

1 SB547
2 119177-2
3 By Senators Barron and Little (Z)
4 RFD: Finance and Taxation General Fund
5 First Read: 23-MAR-10

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8 SYNOPSIS: Currently, the Boards of Control of the
9 Employees' Retirement System and the Teachers'
10 Retirement System make various investments with
11 funds available to both entities.

12 This bill would allow investments to be made
13 in mortgages for Alabama homeowners to assist in
14 boosting the state's economy.

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

20 To amend Sections 16-25-20 and 36-27-25, Code of
21 Alabama 1975, relating to the investments made by the Boards
22 of Control of the Employees' Retirement System and the
23 Teachers' Retirement System, to allow investments to be made
24 in mortgages for Alabama homeowners to assist in boosting the
25 state's economy.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 16-25-20 and 36-27-25, Code of
2 Alabama 1975, are amended to read as follows:

3 "§16-25-20.

4 "(a) (1) The Board of Control shall be the trustees
5 of the several funds of the Teachers' Retirement System
6 created by this chapter as provided in Section 16-25-21, and
7 shall have full power to invest and reinvest the funds,
8 through its Secretary-Treasurer, in the classes of bonds,
9 mortgages, common and preferred stocks, shares of investment
10 companies or mutual funds, or other investments as the Board
11 of Control may approve, with the care, skill, prudence, and
12 diligence under the circumstances then prevailing that a
13 prudent man acting in a like capacity and familiar with the
14 matters would use in the conduct of an enterprise of a like
15 character and with like aims; and, subject to like terms,
16 conditions, limitations, and restrictions, the Board of
17 Control, through its Secretary-Treasurer, shall have full
18 power to hold, purchase, sell, assign, transfer, and dispose
19 of any investments in which the funds created herein shall
20 have been invested, as well as the proceeds of the investments
21 and any moneys belonging to the funds. Beginning in the fiscal
22 year ending September 30, 2010, through the fiscal year ending
23 September 30, 2011, the Board of Control may invest five
24 hundred million dollars (\$500,000,000) per year in mortgages
25 originated by and managed through the Alabama Housing Finance
26 Authority under guidelines established by the Board of
27 Control.

1 "(2) The Secretary-Treasurer shall have the
2 authority and it shall be his or her duty to carry out the
3 investment policies fixed by the Board of Control, and
4 pursuant thereto he or she shall examine all offers of
5 investments made to the funds, shall initiate inquiries as to
6 available investments therefor, shall review periodically the
7 investment quality and desirability of retention of
8 investments held, and shall make purchases and sales of
9 investments as he or she shall deem to the best interests of
10 the funds and as the investment committee hereinafter provided
11 for, and as the consultant to the Secretary-Treasurer, if any,
12 appointed by the Board of Control hereunder, to the extent of
13 the purpose for which it is appointed, shall approve. The
14 Teachers' Retirement System shall have full authority to
15 employ its own legal counsel and to conduct and control any
16 litigation in which it is involved through such counsel.

17 "(3) The Board of Control shall elect an investment
18 committee which shall consist of three members of the board,
19 one of whom shall be the Director of Finance. The investment
20 committee shall act as agent for the board and shall consider
21 all investment recommendations made by the Secretary-Treasurer
22 and shall either approve or disapprove the same in accordance
23 with policies set by the board. The investment committee may
24 act through the affirmative vote of any two of its members.
25 Approvals may be secured informally in advance but shall in
26 any event be confirmed by written authorization to be attached
27 to the invoice of the transaction.

1 "(4) The Board of Control may appoint and employ as
2 consultant to the Secretary-Treasurer, in the purchase, sale,
3 and review of investments of the funds, to the extent the
4 board may designate, a bank having its principal office in the
5 State of Alabama, having capital, surplus, and undivided
6 profits of not less than three hundred million dollars
7 (\$300,000,000), and having an organized investment department.
8 The bank so appointed shall not sell securities to the
9 retirement system, other than United States government
10 securities, or repurchase agreements for which no commission
11 shall be charged.

12 "(5) The Secretary-Treasurer shall report to the
13 Board of Control all purchases and sales of investments made
14 by him or her pursuant hereto at least once semiannually.

