopt tables and certify rates and, as soon as practicable
21 thereafter, the actuary shall make a valuation based on such
22 tables and rates of the assets and liabilities of the funds
23 created by this article.

24 "(o) In 1948, and at least once in each five-year
25 period thereafter, the actuary shall make an actuarial
26 investigation into mortality, service, and compensation
27 experience of the members and beneficiaries of the retirement

1 system and shall make a valuation of the assets and
2 liabilities of the funds of the system and, taking into
3 account the results of such investigation and valuation, the
4 Board of Control shall adopt for the retirement system such
5 mortality, service, and other tables as shall be deemed
6 necessary and certify the rates of contribution payable by the
7 state under the provisions of this article.

8 "(p) On the basis of such tables as the Board of
9 Control shall adopt, the actuary shall make an annual
10 valuation of the assets and liabilities of the funds of the
11 system created by this article."

12 Section 2. To the extent possible, the membership of
13 the Board of Control shall be inclusive and reflect the
14 racial, gender, geographic, urban/rural, and economic
15 diversity of the state.

16 Section 3. It is the intent of the Legislature that
17 there be an orderly transition between the current membership
18 of the Board of Control and the members of the Board of
19 Control provided for in this act. The terms of office of the
20 current membership of the Board of Control shall expire on
21 June 30, 2011. The terms of office of the members of the Board
22 of Control provided for in this act shall begin after the
23 members have qualified and taken the oath of office, but in no
24 case shall the terms begin prior to July 1, 2011.
25 Additionally, the first official meeting of the reconstituted
26 Board of Control shall be held not later than August 1, 2011.

1 Section 4. The provisions of this act are severable.
2 If any part of this act is declared invalid or
3 unconstitutional, that declaration shall not affect the part
4 which remains.

5 Section 5. This act shall become effective
6 immediately upon its passage and approval by the Governor or
7 its otherwise becoming law.