

1 SB411
2 147241-5
3 By Senator Orr
4 RFD: Finance and Taxation General Fund
5 First Read: 23-APR-15

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8 SYNOPSIS: Under current law, justices and judges in
9 Alabama are members of the Judicial Retirement
10 Fund. Circuit clerks and district attorneys have
11 separate supernumerary systems in lieu of
12 retirement plans. This bill establishes the Judges'
13 and Clerks' Plan and the District Attorneys' Plan
14 under the Judicial Retirement Fund, changes
15 benefits for justices and judges first elected or
16 appointed on or after November 8, 2016, and
17 provides that district attorneys and circuit clerks
18 participate in the plan upon passage of a
19 constitutional amendment to allow such
20 participation. Additionally, this bill allows for
21 preretirement death benefits for such members.

22
23 A BILL
24 TO BE ENTITLED
25 AN ACT
26

1 To amend Section 36-27B-1, Code of Alabama 1975,
2 relating to preretirement death benefits for judges, clerks
3 and district attorneys; to establish the Judges' and Clerks'
4 Plan for retirement for justices, judges, and circuit clerks;
5 to establish the District Attorneys' Plan for retirement for
6 district attorneys; and to provide guidelines for the plans.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Section 36-27B-1, Code of Alabama 1975,
9 is amended to read as follows:

10 "§36-27B-1.

11 "There shall be created the Preretirement Death
12 Benefit Program effective October 1, 1985, which shall be
13 effective as of that date to all employees covered under the
14 Teachers' Retirement System of Alabama and the Employees'
15 Retirement System of Alabama. Beginning November 8, 2016, the
16 Preretirement Death Benefit Program shall be effective to all
17 members of the Judges' and Clerks' Plan and the District
18 Attorneys' Plan provided for in Section 3 and Section 19. In
19 the event the conditions prescribed in Section 36-27B-5 shall
20 occur prior to October 1, 1985, the death benefit plan
21 established herein shall become effective upon certification
22 and adoption by a joint resolution of the Teachers' and
23 Employees' Retirement Systems' Boards of Control."

24 Section 2. When used in this article, the following
25 terms shall have the following meanings, respectively, unless
26 the context clearly indicates otherwise:

1 (1) RETIREMENT SYSTEM. The Employees' Retirement
2 System of Alabama as defined in Section 36-27-2.

3 (2) FUND. The Judicial Retirement Fund provided for
4 in Chapter 18 of Title 12.

5 (3) PLAN. The Judges' and Clerks' Plan provided for
6 in Section 3.

7 (4) JUDGE OR CLERK. Any justice of the Supreme
8 Court, judge of the Court of Civil Appeals, judge of the Court
9 of Criminal Appeals, circuit judge, district judge, probate
10 judge, or circuit clerk first elected or appointed to his or
11 her position on or after November 8, 2016. This shall not
12 include any judge or clerk who is a member of the Judicial
13 Retirement Fund prior to the effective date of this act.

14 (5) EMPLOYER. The State of Alabama or any
15 department, agency, or local governing body by which a judge
16 or clerk is paid.

17 (6) MEMBER. Any judge or clerk included in
18 membership of the plan.

19 (7) BOARD OF CONTROL. The board provided for in
20 Section 36-27-23 to administer the retirement system.

21 (8) MEDICAL BOARD. The board of physicians provided
22 for in Section 36-27-23.

23 (9) MEMBERSHIP SERVICE. Service as a judge or clerk
24 on account of which contributions are made.

25 (10) AVERAGE FINAL COMPENSATION. The average annual
26 compensation of a judge or clerk with respect to which he or
27 she had made contributions pursuant to Section 4 during the

1 five years in his or her last 10 years of membership service
2 for which the average is highest or during his or her entire
3 period of membership service if less than five years.

4 (11) BENEFICIARY. Any person in receipt of a
5 pension, an annuity, a retirement allowance or other benefit
6 as provided by this article.

7 (12) REGULAR INTEREST. Interest compounded annually
8 at the rate determined by the Board of Control.

9 (13) ACCUMULATED CONTRIBUTIONS. The sum of all the
10 amounts deducted from the compensation of a member credited to
11 his or her individual account in the Judges' and Clerks' Plan,
12 together with regular interest thereon.

13 (14) ANNUITY. Payments for life derived from the
14 "accumulated contributions" of a member. All annuities shall
15 be payable in equal monthly installments.

16 (15) PENSION. Payments for life derived from money
17 provided by the employer. All pensions shall be payable in
18 equal monthly installments.

19 (16) RETIREMENT ALLOWANCE. The sum of the "annuity"
20 and the "pension."

21 (17) RETIREMENT. Withdrawal from active service with
22 a retirement allowance or optional benefit in lieu thereof
23 granted under this article.