15 "(b) The Board of Control shall allow annually
16 regular interest on the mean amount for the preceding year in
17 each of the funds, with the exception of the Expense Fund. The
18 amounts so allowed shall be due and payable to the funds and
19 shall be credited annually thereto by the Board of Control
20 from interest and other earnings on the moneys of the
21 retirement system. Any additional amount required to meet the
22 interest on the funds of the retirement system shall be paid
23 from the Pension Accumulation Fund, and any excess of earnings
24 over the amount required shall be paid to the Pension
25 Accumulation Fund. Regular interest shall mean the percent
26 rate or rates to be compounded annually as shall be set by the
27 Board of Control, the rate or rates to be limited to a minimum

1 of three percent and a maximum of four and three-fourths
2 percent.

3 "(c) Moneys accruing to the Annuity Savings Fund,
4 the Annuity Reserve Fund, the Pension Accumulation Fund, and
5 the Pension Reserve Funds shall be certified by the
6 Secretary-Treasurer for deposit in the State Treasury to the
7 credit of the Teachers' Retirement System. All moneys provided
8 in accordance with this chapter for administrative expense
9 shall be certified for deposit in the State Treasury to the
10 credit of the Teachers' Retirement System Expense Fund. All
11 payments from the funds shall be made by the State Treasurer
12 on warrants drawn by the state Comptroller upon vouchers
13 signed by two persons designated by the Board of Control. A
14 duly attested copy of a resolution of the Board of Control
15 designating the persons and bearing on its face specimen
16 signatures of the persons shall be filed with the state
17 Comptroller as his or her authority for drawing warrants upon
18 the vouchers.

19 "(d) Except as otherwise herein provided, no member
20 of the Board of Control and no employee of the board shall
21 have any direct interest in the gains or profits of any
22 investment made by the board, nor as such receive any pay or
23 emolument for his or her services. No member or employee of
24 the Board of Control shall, directly or indirectly, for
25 himself or herself or as an agent, in any manner use the same,
26 except to make the current and necessary payments as are
27 authorized by the board; nor shall any member or employee of

1 the Board of Control become an endorser or surety or in any
2 manner an obligor for moneys loaned or borrowed from the
3 board.

4 "§36-27-25.

5 "(a) The Board of Control shall be the trustees of
6 the several funds of the Employees' Retirement System created
7 by this article as provided in Section 36-27-24 and shall have
8 full power to invest and reinvest the funds, through its
9 Secretary-Treasurer in the classes of bonds, mortgages, common
10 and preferred stocks, shares of investment companies or mutual
11 funds, or other investments as the Board of Control may
12 approve, with the care, skill, prudence, and diligence under
13 the circumstances then prevailing that a prudent person acting
14 in a like capacity and familiar with such matters would use in
15 the conduct of an enterprise of a like character and with like
16 aims. Subject to like terms, conditions, limitations and
17 restrictions, the Board of Control, through its
18 Secretary-Treasurer, shall have full power to hold, purchase,
19 sell, assign, transfer, and dispose of any investments in
20 which the funds created in Section 36-27-24 shall have been
21 invested as well as the proceeds of the investments and any
22 moneys belonging to the funds. Beginning in the fiscal year
23 ending September 30, 2010, through the fiscal year ending
24 September 30, 2011, the Board of Control may invest five
25 hundred million dollars (\$500,000,000) per year in mortgages
26 originated by and managed through the Alabama Housing Finance

1 Authority under guidelines established by the Board of
2 Control.

3 "(b) The Governor ex officio, shall be the Chair of
4 the Board of Control. At the board meeting when the new
5 positions created by Acts 1994, No. 94-616 are sworn into
6 office, the Board of Control shall elect from its membership a
7 vice-chair who shall have at least three years of service
8 experience on the board. The vice-chair shall serve a term
9 concurrent with that of the position of Investment Committee
10 Place No. 1.

11 "(c) The Secretary-Treasurer shall have the
12 authority and it shall be his or her duty to carry out the
13 investment policies fixed by the Board of Control and,
14 pursuant thereto, he or she shall examine all offers of
15 investments made to the funds, shall initiate inquiries as to
16 available investments therefor, shall review periodically the
17 investment quality and desirability of retention of
18 investments held and shall make purchases and sales of
19 investments as he or she shall deem to the best interests of
20 the funds and as the Investment Committee provided for in
21 subsection (d) of this section and as the consultant to the
22 Secretary-Treasurer, if any, appointed by the Board of Control
23 under subsection (e) of this section, to the extent of the
24 purpose for which it is appointed, shall approve. The
25 Employees' Retirement System shall have full authority to
26 employ its own legal counsel and to conduct and control any
27 litigation in which it is involved through such counsel.

