

1 SB358
2 183893-2
3 By Senators Shelnuttt and Smitherman (N & P)
4 RFD: Local Legislation, Jefferson County
5 First Read: 06-APR-17

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Relating to Jefferson County and the General
14 Retirement System for Employees of the county; to amend
15 Sections 45-37-123.01 and 45-37-123.50, Code of Alabama 1975,
16 to provide that employees of the retirement system are
17 eligible to become members of the retirement system and to
18 provide that a part-time employee who occupies a position in
19 the civil service system of the county would have the option
20 to become a member of the retirement system by filing a
21 declaration with the pension board.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Section 45-37-123.01, Code of Alabama
24 1975, is amended to read as follows:

25 "§45-37-123.01.

26 "For the purposes of this part, the following terms
27 shall have the following meanings:

1 "(1) ACT. The act adding this part, to be called the
2 General Retirement System for Employees of Jefferson County
3 Act.

4 "(2) ACTIVE MEMBER. An individual that currently is
5 employed by the county and is making employee contributions to
6 the system.

7 "(3) ACTUARIAL EQUIVALENT. Effective July 30, 1984,
8 or such other dates as set forth in Exhibit A, which is
9 maintained in the office of the pension board, a form of
10 benefit differing in time, period, or manner of payment from a
11 specific benefit provided under the plan but having the same
12 value when computed using the mortality tables, the interest
13 rate, and any other assumptions last adopted by the pension
14 board, which assumptions shall clearly preclude any discretion
15 in the determination of the amount of a member's benefit.

16 "(4) ACTUARIAL GAIN. As defined in Section
17 45-37-123.106(f) (1).

18 "(5) ANNUITY STARTING DATE. As used in Subpart 6 and
19 in Section 45-37-123.106, means, with respect to any member,
20 the first day of the first period for which an amount is paid
21 as an annuity, or, in the case of a benefit not payable in the
22 form of an annuity, the first day on which all events have
23 occurred which entitles the member to such benefit.

24 "(6) ANOTHER PENSION SYSTEM. As used in Sections
25 45-37-123.82(c) and 45-37-123.104(3), means a pension system
26 established by or under laws of the State of Alabama for
27 public officers and public employees other than the system

1 establishing this plan, which other pension system proscribes
2 or otherwise does not allow for voluntary withdrawal by the
3 member from the other pension system.

4 "(7) BASIC AVERAGE SALARY. Generally means,
5 effective as of February 1, 2010, the monthly compensation of
6 a member averaged over the period of 36 consecutive months of
7 paid membership time during which such member's average
8 monthly compensation was higher than any other period of 36
9 consecutive months of paid membership time. For example, if a
10 member terminated employment on June 20, 2010, and his or her
11 highest consecutive 36 month period ends on the member's date
12 of termination of employment, then the measuring period for
13 determining basic average salary would be from June 21, 2007,
14 through June 20, 2010. The following rules shall apply in
15 calculating basic average salary:

16 "a. Daily Compensation Calculation. Subject to the
17 additional rules stated in this subdivision, the compensation
18 earned in each year, or portion of a year, during the 36-month
19 period shall be determined on a daily basis. The total of the
20 compensation earned in each applicable year, or portion
21 thereof, shall be added together and then divided by 36 to
22 arrive at the member's basic average salary. If the foregoing
23 process is not workable in some situations, then the pension
24 board shall approve a different method which is reasonable
25 given the terms of the act and the individual circumstances.

26 "b. Use of Unpaid Membership Time. The compensation
27 paid to a member during unpaid membership time shall only be

1 considered in determining the member's basic average salary
2 for periods of employment prior to August 16, 1996.

3 "c. Tacking of Nonconsecutive Paid Membership Time.
4 Separate periods of paid membership time may be tacked and
5 considered as consecutive if the member does not have any paid
6 membership time between the periods so tacked. For example, if
7 the member did not have any paid membership time between two
8 periods of paid membership time due to a leave of absence, the
9 leave of absence would be ignored in calculating basic average
10 salary.

11 "d. Post-termination Compensation. Compensation paid
12 subsequent to termination of participation in the system
13 pursuant to Section 45-37-123.52, due to ineligibility, shall
14 not be recognized in computing basic average salary. However,
15 notwithstanding any provisions of this plan to the contrary, a
16 member's final paycheck from the county shall be counted in
17 computing a member's basic average salary, but only to the
18 extent that such paycheck constitutes compensation, and the
19 highest consecutive 36 month period otherwise would end on the
20 date of the member's termination of employment.