24 (18) ACTUARIAL EQUIVALENT. A benefit of equal value
25 when computed upon the basis of the mortality tables adopted
26 by the Board of Control and regular interest.

1 Section 3. There is hereby created and established
2 the Judges' and Clerks' Plan under the Judicial Retirement
3 Fund.

4 Section 4. (a) Every judge or clerk first elected or
5 appointed to his or her position on or after November 8, 2016
6 shall come under this article by operation of law. The plan
7 shall not include any judge or clerk who is a member of the
8 Judicial Retirement Fund prior to the effective date of this
9 act. Each judge or clerk shall contribute to the fund eight
10 and one-half percent (8.5%) of his or her annual salary or
11 base sum as provided in Section 12-18-82. The percentages
12 shall be deducted by the employer from each judge's or clerk's
13 salary and paid into the fund in the State Treasury and
14 credited to the individual account of the judge or clerk from
15 whose salary it was deducted.

16 (b) On account of each member there shall be paid
17 monthly by the employer an amount equal to a certain
18 percentage of the annual salary of each member to be the
19 employer's contribution. The percentage rate of such
20 contribution shall be fixed for each fiscal year on the basis
21 of the liabilities as shown by the last annual actuarial
22 valuation, and such percentage rate as established by such
23 valuation shall take effect the following October 1 and
24 continue in effect for the fiscal year.

25 Section 5. (a) Any active and contributing member of
26 the Judges' and Clerks' Plan who, not more than one year prior
27 to becoming a member of the plan was a member of the

1 Employees' Retirement System of Alabama or the Teachers'
2 Retirement System of Alabama, may elect to transfer his or her
3 membership service and accumulated contributions in the
4 Employees' Retirement System or the Teachers' Retirement
5 System to the Judges' and Clerks' Plan.

6 (b) Any active and contributing member desiring to
7 transfer any membership service and accumulated contributions
8 under subsection (a) shall notify the Board of Control of the
9 Employees' Retirement System of his or her election to
10 transfer membership service and shall authorize the transfer
11 of the amount of his or her accumulated contributions to his
12 or her credit in the Employees' Retirement System or Teachers'
13 Retirement System to his or her account in the Judges' and
14 Clerks' Plan.

15 (c) The Board of Control transferring the membership
16 service and contributions shall thereupon certify to the Board
17 of Control of the Employees' Retirement System and to the fund
18 the amount of contributions and service creditable to the
19 member at the time of separation from the transferring
20 retirement system. The member shall be credited in the fund
21 with the membership service and accumulated contributions so
22 certified.

23 (d) Anything in this article to the contrary
24 notwithstanding, in the application of the foregoing
25 provisions of this section to a member whose membership
26 service includes a period of service as a judge or clerk and a
27 period of service in another employment classification, the

1 benefit rates applicable to a judge or clerk shall apply to
2 all membership service as a judge or clerk, and the benefit
3 rates applicable to the member's other employment
4 classification shall apply to membership service in such other
5 classification. In all other respects, the pension under this
6 section shall be determined on the basis of the member's
7 employment classification at the time of his or her withdrawal
8 from service.

9 Section 6. (a) Any member who withdraws from service
10 upon or after attainment of age 62 may retire upon written
11 application to the Board of Control setting forth at what
12 time, not less than 30 days nor more than 90 days subsequent
13 to the execution and filing thereof, he or she desires to be
14 retired; provided, that any such member shall have completed
15 10 or more years of membership service in the Judges' and
16 Clerks' Plan.

17 (b) Any member who has attained age 62 and has
18 previously withdrawn from service may retire upon written
19 application to the Board of Control setting forth at what
20 time, not less than 30 days nor more than 90 days subsequent
21 to the execution and filing thereof, he or she desires to be
22 retired; provided, that any such member shall have completed
23 10 or more years of membership service.

24 (c) Upon retirement from service, the member shall
25 receive a service retirement allowance which shall consist of
26 an annuity, which shall be the actuarial equivalent of the
27 member's accumulated contributions at the time of retirement,

1 and a pension, which when added to the member's annuity shall
2 be equal to three percent (3%) of the member's average final
3 compensation multiplied by the member's number of years of
4 membership service. Notwithstanding the foregoing, the service
5 retirement allowance shall not exceed eighty percent (80%) of
6 the member's average final compensation.

7 Section 7. (a) Upon application of an active and
8 contributing member, any such member who has 10 or more years
9 of membership service who becomes disabled may be retired on a
10 disability retirement allowance by the Board of Control not
11 less than 30 days nor more than 90 days next following the
12 date of filing of such application; provided that the medical
13 board, after a medical examination of such member, shall
14 certify that such individual is totally and permanently
15 mentally or physically incapacitated from regular and
16 substantial gainful employment and that such member should be
17 retired.

