

1 SB428
2 129625-1
3 By Senator Sanford
4 RFD: Finance and Taxation General Fund
5 First Read: 21-APR-11

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8 SYNOPSIS: Under existing law, all teachers and
9 education employees must become members of the
10 Teachers' Retirement System (TRS) as a condition of
11 their employment.

12 This bill would provide that current TRS
13 members may elect to discontinue membership in the
14 system and would require that such member may not
15 withdraw contributions and interest until
16 separation from employment or upon retirement.

17 This bill would allow new employees to elect
18 not to be covered in the membership of the TRS.

19 Under existing law, all state employees must
20 become members of the Employees' Retirement System
21 (ERS) as a condition of their employment.

22 This bill would provide that current ERS
23 members may elect to discontinue membership in the
24 system and would require that such member may not
25 withdraw contributions and interest until
26 separation from employment or upon retirement.

1 This bill would allow new employees to elect
2 not to be covered in the membership of the ERS.

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4 A BILL
5 TO BE ENTITLED
6 AN ACT

7
8 To amend Sections 16-25-3 and 36-27-4 of the Code of
9 Alabama 1975, relating to the Teachers' Retirement System and
10 the Employees' Retirement System for teachers and educational
11 employees and state employees; to provide for withdrawal from
12 the systems for current employees; and to provide for optional
13 participation in the retirement systems for future employees.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Sections 16-25-3 and 36-27-4 of the Code
16 of Alabama 1975, are amended to read as follows:

17 "§16-25-3.

18 "(a) The membership of the retirement system shall
19 consist of the following: All persons who shall become
20 teachers after the date of establishment shall become members
21 of the retirement system as a condition of their employment.
22 Notwithstanding the foregoing, any current member in the
23 system on the effective date of this amendatory act, may elect
24 to discontinue membership in the system. Any current member
25 who elects to discontinue his or her membership shall not be
26 allowed to withdraw his or her contributions and interest
27 until separation from employment or upon retirement pursuant

1 to this chapter. Any person who is a teacher on the date of
2 establishment shall become a member as of that date unless
3 within a period of 90 days next following such teacher shall
4 file with the Board of Control on a form prescribed by the
5 board a notice of his election not to be covered in the
6 membership of the system and a duly executed waiver of all
7 present and prospective benefits which would otherwise inure
8 to him on account of his participation in the retirement
9 system.

10 "(b) A teacher in service on October 1, 1973, whose
11 membership in the retirement system was contingent on his own
12 election and who elected not to become a member may thereafter
13 apply for and be admitted to membership with all prior service
14 credit and with all membership service credit as otherwise
15 provided for in this chapter by applying for such membership
16 within 150 days from September 17, 1973; provided, that said
17 teacher pays to the treasurer of the said retirement system on
18 or before October 1, 1974, a sum equal to the total
19 contributions which he would have made as a member during the
20 period of his employment as a teacher from September 1, 1941
21 to the date of his application for membership, plus compound
22 interest of eight percent on such contributions. Any member or
23 any retired member who at one time taught as a nonmember may
24 now receive credit for prior service and for the years taught
25 as a nonmember; provided, that said member or said retired
26 member, within 150 days from September 17, 1973, pays to the
27 treasurer of the said retirement system a sum equal to the

1 total contributions which he would have made as a member
2 during the period of his employment as a teacher from
3 September 1, 1941 to the date he became a member, plus
4 compound interest of eight percent on such contributions. As
5 soon as practicable after the expiration of the time for
6 making such elections, the Department of Education, at the
7 request of the Governor, shall furnish him a report of the
8 number of teachers in service who applied for membership or
9 credit for prior service. The Board of Control of the
10 Teachers' Retirement System shall determine and report to the
11 Governor the employer cost for such coverage.

12 "(c) The Board of Control may, in its discretion,
13 deny the right to become members to any class of teachers
14 whose compensation is only partly paid by the state or who are
15 serving on a temporary or other than per annum basis, and it
16 also may, in its discretion, make optional with members in any
17 such class their individual entrance into the retirement
18 system. Should any member in any period of six consecutive
19 years after becoming a member be absent from service more than
20 five years or withdraw his contributions, as provided in
21 subsection (g) of Section 16-25-14, or retire or die, he shall
22 thereupon cease to be a member.

