

1 HB338
2 181530-1
3 By Representative Treadaway (N & P)
4 RFD: Jefferson County Legislation
5 First Read: 02-MAR-17

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Relating to the City of Birmingham Firemen's and
14 Policemen's Supplemental Pension System; to amend Section
15 45-37A-51.03, Code of Alabama 1975, relating to the investment
16 powers of the board of managers; to reduce the percentage of
17 investments required to be in fixed income securities.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Section 45-37A-51.03, Code of Alabama
20 1975, is amended to read as follows:

21 "§45-37A-51.03.

22 "(a) (1) In order to assure representation of all
23 participants of this system, there shall be a board of
24 managers of five members for the administration, management,
25 and control of the supplemental pension system, including
26 administration, management, control, acquisition, and
27 disbursement of the fund. The board shall consist of the

1 president of the governing body of the city, who shall be
2 chair of the board, and four associate members, designated
3 respectively as Member No. 1, Member No. 2, Member No. 3, and
4 Member No. 4.

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

1 plurality of votes shall be elected. In the event a
2 participant representative shall die, resign, or otherwise be
3 unable to serve or no longer qualified, the participants from
4 the respective member category shall by a plurality of the
5 votes cast elect a person who shall fill the unexpired term.
6 Member No. 4 shall be elected by a plurality of the votes cast
7 by the retirees in the system at an election to be held within
8 90 days after June 15, 2015. At the first election to be held
9 hereunder retirees belonging to the system may vote for a
10 retired fireman or policeman in the system to hold the
11 position to be occupied by Member No. 4 on the board. In any
12 election subsequent to the first election, qualified retirees
13 voting in such subsequent election shall not vote for any
14 retiree of the system belonging to the same former department
15 (that is fire department or police department, as the case may
16 be) as the retiree last elected for a full term as Member No.
17 4. The purpose of the next preceding sentence is to rotate
18 Member No. 4 between qualified retirees from the fire
19 department and the police department of the City of
20 Birmingham. In the event the retirees representative shall
21 cease to be retired, die, resign, or otherwise be unable to
22 serve or no longer qualified, the retirees of the system shall
23 by a plurality of the votes cast elect to fill the unexpired
24 portion of the term with a person who shall be a retiree of
25 the system and meet the qualifications of Member No. 4. Member
26 No. 2 and Member No. 3 may hold their positions until
27 elections for their respective board member positions are due

1 for election in April, 2016. Members of the board shall be
2 elected by secret ballot to serve a term of four years
3 commencing on the date the result of the election is declared.
4 Any member of the board may be removed by impeachment for
5 corruption or malfeasance or misfeasance in office or for
6 habitual neglect of duty. Any member of the board may serve
7 beyond his or her term until a successor is appointed or
8 elected. The governing body of the city shall have the
9 authority to prescribe and to change rules and regulations
10 concerning the election of the participant-member of the board
11 provided that the rules and regulations as prescribed or
12 changed are not inconsistent with this subpart.

13 "(3) The board shall meet on the second Wednesday in
14 each calendar month; however, the board shall not be required
15 to meet unless there is pending before the board some
16 application for pension, relief, or benefit or unless there is
17 pending some other matter requiring consideration by the board
18 and the board by resolution may change the regular meeting
19 date.

20 "(4) The personnel director of the Personnel Board
21 of Jefferson County, Alabama, shall be the secretary of the
22 board and shall be present at every meeting of the board, and
23 keep a record of all proceedings of the board and all orders
24 and decisions of the board. In the event the personnel
25 director is temporarily unable to fulfill his or her
26 obligations, the board may appoint a temporary replacement to
27 take and record the minutes of the meeting. Neither the

1 secretary nor any member of the board shall receive any salary
2 or compensation. Any three members of the board, when
3 assembled either in regular or special meeting, shall
4 constitute a quorum for the transaction of any and all
5 business of the board, and the affirmative vote of three
6 members present shall be necessary and sufficient to pass any
7 motion or resolution. The board shall meet in the office of
8 the chair, or such other place as the board may designate.