18 (b) Upon retirement for disability, the member shall
19 receive a service retirement allowance if he or she has
20 attained age 62; otherwise, he or she shall receive a
21 disability retirement allowance which shall consist of an
22 annuity, which shall be the actuarial equivalent of the
23 member's accumulated contributions at the time of retirement,
24 and a pension, which when added to the member's annuity shall
25 be equal to three percent (3%) of the member's average final
26 compensation multiplied by the member's number of years of
27 membership service. Notwithstanding the foregoing, the

1 disability retirement allowance shall not exceed eighty
2 percent (80%) of the member's average final compensation.

3 (c) Once each year during the first five years
4 following the retirement of a member on a disability
5 retirement allowance and once every three-year period
6 thereafter, the Board of Control may require any disability
7 beneficiary who has not yet attained age 62 to undergo a
8 medical examination, such examination to be made at the place
9 of residence of such beneficiary or other place mutually
10 agreed upon by a physician or physicians of or designated by
11 the medical board. Should any disability beneficiary who has
12 not yet attained age 62 refuse to submit to such medical
13 examination, his or her retirement allowance may be
14 discontinued until his or her withdrawal of such refusal, and
15 should his or her refusal continue for one year, all his or
16 her rights in and to his or her pension may be revoked by the
17 Board of Control. Should the medical board report and certify
18 to the Board of Control that a disability beneficiary has the
19 capacity to engage in regular and substantial gainful
20 employment, the Board of Control shall discontinue the
21 beneficiary's retirement allowance until the beneficiary is
22 otherwise eligible for service retirement.

23 Section 8. (a) Should a member cease to be a judge
24 or clerk except by death or by retirement under the provisions
25 of this article, the contributions standing to the credit of
26 his or her individual account in the fund shall be paid to him
27 or her upon demand and, in addition to such payment, there

1 shall be paid five-tenths of the interest accumulations
2 standing to the credit of his or her individual account if he
3 or she shall have not less than three but less than 16 years
4 of membership service, six-tenths of such interest
5 accumulations if he or she shall have not less than 16 but
6 less than 21 years of membership service, seven-tenths of such
7 interest accumulations if he or she shall have not less than
8 21 but less than 26 years of membership service and
9 eight-tenths of such interest accumulations if he or she shall
10 have not less than 26 years of membership service.

11 (b) In case of the death of a member eligible for
12 service retirement pursuant to Section 6, an allowance shall
13 be paid to the surviving spouse, or to such other person who
14 the member shall have designated, in an amount that would have
15 been payable if the member had retired immediately prior to
16 his or her death and had elected Option 3, as set forth in
17 subsection (d) of this section or, alternatively, if the
18 surviving spouse or other designee desires, he or she may
19 choose to receive, in lieu of the allowance provided under
20 Option 3, the accumulated contributions of the member plus an
21 amount equal to the accumulated contributions of the member
22 not to exceed \$5,000.00 or the accumulated contributions of
23 the member plus the benefit provided by Section 36-27B-3 if a
24 benefit is payable under such section.

25 (c) Upon the death of a member on account of whom no
26 survivor allowance is payable under subsection (b) of this
27 section, the accumulated contributions of the member plus an

1 amount equal to the accumulated contributions not to exceed
2 \$5,000 or the accumulated contributions of the member plus the
3 benefit provided by Section 36-27B-3 if a benefit is payable
4 under such section shall be paid to his or her estate or to
5 such person as he or she shall have nominated by written
6 designation duly executed and filed with the Board of Control.

7 (d) Optional allowances. With the provision that the
8 election of an option shall be effective on the effective date
9 of retirement, any member may elect prior to retirement to
10 receive, in lieu of his or her retirement allowance payable
11 throughout life, the actuarial equivalent, at that time, of
12 his or her retirement allowance in a reduced retirement
13 allowance payable throughout life with the provisions that:

14 (1) OPTION 1. If he or she dies before he or she has
15 received in annuity payments the present value of his or her
16 annuity as it was at the time of his or her retirement, the
17 balance shall be paid to his or her legal representatives or
18 to such person as he or she shall nominate by written
19 designation duly acknowledged and filed with the Board of
20 Control;

21 (2) OPTION 2. Upon his or her death, his or her
22 reduced retirement allowance shall be continued throughout the
23 life of and paid to such person as he or she shall nominate by
24 written designation duly acknowledged and filed with the Board
25 of Control at the time of his or her retirement;

26 (3) OPTION 3. Upon his or her death, one half of his
27 or her reduced allowance shall be continued throughout the

1 life of and paid to such person as he or she shall nominate by
2 written designation duly acknowledged and filed with the Board
3 of Control at the time of his or her retirement; or

4 (4) OPTION 4. Some other benefit or benefits shall
5 be paid either to the member or to such person or persons as
6 he or she shall nominate; provided, that such other benefits,
7 together with the reduced retirement allowance, shall be
8 certified by the actuary to be of equivalent actuarial value
9 to his or her retirement allowance and shall be approved by
10 the Board of Control.