23 "(d) Notwithstanding, a teacher in service on
24 October 1, 1975, who has full-time military service in the
25 armed forces of the United States, exclusive of service in a
26 reserve or national guard component of any branch of the armed
27 forces, and who has not received credit toward retirement

1 status in the Teachers' Retirement System of Alabama for said
2 military service, may be granted by the Board of Control
3 membership service credit for the period of such service in
4 the armed forces; provided, that such member pays into the
5 Teachers' Retirement System, in a lump sum prior to October 1,
6 1976, an amount equal to four percent of the average
7 compensation paid to a teacher during each claimed year of
8 full-time military service, plus and together therewith, eight
9 percent interest compounded from the last date of such claimed
10 military service; provided further, that such a member shall
11 not receive membership service credit for more than four years
12 of military service and shall receive no credit for military
13 service if such member is receiving military service
14 retirement benefits, other than disability allowances or
15 benefits, from any branch of the United States armed forces or
16 by reason of any such service in any branch of the armed
17 forces or if such member received anything other than an
18 honorable discharge for and including the claimed military
19 service.

20 "(e) Anything in this chapter to the contrary
21 notwithstanding, if any person becoming a member of the
22 Teachers' Retirement System after October 1, 1975 shall have
23 served in the armed forces of the United States, exclusive of
24 service in a reserve or national guard component of any branch
25 of the armed forces, such member may be granted by the Board
26 of Control membership service credit for such period of
27 service in the armed forces; provided, that such member pays

1 into the Teachers' Retirement System, in a lump sum within one
2 year next after the first day of the pay period in which the
3 first deduction to the Teachers' Retirement System is made,
4 after having been honorably discharged from the armed forces,
5 an amount equal to four percent of the average compensation
6 paid to a teacher during each claimed year of full-time
7 military service, plus and together therewith, eight percent
8 interest compounded from the last date of such claimed
9 military service; provided further, that no member shall
10 receive more than four years' membership service credit for
11 military service, and no credit for military service shall be
12 granted if such member is receiving military service
13 retirement benefits, other than disability allowances or
14 benefits, from any branch of the United States armed forces or
15 by reason of any service in any branch of the armed forces or
16 if such member received anything other than an honorable
17 discharge for and including the claimed military service.

18 "(f) Except as provided in this section, no benefit
19 under the retirement system other than the return of
20 contributions as provided in subsection (g) of Section
21 16-25-14 shall become payable to or on account of any member
22 while he is not in service as a teacher, unless the member
23 withdraws from service after reaching age 60; provided, that a
24 teacher who becomes a member on or after October 1, 1963 must
25 have 10 or more years of creditable service when he withdraws
26 from service after reaching age 60.

1 "(g) Anything in this title to the contrary
2 notwithstanding, any member who, at the time of his withdrawal
3 from service, has completed the age and service requirements
4 established by the Board of Control for eligibility for
5 deferred benefits shall be eligible to continue in the
6 membership of the system until he files application for
7 service retirement in accordance with the provisions of
8 Section 16-25-14. The Board of Control shall, from time to
9 time, establish the minimum age and the minimum number of
10 years of creditable service which shall be required in order
11 that a member may be eligible for deferred benefits; provided,
12 that such minimum number of years of creditable service shall
13 not be less than 10 years nor more than 25 years. Unless and
14 until changed by the Board of Control, the requirements for
15 deferred benefits shall be the completion of 25 years of
16 creditable service or the completion of 10 years of creditable
17 service and the attainment of age 55 at the time of withdrawal
18 from service.

19 "(h) Beginning on October 1, 2011, any teacher or
20 education employee beginning employment may elect not to be
21 covered in the membership of the system.

22 "§36-27-4.

