

1 SB529  
2 140460-1  
3 By Senator Williams  
4 RFD: Finance and Taxation General Fund  
5 First Read: 17-APR-12

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8 SYNOPSIS: Under existing law, a member of the  
9 Teachers' Retirement System or the Employees'  
10 Retirement System may be granted credit in either  
11 system for his or her honorable duty active  
12 full-time military service. The member shall not  
13 receive credit for more than four years of military  
14 service, shall not receive credit for military  
15 service if he or she is receiving military service  
16 retirement benefits, and shall not receive credit  
17 if the member received anything other than  
18 honorable discharge for the claimed military  
19 service.

20 This bill would remove the provision that  
21 disallows credit for military service if the member  
22 is receiving military service retirement benefits.  
23

24 A BILL  
25 TO BE ENTITLED  
26 AN ACT

1  
2           Relating to members of the Teachers' Retirement  
3 System and the Employees' Retirement System and retirement  
4 credit for honorable duty active full-time military service;  
5 to amend Sections 16-25-3, 36-27-4, and 36-27-49.3, Code of  
6 Alabama 1975 to delete the provision that disallows credit for  
7 military service if the member is receiving military service  
8 retirement benefits.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10           Section 1. Sections 16-25-3, 36-27-4, and  
11 36-27-49.3, Code of Alabama 1975, are amended to read as  
12 follows:

13           "§16-25-3.

14           "(a) The membership of the retirement system shall  
15 consist of the following: All persons who shall become  
16 teachers after the date of establishment shall become members  
17 of the retirement system as a condition of their employment.  
18 Any person who is a teacher on the date of establishment shall  
19 become a member as of that date unless within a period of 90  
20 days next following such teacher shall file with the Board of  
21 Control on a form prescribed by the board a notice of his  
22 election not to be covered in the membership of the system and  
23 a duly executed waiver of all present and prospective benefits  
24 which would otherwise inure to him on account of his  
25 participation in the retirement system.

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

1 credit for prior service. The Board of Control of the  
2 Teachers' Retirement System shall determine and report to the  
3 Governor the employer cost for such coverage.

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

15 "(d) Notwithstanding, a teacher in service on  
16 October 1, 1975, who has full-time military service in the  
17 armed forces of the United States, exclusive of service in a  
18 reserve or national guard component of any branch of the armed  
19 forces, and who has not received credit toward retirement  
20 status in the Teachers' Retirement System of Alabama for said  
21 military service, may be granted by the Board of Control  
22 membership service credit for the period of such service in  
23 the armed forces; provided, that such member pays into the  
24 Teachers' Retirement System, in a lump sum prior to October 1,  
25 1976, an amount equal to four percent of the average  
26 compensation paid to a teacher during each claimed year of

1 full-time military service, plus and together therewith, eight  
2 percent interest compounded from the last date of such claimed  
3 military service; provided further, that such a member shall  
4 not receive membership service credit for more than four years  
5 of military service and shall receive no credit for military  
6 service if such member is receiving military service  
7 retirement benefits, other than disability allowances or  
8 benefits, from any branch of the United States armed forces or  
9 by reason of any such service in any branch of the armed  
10 forces or if such member received anything other than an  
11 honorable discharge for and including the claimed military  
12 service.

13 "(e) Anything in this chapter to the contrary  
14 notwithstanding, if any person becoming a member of the  
15 Teachers' Retirement System after October 1, 1975 shall have  
16 served in the armed forces of the United States, exclusive of  
17 service in a reserve or national guard component of any branch  
18 of the armed forces, such member may be granted by the Board  
19 of Control membership service credit for such period of  
20 service in the armed forces; provided, that such member pays  
21 into the Teachers' Retirement System, in a lump sum within one  
22 year next after the first day of the pay period in which the  
23 first deduction to the Teachers' Retirement System is made,  
24 after having been honorably discharged from the armed forces,  
25 an amount equal to four percent of the average compensation  
26 paid to a teacher during each claimed year of full-time

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

12 "(f) Except as provided in this section, no benefit  
13 under the retirement system other than the return of  
14 contributions as provided in subsection (g) of Section  
15 16-25-14 shall become payable to or on account of any member  
16 while he is not in service as a teacher, unless the member  
17 withdraws from service after reaching age 60; provided, that a  
18 teacher who becomes a member on or after October 1, 1963 must  
19 have 10 or more years of creditable service when he withdraws  
20 from service after reaching age 60.

21 "(g) Anything in this title to the contrary  
22 notwithstanding, any member who, at the time of his withdrawal  
23 from service, has completed the age and service requirements  
24 established by the Board of Control for eligibility for  
25 deferred benefits shall be eligible to continue in the  
26 membership of the system until he files application for

1 service retirement in accordance with the provisions of  
2 Section 16-25-14. The Board of Control shall, from time to  
3 time, establish the minimum age and the minimum number of  
4 years of creditable service which shall be required in order  
5 that a member may be eligible for deferred benefits; provided,  
6 that such minimum number of years of creditable service shall  
7 not be less than 10 years nor more than 25 years. Unless and  
8 until changed by the Board of Control, the requirements for  
9 deferred benefits shall be the completion of 25 years of  
10 creditable service or the completion of 10 years of creditable  
11 service and the attainment of age 55 at the time of withdrawal  
12 from service.