11 (e) Notwithstanding any other provisions of this
12 section to the contrary, when a designated beneficiary for a
13 member predeceases the member who is receiving a monthly
14 benefit allowance provided under Option 2, 3, or 4, the member
15 may designate a replacement beneficiary for the deceased
16 beneficiary to become effective two years after the date of
17 designation of the replacement beneficiary and an actuarial
18 adjustment in the monthly benefit allowance of the member to
19 cover any cost associated with designating a replacement
20 beneficiary shall be reflected thereafter in the monthly
21 benefit allowance received by the member, commencing with the
22 first benefit allowance check received by the member following
23 the date of designation of the replacement beneficiary.

24 (f) Notwithstanding any provision of this section to
25 the contrary, if a retired member who is receiving a monthly
26 benefit allowance provided under Option 2, 3, or 4 divorces
27 his or her designated beneficiary, the member may designate a

1 replacement beneficiary for the beneficiary to become
2 effective two years after the date of designation of the
3 replacement beneficiary and an actuarial adjustment in the
4 monthly benefit allowance of the member to cover any cost
5 associated with designating a replacement beneficiary shall be
6 reflected thereafter in the monthly benefit allowance received
7 by the member, commencing with the first benefit allowance
8 check received by the member following the date of designation
9 of the replacement beneficiary.

10 Section 9. Any member of the plan who is retired and
11 who has selected a survivor option may cancel the survivor
12 allowance payable to his or her designated beneficiary. Such
13 election shall be in accordance with the rules and regulations
14 prescribed by the Board of Control and once made by the member
15 shall be irrevocable. Any member who so elects to cancel a
16 survivor allowance shall designate such new beneficiary as he
17 or she shall nominate to receive a pro rata payment for the
18 number of days said member shall live during the month of his
19 or her death. Any cancellation of a survivor allowance under
20 the provisions of this section shall be irrevocable by the
21 member and payment of the pro rata amount for the number of
22 days said member lives during the month of his or her death
23 shall be in lieu of any other benefits heretofore payable.

24 Section 10. (a) Any member who, at the time of his
25 or her retirement is a member of and holds a policy in any
26 state group hospitalization or health insurance plan, may in
27 writing authorize the Secretary-Treasurer of the state

1 retirement system to withhold from his or her retirement pay a
2 sufficient sum or amount to pay the premium on such policy.

3 (b) The Secretary-Treasurer of the state Employees'
4 Retirement System, when authorized by a retired employee, is
5 hereby authorized to withhold from the retirement pay of such
6 employee a sufficient amount to pay the premium on such policy
7 and remit the same to the insurance carrier.

8 Section 11. The Judges' and Clerks' Plan shall be
9 under the management and supervision of the Employees'
10 Retirement System as a component of the Judicial Retirement
11 Fund, with all contributions to the plan deposited and held in
12 the same manner as contributions to the Judicial Retirement
13 Fund. The Employees' Retirement System may adopt rules and
14 regulations as necessary to implement the plan.

15 Section 12. All proposed legislation affecting the
16 plan shall be accompanied by an actuarial estimate of the cost
17 involved in such proposed legislation.

18 Section 13. (a) Any person who shall knowingly make
19 any false statement or shall falsify or permit to be falsified
20 any record or records of this plan in any attempt to defraud
21 such plan shall be guilty of a misdemeanor and, on conviction
22 thereof by any court of competent jurisdiction, shall be
23 punished by a fine not exceeding \$500.00, or imprisonment not
24 exceeding 12 months, or both such fine and imprisonment, at
25 the discretion of the court.

26 (b) Should any charge or error in the records result
27 in any member or beneficiary receiving from the fund more or

1 less than he or she would have been entitled to receive had
2 the records been correct, the Board of Control shall correct
3 such error and, as far as practicable, shall adjust the
4 payment in such manner that the actuarial equivalent of the
5 benefit to which such member or beneficiary was correctly
6 entitled shall be paid.

7 Section 14. The right of a person to a pension, an
8 annuity, a retirement allowance or to the return of
9 contributions, the pension, annuity or retirement allowance
10 itself and any optional benefit or any other right accrued or
11 accruing to any person under the provisions of this article
12 and the moneys in the fund are hereby exempt from any state or
13 municipal tax and exempt from levy and sale, garnishment,
14 attachment or any other process whatsoever and shall be
15 unassignable except as in this article specifically otherwise
16 provide.