21 "(8) BENEFICIARY. The person, or entity, designated
22 as provided in Section 45-37-123.103(d) to receive the
23 benefits which are payable under the plan upon or after the
24 death of a member.

25 "(9) CIVIL SERVICE SYSTEM. The personnel system
26 administered and operated by the Jefferson County Personnel
27 Board.

1 "(10) COMMISSION. The Jefferson County Commission.

2 "(11) COMPENSATION.

3 "a. With respect to any member means:

4 "1. The regular salary or hourly wages paid to a
5 member, based on his or her pay grade, as established by the
6 Jefferson County Personnel Board, or other appropriate
7 authority, for a calendar year ending with or within the
8 applicable plan year;

9 "2. Plus any accumulated vacation time paid by the
10 county;

11 "3. Plus Worker's Compensation benefits, only as
12 described in subdivision (59); and

13 "4. Any differential wage payment, as defined in §
14 3401(h)(2), Internal Revenue Code, generally relating to
15 military pay.

16 "b. Bonuses, overtime, longevity pay, paid
17 accumulated sick leave, uniform allowances, expense
18 allowances, and any other nonregular forms of compensation are
19 excluded.

20 "c. Compliance with § 401(a)(17), Internal Revenue
21 Code. Because the transitional rule provided by Treasury
22 Regulation § 1.401(a)(17)-1(d)(4) of the regulations issued
23 under § 401(a)(17), Internal Revenue Code, does not apply to
24 the plan, compensation of each member taken into account in
25 determining benefit accruals in any plan year beginning after
26 December 31, 2001, shall not exceed two hundred thousand
27 dollars (\$200,000), or such other amount provided in the

1 Internal Revenue Code. Such amount shall be adjusted for
2 increases in the cost of living in accordance with §
3 401(a)(17)(B), Internal Revenue Code, except that the dollar
4 increase in effect on January 1 of any calendar year shall be
5 effective for the calendar years beginning with such calendar
6 year. For any short calendar year, the compensation limit
7 shall be an amount equal to the compensation limit for the
8 calendar year in which the calendar year begins multiplied by
9 the ratio obtained by dividing the number of full months in
10 the short calendar year by 12. For purposes of determining
11 benefit accruals in a plan year beginning after December 31,
12 2001, compensation for any prior calendar year shall be
13 limited to one hundred fifty thousand dollars (\$150,000) for
14 any calendar year beginning in 1996, one hundred sixty
15 thousand dollars (\$160,000) for any calendar year beginning in
16 1997, 1998, or 1999; and one hundred seventy thousand dollars
17 (\$170,000) for any calendar year beginning in 2000 or 2001.

18 "(12) COUNTY. Jefferson County, Alabama, and any
19 successor which shall maintain this plan. However, references
20 herein to employment by the county also shall include
21 employment by entities for which the county is acting as
22 payroll agent or wherein the county is being reimbursed by an
23 entity for the compensation of such entities' workers or
24 wherein the entity has appointing authority with respect to
25 the workers. Accordingly, such entities' workers shall be
26 covered by the plan to the extent allowed under the act and as

1 determined by the pension board in its administration of the
2 plan.

3 "(13) COUNTY TREASURER. An elected official of the
4 county who is responsible for receiving and segregating into
5 the trust fund all assets of the system.

6 "(14) DEFERRED RETIREMENT BENEFIT. A benefit payable
7 pursuant to the terms of Section 45-37-123.100(c).

8 "(15) DESIGNATED BENEFICIARY. As defined in Section
9 45-37-123.103(d).

10 "(16) DISABILITY RETIREMENT BENEFIT. A benefit
11 payable pursuant to the terms of Section 45-37-123.102.

12 "(17) DISTRIBUTION CALENDAR YEAR. As defined in
13 Section 45-37-123.106(f)(3).

14 "(18) EARLY RETIREMENT BENEFIT. A benefit payable
15 pursuant to the terms of Section 45-37-123.100(b).

16 "(19) EFFECTIVE DATE. January 1, 2010, except as
17 otherwise provided.