13 "§36-27-4.

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

16 "(1) All persons who shall become employees after  
17 October 1, 1945, shall become members of the retirement system  
18 as a condition of their employment.

19 "(2) Any person who is an employee on October 1,  
20 1945, shall become a member as of that date unless, within a  
21 period of 90 days next following, such employee shall file  
22 with the Board of Control on a form prescribed by the board a  
23 notice of his election not to be covered in the membership of  
24 the system and a duly executed waiver of all present and  
25 prospective benefits which would otherwise inure to him on  
26 account of his membership in the retirement system.



1           "(3) An employee whose membership in the retirement  
2 system is contingent on his own election and who elects not to  
3 become a member may thereafter apply for and be admitted to  
4 membership with all prior service credit as otherwise provided  
5 for in this article by applying for such membership at any  
6 time prior to July 1, 1962; provided, that said employee pays  
7 to the treasurer of the said retirement system on or before  
8 July 1, 1962, a sum equal to the total contributions which he  
9 would have made as a member during the period of his service  
10 as an employee from October 1, 1945, to the date of his  
11 application for membership. Any member or retired employee who  
12 at one time worked as a nonmember may now receive credit for  
13 prior service and for the years worked as a nonmember;  
14 provided, that said member or retired employee pays to the  
15 treasurer of the retirement system on or before July 1, 1962,  
16 a sum equal to the total contributions which he would have  
17 made as a member during the period of his employment from  
18 October 1, 1945, to the date he became a member.

19           "(4) All county engineers of the several counties of  
20 the state in whose salaries the State Department of  
21 Transportation participates, except county engineers who are  
22 already members of this retirement system under provisions of  
23 this article or who are covered under the provisions of a  
24 county retirement system supported by funds of the employing  
25 county. The effective date for the inclusion of county  
26 engineers in the system shall be October 1, 1964. Membership

1 in the retirement system shall be optional for county  
2 engineers employed on the date participation becomes  
3 effective, and any county engineer who elects to enroll in the  
4 retirement system within one year thereafter may be admitted  
5 to membership with all prior service credit and all membership  
6 service credit; provided, that said county engineer pays to  
7 the treasurer of the retirement system at the time he enrolls  
8 a sum equal to the total employee contributions and interest  
9 he would have had to his credit had he been a member during  
10 the period of his service as county engineer from October 1,  
11 1945, to the date of his application for membership. Should a  
12 county engineer employed on the date participation becomes  
13 effective elect to enroll as a member without paying such  
14 prior membership contributions and interest, he may become a  
15 member without credit for service prior to date of his  
16 enrollment. Membership shall be compulsory for all county  
17 engineers who are eligible for such membership upon entering  
18 service as a county engineer after the date participation  
19 becomes effective to the extent of the State Department of  
20 Transportation's participation in his salary.

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

25 "(c) Should any member in any period of six  
26 consecutive years after becoming a member be absent from

1 service more than five years or withdraw his contributions, as  
2 provided in subdivision (1) of subsection (c) of Section  
3 36-27-16, or retire or die, he shall thereupon cease to be a  
4 member.

5 "(d) A member in service on January 1, 1976, who has  
6 honorable duty consisting of active full-time military service  
7 in the armed forces of the United States, exclusive of any  
8 summer or weekend service in a reserve or national guard  
9 component of any branch of the armed forces, and who has not  
10 received credit toward retirement status in the Employees'  
11 Retirement System of Alabama for said military service, may be  
12 granted by the Board of Control membership service credit for  
13 the period of such service in the armed forces; provided, that  
14 such member pays into the Employees' Retirement System, in a  
15 lump sum prior to October 1, 1976, an amount equal to four  
16 percent of the average compensation paid to a state employee  
17 during each claimed year of full-time military service, plus  
18 and together therewith eight percent interest compounded from  
19 the last date of such claimed military service; and provided  
20 further, that such a member shall not receive membership  
21 service credit for more than four years of military service,  
22 and shall receive no credit for military service if such  
23 member is receiving military service retirement benefits,  
24 other than disability allowances or benefits, from any branch  
25 of the United States armed forces, or by reason of any such  
26 service in any branch of the armed forces, or, if such member