17 Section 15. Official copies of records or documents
18 maintained on microfilm, microfiche or other
19 photo-reproductive material of archival quality by the
20 Employees' Retirement System shall be admissible as primary
21 evidence in any legal, judicial or administrative proceeding
22 or action for the purpose of proving the truth of the contents
23 of the photo-reproduced copies of such records or documents,
24 regardless of any rule of evidence or law relating to the
25 proof of such matters, provided the Secretary-Treasurer of the
26 Employees' Retirement System of Alabama certifies on such
27 copies offered into evidence that the Employees' Retirement

1 System of Alabama is not in possession of the original and
2 that the copy is a true and correct representation of the
3 original.

4 Section 16. No other provision of law in any other
5 statute which provides wholly or partly at the expense of the
6 State of Alabama or of any political subdivision thereof for
7 pensions or retirement benefits for employees of the said
8 state shall apply to members of the plan established by this
9 article, except as to provisions for coverage under the
10 federal Social Security Act, as may be provided by state and
11 federal laws.

12 Section 17. The Board of Control is authorized to
13 implement any new accounting procedures, funds, or
14 administrative changes and to provide for the payment of
15 benefits to members or beneficiaries of the plan as may be
16 necessary to ensure the plan's compliance with the
17 qualification standards required of public pension plans by
18 the Internal Revenue Code of the United States.

19 Section 18. When used in this article, the following
20 terms shall have the following meanings, respectively, unless
21 the context clearly indicates otherwise:

22 (1) RETIREMENT SYSTEM. The Employees' Retirement
23 System of Alabama as defined in Section 36-27-2.

24 (2) FUND. The Judicial Retirement Fund provided for
25 in Chapter 18 of Title 12.

26 (3) PLAN. The District Attorneys' Plan provided for
27 in Section 19.

1 (4) DISTRICT ATTORNEY. Any district attorney first
2 elected or appointed to his or her position on or after
3 November 8, 2016.

4 (5) EMPLOYER. The State of Alabama or any
5 department, agency, or local governing body by which a
6 district attorney is paid.

7 (6) MEMBER. Any district attorney included in
8 membership of the plan.

9 (7) BOARD OF CONTROL. The board provided for in
10 Section 36-27-23 to administer the retirement system.

11 (8) MEDICAL BOARD. The board of physicians provided
12 for in Section 36-27-23.

13 (9) MEMBERSHIP SERVICE. Service as a district
14 attorney on account of which contributions are made.

15 (10) AVERAGE FINAL COMPENSATION. The average annual
16 compensation of a district attorney with respect to which he
17 or she had made contributions pursuant to Section 20 during
18 the five years in his or her last 10 years of membership
19 service for which the average is highest or during his or her
20 entire period of membership service if less than five years.

21 (11) BENEFICIARY. Any person in receipt of a
22 pension, an annuity, a retirement allowance or other benefit
23 as provided by this article.

24 (12) REGULAR INTEREST. Interest compounded annually
25 at the rate determined by the Board of Control.

26 (13) ACCUMULATED CONTRIBUTIONS. The sum of all the
27 amounts deducted from the compensation of a member credited to

1 his or her individual account in the District Attorneys' Plan,
2 together with regular interest thereon.

3 (14) ANNUITY. Payments for life derived from the
4 "accumulated contributions" of a member. All annuities shall
5 be payable in equal monthly installments.

6 (15) PENSION. Payments for life derived from money
7 provided by the employer. All pensions shall be payable in
8 equal monthly installments.

9 (16) RETIREMENT ALLOWANCE. The sum of the "annuity"
10 and the "pension."

11 (17) RETIREMENT. Withdrawal from active service with
12 a retirement allowance or optional benefit in lieu thereof
13 granted under this article.

14 (18) ACTUARIAL EQUIVALENT. A benefit of equal value
15 when computed upon the basis of the mortality tables adopted
16 by the Board of Control and regular interest.

17 Section 19. There is hereby created and established
18 the District Attorneys' Plan under the Judicial Retirement
19 Fund.

20 Section 20. (a) Every district attorney first
21 elected or appointed to his or her position on or after
22 November 8, 2016 shall come under this article by operation of
23 law. Each district attorney shall contribute to the fund eight
24 and one-half percent (8.5%) of his or her annual salary. The
25 percentages shall be deducted by the employer from each
26 district attorney's salary and paid into the fund in the State

1 Treasury and credited to the individual account of the
2 district attorney from whose salary it was deducted.

3 (b) On account of each member there shall be paid
4 monthly by the employer an amount equal to a certain
5 percentage of the annual salary of each member to be the
6 employer's contribution. The percentage rate of such
7 contribution shall be fixed for each fiscal year on the basis
8 of the liabilities as shown by the last annual actuarial
9 valuation, and such percentage rate as established by such
10 valuation shall take effect the following October 1 and
11 continue in effect for the fiscal year.