18 "(20) ELIGIBLE COST-OF-LIVING INDEX. As defined in
19 Section 45-37-123.106(f)(4).

20 "(21) ELIGIBLE EMPLOYEE.

21 "a. The following individuals affiliated with
22 Jefferson County, Alabama, or the State of Alabama:

23 "1. Any person employed by Jefferson County at a
24 wage or salary payable at regular intervals, whether or not
25 such person is subject to the civil service system in
26 operation in Jefferson County.

1 "2. Any person who served as an employee of a
2 license inspector prior to the time a retirement system became
3 operative in Jefferson County, not exceeding 20 years, whether
4 such service was under the State of Alabama or under Jefferson
5 County.

6 "3. Any person who served or serves as the Solicitor
7 of the Juvenile Court of Jefferson County, the Solicitor of
8 the Domestic Relations Court of Jefferson County, or the
9 Solicitor of the Criminal Court of Jefferson County.

10 "4. Any person who served or serves as a deputy
11 appointed by the circuit solicitor serving in Jefferson
12 County, to the extent that the compensation of the deputy is
13 paid by Jefferson County.

14 "5. Any person who served or serves as an employee
15 of the Cooperative Extension Service of the State of Alabama,
16 provided such person was receiving or shall be receiving,
17 monthly compensation from Jefferson County for service
18 performed by such person.

19 "6. Any person elected or appointed to a job or
20 position with or for Jefferson County, whose compensation was
21 paid or shall be paid, in whole or in part, by Jefferson
22 County while occupying such job or position.

23 "7. Any person regularly employed by the Library
24 Board of the City of Birmingham whose duties are performed
25 under the direct supervision of the library board, who
26 receives his or her salary, directly or indirectly, from the
27 public funds of Jefferson County, excluding members of the

1 library board and excluding officers of the library board who
2 are elected by the people.

3 "8. Any person who serves as the deputy solicitor
4 servicing Jefferson County to the extent that the compensation
5 of the deputy solicitor is paid by Jefferson County. Such
6 person is an eligible deputy solicitor.

7 "9. Any person who occupies a county office in
8 Jefferson County that is created by an act of the Legislature
9 of the State of Alabama or is provided for by the Constitution
10 of Alabama of 1901, and such office requires full-time
11 service. Such person is an eligible county office employee.

12 "10. Any person who serves as the circuit solicitor
13 servicing Jefferson County to the extent that the compensation
14 of the circuit solicitor is paid by Jefferson County. Such
15 person is an eligible circuit solicitor.

16 "11. Any person who is an officer or an employee of
17 a hospital created by Jefferson County if such person's
18 employment status with the hospital is such that if the person
19 had the same employment status with Jefferson County, he or
20 she would be an eligible employee. Such person is an eligible
21 hospital employee.

22 "12. Any person employed by the General Retirement
23 System for Employees of Jefferson County at a wage or salary
24 payable at regular intervals, whether or not the person is
25 subject to the civil service system in operation in Jefferson
26 County.

27 "b. An eligible employee shall not include:

1 "1. Any person who is appointed or elected as a
2 member of any board or commission of Jefferson County,
3 provided that service on such board or commission does not
4 require full-time service or the members on the board or
5 commission receive no compensation for their service except
6 for meetings attended by them.

7 "2. Any person whose employment is temporary so long
8 as his or her employment remains temporary. A person's
9 employment shall be deemed to be temporary within the meaning
10 of this subdivision if such employment is temporary as defined
11 by the civil service system, or if the officers, board,
12 commission, or agency employing such person certifies in
13 writing to the pension board that the employment is temporary.

14 "3. Any leased employee and any independent
15 contractor.

16 "(22) EMPLOYEE. Any person who is employed by the
17 county or elected or appointed to a job or position with or
18 for the county. An employee shall exclude any leased employee
19 and any independent contractor as such terms are defined by
20 the pension board or the civil service system. See also
21 subdivision (12), which covers situations in which other
22 entities may be the employer of eligible employees.

23 "(23) EMPLOYEE CONTRIBUTION. The amount a member is
24 required to contribute to the plan as a condition of
25 employment and participation in the plan pursuant to Section
26 45-37-123.82 and any amount required to be treated as an
27 employee contribution in accordance with Section

1 45-37-123.190(b), relating to transfers from § 457(b),
2 Internal Revenue Code, plans.