1 received anything other than an honorable discharge for and  
2 including the claimed military service. Anything in this  
3 article to the contrary notwithstanding, if any person  
4 becoming a member of the Employees' Retirement System after  
5 January 1, 1976, shall have honorable duty consisting of  
6 active full-time military service in the armed forces of the  
7 United States, exclusive of any summer or weekend service in a  
8 reserve or national guard component of any branch of the armed  
9 forces, such member may be granted by the Board of Control  
10 membership service credit for such period of service in the  
11 armed forces; provided, that such member pays into the  
12 Employees' Retirement System, in a lump sum within one year  
13 next after the first day of the pay period in which the first  
14 deduction to the Employees' Retirement System is made after  
15 having been honorably discharged from the armed forces, an  
16 amount equal to four percent of the average compensation paid  
17 to a state employee during each claimed year of full-time  
18 military service, plus and together therewith eight percent  
19 interest compounded from the last date of such claimed  
20 military service; and provided further, that no member shall  
21 receive more than four years' membership service credit for  
22 military service, and no credit for military service shall be  
23 granted ~~if such member is receiving military service~~  
24 ~~retirement benefits, other than disability allowances or~~  
25 ~~benefits, from any branch of the United States armed forces,~~  
26 ~~or by reason of any service in any branch of the armed forces,~~

1 ~~or,~~ if such member received anything other than an honorable  
2 discharge for and including the claimed military service.

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

17 "(f) Any member, who retired prior to January 1,  
18 1976, who has service in the armed forces, as described in  
19 this section, shall be entitled to claim such full-time  
20 military service; provided, that such retired member pays into  
21 the Employees' Retirement System, in a lump sum prior to  
22 October 1, 1976, an amount equal to four percent of the  
23 average compensation paid to a state employee during such  
24 claimed year of full-time military service, plus and together  
25 therewith eight percent compounded from the last date of such  
26 claimed military service; and provided further, that such

1 retired member shall not receive membership service credit for  
2 more than four years of military service, and shall receive no  
3 credit for military service, if such member is receiving  
4 military service retirement benefits, other than disability  
5 allowance or benefits, from any branch of the armed forces, or  
6 by reason of any such service in any branch of the armed  
7 forces. The provisions of this subsection shall be retroactive  
8 to October 1, 1975.

9 "(g) All retirement allowance payments due on or  
10 after January 1, 1976, to members of the Employees' Retirement  
11 System of Alabama who retired prior to said date and who have  
12 complied with the provisions of this section shall be  
13 redetermined as if the provisions of this section were in  
14 effect at the time they retired; provided, that any increase  
15 in the retirement allowance payment for a member who, prior to  
16 October 1, 1975, retired under the provisions of any optional  
17 benefit elected pursuant to Acts 1945, No. 515, as amended,  
18 shall accrue only to the retired member, and no person  
19 designated to receive any payments after the death of a  
20 retired member under the provisions of any such optional  
21 benefit shall receive any increase in such payments.

22 "§36-27-49.3.

23 "(a) Whenever used in this section, all words and  
24 phrases defined in Section 36-27-1 and Section 16-25-1 and  
25 Title 12, Chapter 18, shall have the same meanings ascribed to

1 them in such sections and chapter, unless the context clearly  
2 indicates that a different meaning is intended.

3 "(b) Any active and contributing member of the  
4 Employees' or Teachers' Retirement System or any appellate  
5 judge in the Judicial Retirement Fund who has met the minimum  
6 vesting requirements under said systems and who has honorable  
7 duty consisting of active full-time military service in the  
8 armed forces of the United States, exclusive of any summer or  
9 weekend service in a reserve or national guard component of  
10 any branch of the armed forces, and who has not received  
11 credit for such service toward retirement status in the  
12 Employees' or Teachers' Retirement System or any appellate  
13 judge in the Judicial Retirement Fund or any other public  
14 pension fund ~~including~~ excluding the U.S. armed forces, ~~but~~  
15 ~~excluding~~ and the federal Social Security program, may be  
16 granted by the Board of Control, membership service for up to  
17 four years of such service in the armed forces, provided the  
18 member received an honorable discharge on account of such  
19 service and provided further said member complies with the  
20 provisions set forth in subsection (d) of this section.

21 "(c) For a period of six months only following April  
22 21, 1992, any active and contributing member of the Employees'  
23 or Teachers' Retirement System of Alabama who has been such a  
24 member for six consecutive years or more and who has honorable  
25 duty consisting of active full-time military service in the  
26 armed forces of the United States, exclusive of any summer or

1 weekend service in a reserve or national guard component of  
2 any branch of the armed forces, and who has not received  
3 credit for such service toward retirement status in the  
4 Employees' or Teachers' Retirement System or any other public  
5 pension fund including the U.S. armed forces, but excluding  
6 the federal Social Security program, may be granted by the  
7 Board of Control, membership service for up to four years of  
8 such service in the armed forces, provided the member received  
9 an honorable discharge on account of such service and provided  
10 further said member complies with the provisions set forth in  
11 subsection (d) of this section.

12 "(d) Any member eligible to claim and purchase such  
13 credit for service under subsection (b) or (c) of this section  
14 shall be awarded creditable service under the Employees' or  
15 Teachers' Retirement System or any appellate judge in the  
16 Judicial Retirement Fund of Alabama provided he or she, or his  
17 or her spouse pursuant to subsection (c) only, shall pay into  
18 said retirement system or fund, prior to said member's date of  
19 retirement, a sum equal to the full actuarially determined  
20 cost for each year of service credit, as determined by the  
21 system's actuary."

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