

1 HB492
2 167378-1
3 By Representative Treadaway (N & P)
4 RFD: Jefferson County Legislation
5 First Read: 14-APR-15

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Relating to the Board of Managers of the City of
14 Birmingham Retirement and Relief System; to further amend
15 Section 4 of Act 556, 1959 Regular Session (Acts 1959, p.
16 1376), as amended by Act 2013-438, 2013 Regular Session; to
17 amend the investment powers of the board of managers to
18 require not less than 25 percent of investments to be in fixed
19 income securities and remove the requirement of not more than
20 60 percent of equity securities as the total investments of
21 the fund.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Section 4 of Act 556, 1959 Regular
24 Session (Acts 1959, p. 1376), as amended by Act 2013-438, 2013
25 Regular Session, is further amended to read as follows:

26 "Section 4. Board of Managers.

1 "(a) In order to assure representation of all
2 participants of this system, there shall be a Board of
3 Managers of five members for the administration, management,
4 and control of the Supplemental Pension System, including
5 administration, management, control, acquisition, and
6 disbursement of the fund. The board shall consist of the
7 president of the governing body of the city, who shall be
8 chair of the board, and four associate members, designated
9 respectively as Member No. 1, Member No. 2, Member No. 3, and
10 Member No. 4.

11 "Member No. 1 shall be appointed by the Jefferson
12 County personnel board and shall be a person who at the time
13 of appointment has had five or more consecutive years
14 immediately preceding his or her appointment and has been an
15 officer of, or the occupant of an executive position in
16 insurance, actuarial, investment, banking, or as a certified
17 public accountant and shall serve for a term of four years.
18 Should the appointed Member No. 1 die, resign, or otherwise be
19 unable to serve, the vacancy thus created shall be filled for
20 the remainder of the term by the Jefferson County Personnel
21 Board. The personnel board in appointing Member No. 1 shall
22 select the person who in the opinion of the personnel board is
23 best qualified to discharge the duties of a member of the
24 Board of Managers. Member No. 2 shall be a firefighter who is
25 a participant of the system, Member No. 3 shall be a police
26 officer who is a participant of the system. Member No. 4 shall
27 be a retiree in the City of Birmingham Firemen's and

1 Policemen's Supplemental Pension System with a retirement
2 benefit from the System and shall be a qualified voter of the
3 State of Alabama. The firefighter participants of the
4 Supplemental Pension System shall elect Member No. 2 and the
5 police officer participants of the system shall elect Member
6 No. 3. The firefighter and the police officer receiving a
7 plurality of votes shall be elected. In the event a
8 participant representative shall die, resign, or otherwise be
9 unable to serve or no longer qualified, the participants from
10 the respective Member category shall by a plurality of the
11 votes cast elect a person who shall fill the unexpired term.
12 Member No. 4 shall be elected by a plurality of the votes cast
13 by the retirees in the system at an election to be held within
14 ninety days from the date on which this Act becomes effective.
15 At the first election to be held hereunder retirees belonging
16 to the System may vote for a retired fireman or policeman in
17 the System to hold the position to be occupied by Member No. 4
18 on the Board. In any election subsequent to the first
19 election, qualified retirees voting in such subsequent
20 election shall not vote for any retiree of the System
21 belonging to the same former department (that is fire
22 department or police department, as the case may be) as the
23 retiree last elected for a full term as Member No. 4. The
24 purpose of the next preceding sentence is to rotate Member No.
25 4 between qualified retirees from the fire department and the
26 police department of the City of Birmingham. In the event the
27 retirees representative shall cease to be retired, die,

1 resign, or otherwise be unable to serve or no longer
2 qualified, the said retirees of the system shall by a
3 plurality of the votes cast elect to fill the unexpired
4 portion of the term with a person who shall be a retiree of
5 the System and meet the qualifications of Member No. 4. Member
6 No. 2 and Member No. 3 may hold their positions until
7 elections for their respective Board Member positions are due
8 for election in April, 2016. Members of the board shall be
9 elected by secret ballot to serve a term of four years
10 commencing on the date the result of the election is declared.
11 Any member of the board may be removed by impeachment for
12 corruption or malfeasance or misfeasance in office or for
13 habitual neglect of duty. Any member of the board may serve
14 beyond his or her term until a successor is appointed or
15 elected. The governing body of the city shall have the
16 authority to prescribe and to change rules and regulations
17 concerning the election of the participant-member of the board
18 provided that the rules and regulations as prescribed or
19 changed are not inconsistent with this act.

20 "The board shall meet on the second Wednesday in
21 each calendar month; however, the board shall not be required
22 to meet unless there is pending before the board some
23 application for pension, relief, or benefit or unless there is
24 pending some other matter requiring consideration by the board
25 and the board by resolution may change the regular meeting
26 date.

1 "The personnel director, of the Personnel Board of
2 Jefferson County, Alabama, shall be the secretary of the board
3 and shall be present at every meeting of the board, and keep a
4 record of all proceedings of the board and all orders and
5 decisions of the board. In the event the personnel director is
6 temporarily unable to fulfill his/her obligations, the board
7 may appoint a temporary replacement to take and record the
8 minutes of the meeting. Neither the secretary nor any member
9 of the board shall receive any salary or compensation. Any
10 three members of the board, when assembled either in regular
11 or special meeting, shall constitute a quorum for the
12 transaction of any and all business of the board, and the
13 affirmative vote of three members present shall be necessary
14 and sufficient to pass any motion or resolution. The board
15 shall meet in the office of the chair, or such other place as
16 the board may designate.