23 "(a) The membership of the retirement system shall
24 be composed as follows:

25 "(1) All persons who shall become employees after
26 October 1, 1945, shall become members of the retirement system
27 as a condition of their employment. Notwithstanding the

1 foregoing, any current member in the system on or after the
2 effective date of this amendatory act, may elect to
3 discontinue membership in the system. Any current member who
4 elects to discontinue his or her membership shall not be
5 allowed to withdraw his or her contributions and interest
6 until separation from employment or upon retirement pursuant
7 to this chapter.

8 "(2) Any person who is an employee on October 1,
9 1945, shall become a member as of that date unless, within a
10 period of 90 days next following, such employee shall file
11 with the Board of Control on a form prescribed by the board a
12 notice of his election not to be covered in the membership of
13 the system and a duly executed waiver of all present and
14 prospective benefits which would otherwise inure to him on
15 account of his membership in the retirement system.

16 "(3) An employee whose membership in the retirement
17 system is contingent on his own election and who elects not to
18 become a member may thereafter apply for and be admitted to
19 membership with all prior service credit as otherwise provided
20 for in this article by applying for such membership at any
21 time prior to July 1, 1962; provided, that said employee pays
22 to the treasurer of the said retirement system on or before
23 July 1, 1962, a sum equal to the total contributions which he
24 would have made as a member during the period of his service
25 as an employee from October 1, 1945, to the date of his
26 application for membership. Any member or retired employee who
27 at one time worked as a nonmember may now receive credit for

1 prior service and for the years worked as a nonmember;
2 provided, that said member or retired employee pays to the
3 treasurer of the retirement system on or before July 1, 1962,
4 a sum equal to the total contributions which he would have
5 made as a member during the period of his employment from
6 October 1, 1945, to the date he became a member.

7 "(4) All county engineers of the several counties of
8 the state in whose salaries the State Department of
9 Transportation participates, except county engineers who are
10 already members of this retirement system under provisions of
11 this article or who are covered under the provisions of a
12 county retirement system supported by funds of the employing
13 county. The effective date for the inclusion of county
14 engineers in the system shall be October 1, 1964. Membership
15 in the retirement system shall be optional for county
16 engineers employed on the date participation becomes
17 effective, and any county engineer who elects to enroll in the
18 retirement system within one year thereafter may be admitted
19 to membership with all prior service credit and all membership
20 service credit; provided, that said county engineer pays to
21 the treasurer of the retirement system at the time he enrolls
22 a sum equal to the total employee contributions and interest
23 he would have had to his credit had he been a member during
24 the period of his service as county engineer from October 1,
25 1945, to the date of his application for membership. Should a
26 county engineer employed on the date participation becomes
27 effective elect to enroll as a member without paying such

1 prior membership contributions and interest, he may become a
2 member without credit for service prior to date of his
3 enrollment. Membership shall be compulsory for all county
4 engineers who are eligible for such membership upon entering
5 service as a county engineer after the date participation
6 becomes effective to the extent of the State Department of
7 Transportation's participation in his salary.

8 "(b) The Board of Control may, in its discretion,
9 deny the right to become members to any class of employees
10 whose compensation is only partly paid by the state, except as
11 provided in this article.

12 "(c) Should any member in any period of six
13 consecutive years after becoming a member be absent from
14 service more than five years or withdraw his contributions, as
15 provided in subdivision (1) of subsection (c) of Section
16 36-27-16, or retire or die, he shall thereupon cease to be a
17 member.

18 "(d) A member in service on January 1, 1976, who has
19 honorable duty consisting of active full-time military service
20 in the armed forces of the United States, exclusive of any
21 summer or weekend service in a reserve or national guard
22 component of any branch of the armed forces, and who has not
23 received credit toward retirement status in the Employees'
24 Retirement System of Alabama for said military service, may be
25 granted by the Board of Control membership service credit for
26 the period of such service in the armed forces; provided, that
27 such member pays into the Employees' Retirement System, in a