12 Section 21. (a) Any active and contributing member
13 of the District Attorneys' Plan who, not more than one year
14 prior to becoming a member of the plan was a member of the
15 Employees' Retirement System of Alabama or the Teachers'
16 Retirement System of Alabama, may elect to transfer his or her
17 membership service and accumulated contributions in the
18 Employees' Retirement System or the Teachers' Retirement
19 System to the District Attorneys' Plan.

20 (b) Any active and contributing member desiring to
21 transfer any membership service and accumulated contributions
22 under subsection (a) shall notify the Board of Control of the
23 Employees' Retirement System of his or her election to
24 transfer membership service and shall authorize the transfer
25 of the amount of his or her accumulated contributions to his
26 or her credit in the Employees' Retirement System or Teachers'

1 Retirement System to his or her account in the District
2 Attorneys' Plan.

3 (c) The Board of Control transferring the membership
4 service and contributions shall thereupon certify to the Board
5 of Control of the Employees' Retirement System and to the fund
6 the amount of contributions and service creditable to the
7 member at the time of separation from the transferring
8 retirement system. The member shall be credited in the fund
9 with the membership service and accumulated contributions so
10 certified.

11 (d) Anything in this article to the contrary
12 notwithstanding, in the application of the foregoing
13 provisions of this section to a member whose membership
14 service includes a period of service as a district attorney
15 and a period of service in another employment classification,
16 the benefit rates applicable to a district attorney shall
17 apply to all membership service as a district attorney, and
18 the benefit rates applicable to the member's other employment
19 classification shall apply to membership service in such other
20 classification. In all other respects, the pension under this
21 section shall be determined on the basis of the member's
22 employment classification at the time of his or her withdrawal
23 from service.

24 Section 22. (a) Any member who withdraws from
25 service upon or after attainment of age 62 may retire upon
26 written application to the Board of Control setting forth at
27 what time, not less than 30 days nor more than 90 days

1 subsequent to the execution and filing thereof, he or she
2 desires to be retired; provided, that any such member shall
3 have completed 10 or more years of membership service in the
4 District Attorneys' Plan.

5 (b) Any member who has attained age 62 and has
6 previously withdrawn from service may retire upon written
7 application to the Board of Control setting forth at what
8 time, not less than 30 days nor more than 90 days subsequent
9 to the execution and filing thereof, he or she desires to be
10 retired; provided, that any such member shall have completed
11 10 or more years of membership service.

12 (c) Upon retirement from service, the member shall
13 receive a service retirement allowance which shall consist of
14 an annuity, which shall be the actuarial equivalent of the
15 member's accumulated contributions at the time of retirement,
16 and a pension, which when added to the member's annuity shall
17 be equal to three percent (3%) of the member's average final
18 compensation multiplied by the member's number of years of
19 membership service. Notwithstanding the foregoing, the service
20 retirement allowance shall not exceed eighty percent (80%) of
21 the member's average final compensation.

22 Section 23. (a) Upon application of an active and
23 contributing member, any such member who has 10 or more years
24 of membership service who becomes disabled may be retired on a
25 disability retirement allowance by the Board of Control not
26 less than 30 days nor more than 90 days next following the
27 date of filing of such application; provided that the medical

1 board, after a medical examination of such member, shall
2 certify that such individual is totally and permanently
3 mentally or physically incapacitated from regular and
4 substantial gainful employment and that such member should be
5 retired.

6 (b) Upon retirement for disability, the member shall
7 receive a service retirement allowance if he or she has
8 attained age 62; otherwise, he or she shall receive a
9 disability retirement allowance which shall consist of an
10 annuity, which shall be the actuarial equivalent of the
11 member's accumulated contributions at the time of retirement,
12 and a pension, which when added to the member's annuity shall
13 be equal to three percent (3%) of the member's average final
14 compensation multiplied by the member's number of years of
15 membership service. Notwithstanding the foregoing, the
16 disability retirement allowance shall not exceed eighty
17 percent (80%) of the member's average final compensation.

18 (c) Once each year during the first five years
19 following the retirement of a member on a disability
20 retirement allowance and once every three-year period
21 thereafter, the Board of Control may require any disability
22 beneficiary who has not yet attained age 62 to undergo a
23 medical examination, such examination to be made at the place
24 of residence of such beneficiary or other place mutually
25 agreed upon by a physician or physicians of or designated by
26 the medical board. Should any disability beneficiary who has
27 not yet attained age 62 refuse to submit to such medical

1 examination, his or her retirement allowance may be
2 discontinued until his or her withdrawal of such refusal, and
3 should his or her refusal continue for one year, all his or
4 her rights in and to his or her pension may be revoked by the
5 Board of Control. Should the medical board report and certify
6 to the Board of Control that a disability beneficiary has the
7 capacity to engage in regular and substantial gainful
8 employment, the Board of Control shall discontinue the
9 beneficiary's retirement allowance until the beneficiary is
10 otherwise eligible for service retirement.