3 "(24) EMPLOYER CONTRIBUTION. The amount the county
4 is required to contribute to the plan pursuant to Section
5 45-37-123.20(b) and Section 45-37-123.80(a).

6 "(25) FISCAL YEAR. The system's accounting year of
7 12 months commencing on October 1 of each year and ending the
8 following September 30.

9 "(26) 415 COMPENSATION. With respect to any member
10 means such member's wages as defined in § 3401(a), Internal
11 Revenue Code, and all other payments of compensation by the
12 county, in the course of the county's trade or business, for a
13 calendar year ending with or within the plan year for which
14 the county is required to furnish the member a written
15 statement under §§ 6041(d), 6051(a)(3), and 6052, Internal
16 Revenue Code. 415 compensation shall be determined without
17 regard to any rules under § 3401(a), Internal Revenue Code,
18 that limit the remuneration included in wages based on the
19 nature or location of the employment or the services
20 performed, such as the exception for agricultural labor in §
21 3401(a)(2), Internal Revenue Code. Notwithstanding the above,
22 the determination of 415 compensation shall be made by
23 including any elective deferral, as defined in § 402(g)(3),
24 Internal Revenue Code, and any amount which is contributed by
25 the county at the election of the member pursuant to a salary
26 reduction agreement and which is not includible in the gross
27 income of the member by reason of §§ 125, 132(f)(4),

1 402(e)(3), 402(h)(1)(B), 403(b), or 457(b), Internal Revenue
2 Code, and employee contributions described in § 414(h)(2),
3 Internal Revenue Code, that are treated as employer
4 contributions. For this purpose, effective January 1, 1998,
5 amounts not includible in gross income under § 125, Internal
6 Revenue Code, shall be deemed to include any amounts not
7 available to a member in cash in lieu of group health coverage
8 because the member is unable to certify that the member has
9 other health coverage, provided the county does not request or
10 collect information regarding the member's other health
11 coverage as part of the enrollment process for the health
12 plan.

13 "a. Compensation Paid After Severance from
14 Employment. With respect to limitation years beginning on and
15 after July 1, 2007, 415 compensation shall be adjusted for the
16 following types of compensation paid after a member's
17 severance from employment with the county, or any other entity
18 that is treated as the county pursuant to § 414(b), (c), (m),
19 or (o), Internal Revenue Code:

20 "1. The following amounts shall be included in 415
21 compensation to the extent these amounts are paid by the later
22 of two months after severance from employment or by the end of
23 the limitation year that includes the date of such severance
24 from employment:

25 "(i) Regular pay. 415 compensation shall include
26 regular pay after severance from employment if:

1 "A. The payment is regular compensation for services
2 during the member's regular working hours, or compensation for
3 services outside the member's regular working hours, such as
4 overtime or shift differential, commissions, bonuses, or other
5 similar payments; and

6 "B. The payment would have been paid to the member
7 prior to a severance from employment if the member had
8 continued in employment with the county.

9 "(ii) Leave cashouts. 415 compensation shall include
10 leave cashouts if those amounts would have been included in
11 the definition of 415 compensation if they were paid prior to
12 the member's severance from employment, and the amounts are
13 payment for unused accrued bona fide sick, vacation, or other
14 leave, but only if the member would have been able to use the
15 leave if employment had continued.

16 "(iii) Deferred compensation. 415 compensation shall
17 include deferred compensation if the compensation would have
18 been included in the definition of 415 compensation if it had
19 been paid prior to the member's severance from employment, and
20 the compensation is received pursuant to a nonqualified
21 unfunded deferred compensation plan, but only if the payment
22 would have been paid at the same time if the member had
23 continued in employment with the county and only to the extent
24 that the payment is includible in the member's gross income.

25 "2. The following amounts shall not be included in
26 415 compensation:

1 "(i) Salary continuation payments for military
2 service participants. 415 compensation does not include
3 payments to an individual who does not currently perform
4 services for the county by reason of qualified military
5 service to the extent those payments do not exceed the amounts
6 the individual would have received if the individual had
7 continued to perform services for the county rather than
8 entering qualified military service.

9 "(ii) Salary continuation payments for disabled
10 participants. 415 compensation does not include compensation
11 paid to a member who is permanently and totally disabled, as
12 defined in § 22(e)(3), Internal Revenue Code.