1 lump sum prior to October 1, 1976, an amount equal to four
2 percent of the average compensation paid to a state employee
3 during each claimed year of full-time military service, plus
4 and together therewith eight percent interest compounded from
5 the last date of such claimed military service; and provided
6 further, that such a member shall not receive membership
7 service credit for more than four years of military service,
8 and shall receive no credit for military service if such
9 member is receiving military service retirement benefits,
10 other than disability allowances or benefits, from any branch
11 of the United States armed forces, or by reason of any such
12 service in any branch of the armed forces, or, if such member
13 received anything other than an honorable discharge for and
14 including the claimed military service. Anything in this
15 article to the contrary notwithstanding, if any person
16 becoming a member of the Employees' Retirement System after
17 January 1, 1976, shall have honorable duty consisting of
18 active full-time military service in the armed forces of the
19 United States, exclusive of any summer or weekend service in a
20 reserve or national guard component of any branch of the armed
21 forces, such member may be granted by the Board of Control
22 membership service credit for such period of service in the
23 armed forces; provided, that such member pays into the
24 Employees' Retirement System, in a lump sum within one year
25 next after the first day of the pay period in which the first
26 deduction to the Employees' Retirement System is made after
27 having been honorably discharged from the armed forces, an

1 amount equal to four percent of the average compensation paid
2 to a state employee during each claimed year of full-time
3 military service, plus and together therewith eight percent
4 interest compounded from the last date of such claimed
5 military service; and provided further, that no member shall
6 receive more than four years' membership service credit for
7 military service, and no credit for military service shall be
8 granted if such member is receiving military service
9 retirement benefits, other than disability allowances or
10 benefits, from any branch of the United States armed forces,
11 or by reason of any service in any branch of the armed forces,
12 or, if such member received anything other than an honorable
13 discharge for and including the claimed military service.

14 "(e) No benefit under the retirement system other
15 than the return of contributions as provided in subdivision
16 (1) of subsection (c) of Section 36-27-16 shall become payable
17 to or on account of any member while he is not in service as
18 an employee, unless the member withdraws from service after
19 reaching age 60, or, in the case of a state policeman, after
20 reaching age 56. Anything in this article to the contrary
21 notwithstanding, any member who has completed 15 years of
22 creditable service or who has completed 10 years of creditable
23 service and has attained age 55 at the time of his withdrawal
24 from service shall be eligible to continue in the membership
25 of the system until he files application for service
26 retirement in accordance with the provisions of subsection (a)
27 of Section 36-27-16.

1 "(f) Any member, who retired prior to January 1,
2 1976, who has service in the armed forces, as described in
3 this section, shall be entitled to claim such full-time
4 military service; provided, that such retired member pays into
5 the Employees' Retirement System, in a lump sum prior to
6 October 1, 1976, an amount equal to four percent of the
7 average compensation paid to a state employee during such
8 claimed year of full-time military service, plus and together
9 therewith eight percent compounded from the last date of such
10 claimed military service; and provided further, that such
11 retired member shall not receive membership service credit for
12 more than four years of military service, and shall receive no
13 credit for military service, if such member is receiving
14 military service retirement benefits, other than disability
15 allowance or benefits, from any branch of the armed forces, or
16 by reason of any such service in any branch of the armed
17 forces. The provisions of this subsection shall be retroactive
18 to October 1, 1975.

19 "(g) All retirement allowance payments due on or
20 after January 1, 1976, to members of the Employees' Retirement
21 System of Alabama who retired prior to said date and who have
22 complied with the provisions of this section shall be
23 redetermined as if the provisions of this section were in
24 effect at the time they retired; provided, that any increase
25 in the retirement allowance payment for a member who, prior to
26 October 1, 1975, retired under the provisions of any optional
27 benefit elected pursuant to Acts 1945, No. 515, as amended,

1 shall accrue only to the retired member, and no person
2 designated to receive any payments after the death of a
3 retired member under the provisions of any such optional
4 benefit shall receive any increase in such payments.

5 "(h) Beginning on October 1, 2011, any employee
6 beginning employment may elect not to be covered in the
7 membership of the system."

8 Section 2. This act shall become effective on the
9 first day of the third month following its passage and
10 approval by the Governor, or its otherwise becoming law.