11 Section 24. (a) Should a member cease to be a
12 district attorney except by death or by retirement under the
13 provisions of this article, the contributions standing to the
14 credit of his or her individual account in the fund shall be
15 paid to him or her upon demand and, in addition to such
16 payment, there shall be paid five-tenths of the interest
17 accumulations standing to the credit of his or her individual
18 account if he or she shall have not less than three but less
19 than 16 years of membership service, six-tenths of such
20 interest accumulations if he or she shall have not less than
21 16 but less than 21 years of membership service, seven-tenths
22 of such interest accumulations if he or she shall have not
23 less than 21 but less than 26 years of membership service and
24 eight-tenths of such interest accumulations if he or she shall
25 have not less than 26 years of membership service.

26 (b) In case of the death of a member eligible for
27 service retirement pursuant to Section 22, an allowance shall

1 be paid to the surviving spouse, or to such other person who
2 the member shall have designated, in an amount that would have
3 been payable if the member had retired immediately prior to
4 his or her death and had elected Option 3, as set forth in
5 subsection (d) of this section or, alternatively, if the
6 surviving spouse or other designee desires, he or she may
7 choose to receive, in lieu of the allowance provided under
8 Option 3, the accumulated contributions of the member plus an
9 amount equal to the accumulated contributions of the member
10 not to exceed \$5,000.00 or the accumulated contributions of
11 the member plus the benefit provided by Section 36-27B-3 if a
12 benefit is payable under such section.

13 (c) Upon the death of a member on account of whom no
14 survivor allowance is payable under subsection (b) of this
15 section, the accumulated contributions of the member plus an
16 amount equal to the accumulated contributions not to exceed
17 \$5,000 or the accumulated contributions of the member plus the
18 benefit provided by Section 36-27B-3 if a benefit is payable
19 under such section shall be paid to his or her estate or to
20 such person as he or she shall have nominated by written
21 designation duly executed and filed with the Board of Control.

22 (d) Optional allowances. With the provision that the
23 election of an option shall be effective on the effective date
24 of retirement, any member may elect prior to retirement to
25 receive, in lieu of his or her retirement allowance payable
26 throughout life, the actuarial equivalent, at that time, of

1 his or her retirement allowance in a reduced retirement
2 allowance payable throughout life with the provisions that:

3 (1) OPTION 1. If he or she dies before he or she has
4 received in annuity payments the present value of his or her
5 annuity as it was at the time of his or her retirement, the
6 balance shall be paid to his or her legal representatives or
7 to such person as he or she shall nominate by written
8 designation duly acknowledged and filed with the Board of
9 Control;

10 (2) OPTION 2. Upon his or her death, his or her
11 reduced retirement allowance shall be continued throughout the
12 life of and paid to such person as he or she shall nominate by
13 written designation duly acknowledged and filed with the Board
14 of Control at the time of his or her retirement;

15 (3) OPTION 3. Upon his or her death, one half of his
16 or her reduced allowance shall be continued throughout the
17 life of and paid to such person as he or she shall nominate by
18 written designation duly acknowledged and filed with the Board
19 of Control at the time of his or her retirement; or

20 (4) OPTION 4. Some other benefit or benefits shall
21 be paid either to the member or to such person or persons as
22 he or she shall nominate; provided, that such other benefits,
23 together with the reduced retirement allowance, shall be
24 certified by the actuary to be of equivalent actuarial value
25 to his or her retirement allowance and shall be approved by
26 the Board of Control.

1 (e) Notwithstanding any other provisions of this
2 section to the contrary, when a designated beneficiary for a
3 member predeceases the member who is receiving a monthly
4 benefit allowance provided under Option 2, 3, or 4, the member
5 may designate a replacement beneficiary for the deceased
6 beneficiary to become effective two years after the date of
7 designation of the replacement beneficiary and an actuarial
8 adjustment in the monthly benefit allowance of the member to
9 cover any cost associated with designating a replacement
10 beneficiary shall be reflected thereafter in the monthly
11 benefit allowance received by the member, commencing with the
12 first benefit allowance check received by the member following
13 the date of designation of the replacement beneficiary.

14 (f) Notwithstanding any provision of this section to
15 the contrary, if a retired member who is receiving a monthly
16 benefit allowance provided under Option 2, 3, or 4 divorces
17 his or her designated beneficiary, the member may designate a
18 replacement beneficiary for the beneficiary to become
19 effective two years after the date of designation of the
20 replacement beneficiary and an actuarial adjustment in the
21 monthly benefit allowance of the member to cover any cost
22 associated with designating a replacement beneficiary shall be
23 reflected thereafter in the monthly benefit allowance received
24 by the member, commencing with the first benefit allowance
25 check received by the member following the date of designation
26 of the replacement beneficiary.