13 "b. Administrative Delay or the First Few Weeks
14 Rule. With respect to limitation years beginning on and after
15 July 1, 2007, 415 compensation does not include amounts earned
16 but not paid during the limitation year solely because of the
17 timing of pay periods and pay dates.

18 "c. Back Pay. With respect to limitation years
19 beginning on and after July 1, 2007, payments awarded by an
20 administrative agency or court or pursuant to a bona fide
21 agreement by the county to compensate a member for lost wages
22 are 415 compensation for the limitation year to which the back
23 pay relates, but only to the extent such payments represent
24 wages and compensation that would otherwise be included in 415
25 compensation.

26 "(27) INVESTMENT MANAGER. An entity that has the
27 power to manage, acquire, or dispose of plan assets and

1 acknowledges fiduciary responsibility to the plan in writing.
2 Such entity shall be a person, firm, or corporation registered
3 as an investment adviser under the Investment Advisers Act of
4 1940, a bank, or an insurance company.

5 "(28) INVOLUNTARY DEFERRED RETIREMENT BENEFIT. A
6 benefit payable pursuant to the terms of Section
7 45-37-123.100(c)(3).

8 "(29) IRC. The Internal Revenue Code of 1986, as
9 amended or replaced from time to time.

10 "(30) JOINT SURVIVORSHIP PENSION. Either a
11 preretirement joint survivorship pension or a postretirement
12 joint survivorship pension.

13 "(31) LIFE EXPECTANCY. As defined in Section
14 45-37-123.106(f)(5).

15 "(32) MEDICAL ADVISOR. The pension board's medical
16 advisors or other appointed physicians or vocational
17 specialists.

18 "(33) MEMBER. Any eligible employee who, depending
19 on the context as used throughout this plan, participates, or
20 participated, in the plan.

21 "(34) NONSERVICE CONNECTED DISABILITY. A total
22 disability or partial disability while the member is employed
23 by the county, that is not a service connected disability.

24 "(35) PAID MEMBERSHIP TIME. The time during which a
25 member made, or shall have made, employee contributions to the
26 system and other previous retirement systems, provided,
27 however, that if a member, for any reason, including

1 termination of employment, withdraws his or her employee
2 contributions, the period during which the employee
3 contributions are withdrawn shall be considered unpaid
4 membership time, unless it is converted to paid membership
5 time as provided for in Section 45-37-123.53. Paid membership
6 time also shall include a member's absence due to qualified
7 military service. Years of paid membership time shall be
8 calculated in accordance with Section 45-37-123.84.

9 "(36) PARTIAL DISABILITY. A permanent disability
10 that is less than a total disability determined in accordance
11 with Section 45-37-123.102(c).

12 "(37) PENSION BOARD. The administrator of the plan,
13 as more fully described in Subpart 2.

14 "(38) PENSION COORDINATOR. The individual designated
15 by the pension board to manage the day-to-day administration
16 of the system, including any other person who works for the
17 system that acts as a designated agent of such individual.
18 Such individual shall not be subject to the civil service
19 system.

20 "(39) PLAN or SYSTEM. The General Retirement System
21 for Employees of Jefferson County, which plan or system may
22 sue or be sued, and in such name all of its business shall be
23 transacted.

24 "(40) PLAN YEAR. The plan's accounting year of 12
25 months commencing on January 1 of each year and ending the
26 following December 31.

1 "(41) POSTRETIREMENT JOINT SURVIVORSHIP PENSION. The
2 benefit described in Section 45-37-123.101.

3 "(42) PRERETIREMENT JOINT SURVIVORSHIP PENSION. The
4 benefit described in Section 45-37-123.103.

5 "(43) PREVIOUS RETIREMENT SYSTEMS. The retirement
6 systems established by Acts 1953, No. 551, 1953 Regular
7 Session (Acts 1953, p. 766), as amended, the Employees'
8 Retirement System of Jefferson County, and by Acts 1961, No.
9 843, 1961 Regular Session (Acts 1961, p. 1250), as amended,
10 the Employees General Retirement System of Jefferson County.