1 "(d) The Board of Control shall provide for an
2 investment committee which shall consist of three members of
3 the board, one of whom shall be the Director of Finance. At
4 the first board meeting held after April 26, 1994, two members
5 of the board, who individually have at least three years of
6 service experience on the board, shall be elected to serve on
7 the Investment Committee in positions designated as Places No.
8 1 and No. 2. The person elected to serve in Place No. 1 shall
9 serve for an initial term of one year while the person elected
10 to serve in Place No. 2 shall serve for an initial term of two
11 years. Successor terms for both places on the committee shall
12 be for two years and successor candidates for the elected
13 places shall meet the aforementioned board service experience
14 requirement. The Investment Committee shall act as agent for
15 the board and shall consider all investment recommendations
16 made by the Secretary-Treasurer and shall either approve or
17 disapprove the same in accordance with policies set by the
18 board. The Investment Committee may act through the
19 affirmative vote of any two of its members. Approvals may be
20 secured informally in advance but shall in any event be
21 confirmed by written authorization to be attached to the
22 invoice for the transaction.

23 "(e) The Board of Control may appoint and employ as
24 consultant to the Secretary-Treasurer in the purchase, sale,
25 and review of investments of the funds, to the extent as the
26 board may designate, a bank having its principal office in the
27 State of Alabama, having capital, surplus and undivided

1 profits of not less than three hundred million dollars
2 (\$300,000,000) and having an organized investment department.
3 The bank so appointed shall not sell securities to the
4 retirement system other than U.S. government securities, or
5 repurchase agreements for which no commission shall be
6 charged.

7 "(f) The Secretary-Treasurer shall report to the
8 Board of Control all purchases and sales of investments made
9 by him or her pursuant to this section at least once
10 semiannually.

11 "(g) The Board of Control shall allow annually
12 regular interest on the mean amount for the preceding year in
13 each of the funds, with the exception of the Expense Fund. The
14 amounts so allowed shall be due and payable to the funds and
15 shall be credited annually to the funds by the Board of
16 Control from interest and other earnings on the moneys of the
17 retirement system. Any additional amount required to meet the
18 interest on the funds of the retirement system shall be paid
19 from the Pension Accumulation Fund, and any excess of earnings
20 over the amount required shall be paid to the Pension
21 Accumulation Fund. Regular interest shall mean the percentage
22 rate or rates to be compounded annually as shall be set by the
23 Board of Control, the rate or rates to be limited to a minimum
24 of three percent and a maximum of four and three-fourths
25 percent.

26 "(h) Funds accruing to the Annuity Savings Fund, the
27 Annuity Reserve Fund, the Pension Accumulation Fund, and the

1 Pension Reserve Fund shall be certified by the
2 Secretary-Treasurer for deposit in the State Treasury to the
3 credit of the Employees' Retirement System. All moneys
4 provided in accordance with this chapter for administrative
5 expenses shall be certified for deposit in the State Treasury
6 to the credit of the Employees' Retirement System Expense
7 Fund. All payments from the funds shall be made by the State
8 Treasurer on warrants drawn by the State Comptroller upon
9 vouchers signed by two persons designated by the Board of
10 Control. A duly attested copy of the resolution of the Board
11 of Control designating the persons and bearing on its face
12 specimen signatures of the persons shall be filed with the
13 State Comptroller as his or her authority for drawing warrants
14 upon the voucher.

15 "(i) Except as otherwise provided in this article,
16 no member of the Board of Control and no employee of the board
17 shall have any direct interest in the gains or profits of any
18 investment made by the board nor as such receive any pay or
19 emolument for his or her services. No member or employee of
20 the Board of Control shall, directly or indirectly, for
21 himself or herself or as an agent in any manner use the same,
22 except to make the current and necessary payments authorized
23 by the board, nor shall any member or employee of the Board of
24 Control become an endorser or surety or in any manner an
25 obligor for moneys loaned to or borrowed from the board."

1 Section 2. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.