1 Section 25. Any member of the plan who is retired
2 and who has selected a survivor option may cancel the survivor
3 allowance payable to his or her designated beneficiary. Such
4 election shall be in accordance with the rules and regulations
5 prescribed by the Board of Control and once made by the member
6 shall be irrevocable. Any member who so elects to cancel a
7 survivor allowance shall designate such new beneficiary as he
8 or she shall nominate to receive a pro rata payment for the
9 number of days said member shall live during the month of his
10 or her death. Any cancellation of a survivor allowance under
11 the provisions of this section shall be irrevocable by the
12 member and payment of the pro rata amount for the number of
13 days said member lives during the month of his or her death
14 shall be in lieu of any other benefits heretofore payable.

15 Section 26. (a) Any member who, at the time of his
16 or her retirement is a member of and holds a policy in any
17 state group hospitalization or health insurance plan, may in
18 writing authorize the Secretary-Treasurer of the state
19 retirement system to withhold from his or her retirement pay a
20 sufficient sum or amount to pay the premium on such policy.

21 (b) The Secretary-Treasurer of the state Employees'
22 Retirement System, when authorized by a retired employee, is
23 hereby authorized to withhold from the retirement pay of such
24 employee a sufficient amount to pay the premium on such policy
25 and remit the same to the insurance carrier.

26 Section 27. The District Attorneys' Plan shall be
27 under the management and supervision of the Employees'

1 Retirement System as a component of the Judicial Retirement
2 Fund, with all contributions to the plan deposited and held in
3 the same manner as contributions to the Judicial Retirement
4 Fund. The Employees' Retirement System may adopt rules and
5 regulations as necessary to implement the plan.

6 Section 28. All proposed legislation affecting the
7 plan shall be accompanied by an actuarial estimate of the cost
8 involved in such proposed legislation.

9 Section 29. (a) Any person who shall knowingly make
10 any false statement or shall falsify or permit to be falsified
11 any record or records of this plan in any attempt to defraud
12 such plan shall be guilty of a misdemeanor and, on conviction
13 thereof by any court of competent jurisdiction, shall be
14 punished by a fine not exceeding \$500.00, or imprisonment not
15 exceeding 12 months, or both such fine and imprisonment, at
16 the discretion of the court.

17 (b) Should any charge or error in the records result
18 in any member or beneficiary receiving from the fund more or
19 less than he or she would have been entitled to receive had
20 the records been correct, the Board of Control shall correct
21 such error and, as far as practicable, shall adjust the
22 payment in such manner that the actuarial equivalent of the
23 benefit to which such member or beneficiary was correctly
24 entitled shall be paid.

25 Section 30. The right of a person to a pension, an
26 annuity, a retirement allowance or to the return of
27 contributions, the pension, annuity or retirement allowance

1 itself and any optional benefit or any other right accrued or
2 accruing to any person under the provisions of this article
3 and the moneys in the fund are hereby exempt from any state or
4 municipal tax and exempt from levy and sale, garnishment,
5 attachment or any other process whatsoever and shall be
6 unassignable except as in this article specifically otherwise
7 provide.

8 Section 31. Official copies of records or documents
9 maintained on microfilm, microfiche or other
10 photo-reproductive material of archival quality by the
11 Employees' Retirement System shall be admissible as primary
12 evidence in any legal, judicial or administrative proceeding
13 or action for the purpose of proving the truth of the contents
14 of the photo-reproduced copies of such records or documents,
15 regardless of any rule of evidence or law relating to the
16 proof of such matters, provided the Secretary-Treasurer of the
17 Employees' Retirement System of Alabama certifies on such
18 copies offered into evidence that the Employees' Retirement
19 System of Alabama is not in possession of the original and
20 that the copy is a true and correct representation of the
21 original.

22 Section 32. No other provision of law in any other
23 statute which provides wholly or partly at the expense of the
24 State of Alabama or of any political subdivision thereof for
25 pensions or retirement benefits for employees of the said
26 state shall apply to members of the plan established by this
27 article, except as to provisions for coverage under the

1 federal Social Security Act, as may be provided by state and
2 federal laws.

3 Section 33. The Board of Control is authorized to
4 implement any new accounting procedures, funds, or
5 administrative changes and to provide for the payment of
6 benefits to members or beneficiaries of the plan as may be
7 necessary to ensure the plan's compliance with the
8 qualification standards required of public pension plans by
9 the Internal Revenue Code of the United States.

10 Section 34. Passage and approval of this act is
11 contingent upon passage of a proposed Constitutional Amendment
12 passed by the legislature during the 2015 Regular Session
13 allowing the legislature to authorize a retirement plan for
14 district attorneys and circuit clerks.

15 Section 35. This act shall become effective on
16 November 8, 2016, following its passage and approval by the
17 Governor, or by its otherwise becoming law.