11 "(44) QUALIFIED MILITARY SERVICE. Except as
12 otherwise subsequently provided under § 414(u), Internal
13 Revenue Code, the performance of duty, on a voluntary or
14 involuntary basis, in a uniformed service under competent
15 authority, and includes active duty, active duty for training,
16 initial active duty for training, inactive duty training,
17 full-time national guard duty, a period for which a person is
18 absent from a position of employment for the purpose of an
19 examination to determine the fitness of the person to perform
20 any such duty, and a period for which a person is absent from
21 employment for the purpose of performing funeral honors duty.

22 "(45) REGULAR DEFERRED RETIREMENT BENEFIT. A benefit
23 payable pursuant to the terms of Section 45-37-123.100(c)(2).

24 "(46) REGULATION. The income tax regulations as
25 promulgated by the Secretary of the Treasury or a delegate of
26 the Secretary of the Treasury, as amended from time to time.

1 "(47) REQUIRED BEGINNING DATE. As defined in Section
2 45-37-123.106(f) (6) .

3 "(48) RETIRED MEMBER. An individual that currently
4 is receiving pension benefits from the system.

5 "(49) SERVICE CONNECTED DISABILITY. A total
6 disability or partial disability, caused by an accident
7 arising out of and in the course of a member's employment with
8 the county.

9 "(50) SERVICE RECORD. An employee's record of
10 service upon which the pension board bases all of the member's
11 benefit calculations, including records of the county.

12 "(51) SICK LEAVE RETIREMENT CONVERSION. A program
13 sponsored by the county wherein a ~~Member~~ member is paid for
14 accumulated sick leave time.

15 "(52) SUPERANNUATION RETIREMENT BENEFIT. A benefit
16 payable pursuant to the terms of subsection (a) of Section
17 45-37-123.100.

18 "(53) SYSTEM or PLAN. The General Retirement System
19 for Employees of The General Retirement System for Employees
20 of Jefferson County, which system or plan may sue or be sued,
21 and in such name all of its business shall be transacted.

22 "(54) TOTAL DISABILITY. A permanent physical or
23 mental condition of a member resulting from bodily injury,
24 disease, or mental disorder which renders such member
25 incapable of continuing usual and customary employment with
26 the county. The disability of a member shall be determined by
27 a licensed medical advisor.

1 "(55) TRUSTEE. The pension board or the person or
2 entity appointed by the pension board and named as trustee
3 herein or in any separate trust forming a part of the plan,
4 and any successors.

5 "(56) TRUST FUND. The tax-qualified trust in which
6 certain plan funds are held, disbursed, transferred, and
7 invested by the trustee at the pension board's, or its
8 designated investment manager's, discretion and in accordance
9 with this part, the Internal Revenue Code, and other
10 applicable laws and regulation.

11 "(57) UNPAID MEMBERSHIP TIME.

12 "a. Subject to paragraph d., all of the following:

13 "1. Time during which a member was employed by the
14 county, but the member did not make employee contributions to
15 the system and/or other previous retirement systems.

16 "2. Time during which a member withdrew employee
17 contributions for any reason, including upon a termination of
18 employment, unless this period of time is later converted to
19 paid membership time as provided for in Section 45-37-123.53.

20 "3. Time during which a person held an elective
21 office or was employed in a full-time job or position in the
22 service of any municipality, governmental agency, or
23 subdivision or held an elective office, provided that at the
24 time the person served with such municipality, governmental
25 agency, or subdivision, it was subject to the countywide civil
26 service law.

1 "b. Unpaid membership time shall not include any of
2 the following:

3 "1. Service with a municipality, governmental
4 agency, or subdivision if the employee received a pension from
5 such municipality, governmental agency, or subdivision, on
6 account of such service or if such service was considered in
7 the calculation of the pension.

8 "2. Any unpaid membership time that has been
9 converted to paid membership time.

10 "3. Any service in a temporary job or position, as
11 determined by the pension board.

12 "c. If such prior service with a municipality,
13 governmental agency, or subdivision was not an elective office
14 or in a classified position, such prior service shall not be
15 treated as unpaid membership time unless such employee
16 establishes to the satisfaction of the pension board that such
17 service was a full-time job.

18 "d. Only with respect to employees entering the
19 system on or before August 16, 1996, years of unpaid
20 membership time are used in computing accrued benefits under
21 the plan, as are months of unpaid membership time. Months are
22 converted into a fraction of a year as set forth in Section
23 45-37-123.84. Notwithstanding any provision of the plan to the
24 contrary, unpaid membership time shall not apply to members
25 who initially join the system, or members who rejoin the
26 system after having withdrawn, after August 16, 1996.