17 "The board is empowered to make rules and
18 regulations not inconsistent with the provisions of the system
19 in relation to its affairs and the system. The board shall
20 receive, investigate, and pass upon all applications for
21 retirement, disability, and survivors benefits and shall make
22 retirement, disability, and survivors benefits in accordance
23 with the system to all participants and their survivors
24 entitled thereto under the system, and its decisions upon all
25 such matters of fact shall be final and conclusive unless it
26 shall be affirmatively made to appear that its decision is
27 plainly and manifestly wrong.

1 "(b) (1) No money of the fund shall be invested, paid
2 out, or disbursed except pursuant to order or authorization of
3 the board. The board shall be the trustee, have entire
4 management and control of the fund, and shall direct
5 investment of monies of the fund not needed to meet
6 disbursements provided for in this act and in the loans to
7 members hereinafter referred to and shall be invested in the
8 classes of bonds, mortgages, common and preferred stocks,
9 shares of investment companies or mutual funds, real estate
10 investment trusts, international equity, corporate fixed
11 income, international fixed income, index funds, interest of
12 private investment, private investment funds, or treasury
13 bonds, notes, and bills of the United States, and agencies of
14 the United States as the board may approve, derivative
15 securities and investment recognized as alternative
16 investments (excluding direct investments in real estate)
17 subject to the limitations herein. The board may invest in
18 fixed income securities and bonds of corporations organized
19 under federal laws or under laws of any state of the United
20 States or in bonds registered with the Security and Exchange
21 Commission, mortgaged-backed securities or asset backed
22 securities, or in securities issued by federal agencies and
23 government sponsored entities, or may invest in Federal
24 Savings and Loan Associations or in other corporations having
25 Federal Savings and Loan Association's guarantee or in
26 certificates of deposit or bonds issued by banks organized
27 under federal laws or under the laws of the State of Alabama

1 and insured by the federal government. No funds may be
2 invested in fixed income securities or common or preferred
3 stocks and stocks of private corporations or other forms of
4 equity or fixed investment unless such common or preferred
5 stocks or other forms of equity or fixed investments are
6 registered with the Securities and Exchange Commission or are
7 traded through NASDAQ Stock Market or are Rule 144A securities
8 or are traded on an organized exchange. ~~and the aggregate~~
9 ~~value of the funds invested in such common or preferred stock~~
10 ~~of corporations or other forms of equity securities last~~
11 ~~referred to above shall not exceed 60 percent of the value of~~
12 ~~all funds available in the system. The aggregate value of the~~
13 ~~funds invested in common or preferred stocks, mutual funds or~~
14 ~~other forms of equity securities, shall not exceed 60 percent~~
15 ~~of total investments of the fund.~~ The total investment in
16 fixed income securities shall not be less than **forty**
17 twenty-five percent ~~(40%)~~ (25%) of the fair market value of
18 all the funds available in the system for investment.
19 Securities issued by any single non-guaranteed agency or
20 entity may not constitute more than ten percent (10%) of the
21 fixed income allocation of the fund at the time of purchase.
22 The fair market value of all funds available in the system for
23 investment is to be determined periodically, but not less than
24 annually. In exercising its discretion to invest, reinvest,
25 and have invested and reinvested all funds of the system, the
26 board shall act with the care, skill, prudence and diligence
27 under the circumstances then prevailing that a prudent person

1 acting in a like capacity and familiar with such matters would
2 use in the conduct of an enterprise of a like character and
3 with like aims.

4 "(2) From the fund of the system created by this
5 act, the Board of Managers shall pay to the fund of the
6 General Retirement and Relief System of the City of Birmingham
7 amounts hereinafter specified. When any firefighter or police
8 officer retires on length of service, as hereinafter provided
9 for in Section 8, the Board of Managers shall pay from the
10 fund of this system the amount specified during each month
11 between the due date on which the participant retires and the
12 date on which the participant would have been entitled to
13 receive a retirement allowance from the General Retirement and
14 Relief System for 30 years service had the participant not
15 retired, but had continued to serve without interruption as a
16 participant of the General Retirement and Relief System until
17 entitled to receive from said last named system a retirement
18 system pension based upon 30 years service. The amount which
19 the Board of Managers shall pay to the fund of the General
20 Retirement and Relief System, during the period specified,
21 shall be the sum of the amount which the city would have
22 deducted from the salary of the participant and would have
23 paid into the fund of the General Retirement and Relief System
24 had the participant continued to be employed by the city
25 during the period specified had the participant retired under
26 Section 8 of this act plus the amount which the city during
27 the same period would have paid from the funds of the city

1 into the General Retirement and Relief System to match the
2 deductions had the participant continued to work until
3 entitled to retire on a pension based upon 30 years' service."

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

8 Section 3. This act shall become effective
9 immediately following its passage and approval by the
10 Governor, or its otherwise becoming law.