9 "(5) The board is empowered to make rules and
10 regulations not inconsistent with the provisions of the system
11 in relation to its affairs and the system. The board shall
12 receive, investigate, and pass upon all applications for
13 retirement, disability, and survivors benefits and shall make
14 retirement, disability, and survivors benefits in accordance
15 with the system to all participants and their survivors
16 entitled thereto under the system, and its decisions upon all
17 such matters of fact shall be final and conclusive unless it
18 shall be affirmatively made to appear that its decision is
19 plainly and manifestly wrong.

20 "(b) (1) No money of the fund shall be invested, paid
21 out, or disbursed except pursuant to order or authorization of
22 the board. The board shall be the trustee, have entire
23 management and control of the fund, and shall direct
24 investment of monies of the fund not needed to meet
25 disbursements provided for in this subpart and in the loans to
26 members hereinafter referred to and shall be invested in the
27 classes of bonds, mortgages, common and preferred stocks,

1 shares of investment companies or mutual funds, real estate
2 investment trusts, international equity, corporate fixed
3 income, international fixed income, index funds, interest of
4 private investment, private investment funds, or treasury
5 bonds, notes, and bills of the United States, and agencies of
6 the United States as the board may approve, derivative
7 securities and investment recognized as alternative
8 investments (excluding direct investments in real estate)
9 subject to the limitations herein. The board may invest in
10 fixed income securities and bonds of corporations organized
11 under federal laws or under laws of any state of the United
12 States or in bonds registered with the Security and Exchange
13 Commission, mortgaged-backed securities or asset backed
14 securities, or in securities issued by federal agencies and
15 government sponsored entities, or may invest in federal
16 savings and loan associations or in other corporations having
17 federal savings and loan association's guarantee or in
18 certificates of deposit or bonds issued by banks organized
19 under federal laws or under the laws of the State of Alabama
20 and insured by the federal government. No funds may be
21 invested in fixed income securities or common or preferred
22 stocks and stocks of private corporations or other forms of
23 equity or fixed investment unless such common or preferred
24 stocks or other forms of equity or fixed investments are
25 registered with the Securities and Exchange Commission or are
26 traded through NASDAQ Stock Market or are Rule 144A securities
27 or are traded on an organized exchange. The total investment

1 in fixed income securities shall not be less than ~~25~~ 12.5
2 percent of the fair market value of all the funds available in
3 the system for investment. Securities issued by any single
4 nonguaranteed agency or entity may not constitute more than 10
5 percent of the fixed income allocation of the fund at the time
6 of purchase. The fair market value of all funds available in
7 the system for investment is to be determined periodically,
8 but not less than annually. In exercising its discretion to
9 invest, reinvest, and have invested and reinvested all funds
10 of the system, the board shall act with the care, skill,
11 prudence, and diligence under the circumstances then
12 prevailing that a prudent person acting in a like capacity and
13 familiar with such matters would use in the conduct of an
14 enterprise of a like character and with like aims.

15 "(2) From the fund of the system created by this
16 subpart, the board of managers shall pay to the fund of the
17 General Retirement and Relief System of the City of Birmingham
18 amounts hereinafter specified. When any firefighter or police
19 officer retires on length of service, as hereinafter provided
20 for in Section 45-37A-51.07, the board of managers shall pay
21 from the fund of this system the amount specified during each
22 month between the due date on which the participant retires
23 and the date on which the participant would have been entitled
24 to receive a retirement allowance from the general retirement
25 and relief system for 30 years service had the participant not
26 retired, but had continued to serve without interruption as a
27 participant of the general retirement and relief system until

1 entitled to receive from the last named system a retirement
2 system pension based upon 30 years service. The amount which
3 the board of managers shall pay to the fund of the general
4 retirement and relief system, during the period specified,
5 shall be the sum of the amount which the city would have
6 deducted from the salary of the participant and would have
7 paid into the fund of the general retirement and relief system
8 had the participant continued to be employed by the city
9 during the period specified had the participant retired under
10 Section 45-37A-51.07 plus the amount which the city during the
11 same period would have paid from the funds of the city into
12 the general retirement and relief system to match the
13 deductions had the participant continued to work until
14 entitled to retire on a pension based upon 30 years' service."

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