1 "(58) VESTED. The portion of a member's benefits
2 under the plan that generally are nonforfeitable. Subject to
3 Section 45-37-123.83, relating to failure to claim a refund of
4 employee contributions within the five-year period, a member's
5 benefit shall become nonforfeitable, or vested, upon the
6 following events:

7 "a. Partial or full termination of the plan as set
8 forth in Section 45-37-123.170; and

9 "b. Meeting the eligibility conditions for
10 entitlement to a benefit under Subpart 5.

11 "(59) WORKER'S COMPENSATION BENEFITS. Any benefit
12 paid to a member under any worker's compensation law of the
13 State of Alabama for any injury or disability suffered by such
14 member while working for the county on the job or position by
15 reason of which he or she is a member. Additionally, worker's
16 compensation benefits are included in compensation for
17 purposes of determining employee contributions pursuant to
18 Section 45-37-123.82. Worker's compensation benefits are
19 included in compensation for purposes of calculating a
20 retirement benefit only if inclusion of such worker's
21 compensation benefits produces a higher benefit than exclusion
22 of such worker's compensation benefits."

23 Section 2. Section 45-37-123.50, Code of Alabama
24 1975, is amended to read as follows:

25 "§45-37-123.50.

26 "Any eligible employee may become a member of the
27 system as described below. Notwithstanding the following, any

1 person who was a member of the system prior to the effective
2 date of the amendment and restatement of the plan shall
3 continue to be a member of the system.

4 "(1) MANDATORY MEMBERSHIP.

5 "a. Eligible Employees Subject to the Civil Service
6 System. Except as otherwise provided in subdivision (2), every
7 eligible employee who occupies a full-time position subject to
8 the civil service system applicable to Jefferson County shall
9 become a member of the system and shall make employee
10 contributions to the system in accordance with Section
11 45-37-123.82.

12 "b. Hospital Employees. Every eligible hospital
13 employee, as defined in subdivision (21) of Section
14 45-37-123.01, shall become a member of the system and shall
15 make employee contributions to the system in accordance with
16 Section 45-37-123.82 if his or her relation to the hospital
17 corporation is such that if he or she had the same relation to
18 Jefferson County as he or she has to the hospital corporation,
19 his or her membership in the ~~System~~ system would be mandatory.

20 "(2) OPTIONAL MEMBERSHIP. The following eligible
21 employees may exercise the option to become a member of the
22 system by filing with the secretary of the pension board an
23 executed declaration stating that he or she elects to become a
24 member of the system, subject to all of the rights and
25 liabilities of members of the system. The declaration shall be
26 in such form and time as the pension board may prescribe. Once
27 the declaration is accepted by the pension board or a

1 representative of the pension board, such eligible employee
2 then shall become a member of the system and shall begin to
3 make employee contributions to the system in accordance with
4 Section 45-37-123.82. The ~~option~~ election to become or not
5 become a member, once exercised, shall be irrevocable.

6 "a. Eligible Employees Not Subject to the Civil
7 Service System. Any eligible employee who occupies a full- or
8 part-time position not subject to the civil service system
9 applicable to Jefferson County shall not become a member of
10 the system unless he or she exercises the option to become a
11 member.

12 "b. Hospital Employees. Any eligible hospital
13 employee, as defined in subdivision (21) of Section
14 45-37-123.01, shall have the option of becoming a member of
15 the system if such eligible hospital employee's relation to
16 the hospital corporation is such that if he or she had the
17 same relation to Jefferson County as he or she has to the
18 hospital corporation, he or she would have the option of
19 becoming a member of the system.

20 "c. Eligible County Office Employees, Eligible
21 Circuit Solicitors, ~~and~~ Eligible Deputy Solicitors, and
22 Eligible Part-Time Employees. Notwithstanding the mandatory
23 membership provisions in subdivision (1), any eligible county
24 office employee, any eligible circuit solicitor, ~~and~~ any
25 eligible deputy solicitor, as each is defined Section
26 45-37-123.01, and any part-time employee who occupies a
27 position subject to the civil service system applicable to

1 Jefferson County shall not become a member of the system
2 unless he or she exercises the option to become a member."

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