

1 HB538  
2 156522-1  
3 By Representative Treadaway (N & P)  
4 RFD: Jefferson County Legislation  
5 First Read: 25-FEB-14

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9 A BILL  
10 TO BE ENTITLED  
11 AN ACT  
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13 Relating to the Board of Managers of the City of  
14 Birmingham Retirement and Relief System; to further amend  
15 Section 4 of Act 556, 1959 Regular Session (Acts 1959, p.  
16 1376), as amended by Act 2013-438, 2013 Regular Session; to  
17 require that not less than 25 percent of investments are fixed  
18 income securities.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Section 4 of Act 556, 1959 Regular  
21 Session (Acts 1959, p. 1376), as amended by Act 2013-438, 2013  
22 Regular Session, is further amended to read as follows:

23 "Section 4. Board of Managers.

24 "(a) In order to assure representation of all  
25 participants of this system, there shall be a Board of  
26 Managers of five members for the administration, management,  
27 and control of the Supplemental Pension System, including

1 administration, management, control, acquisition, and  
2 disbursement of the fund. The board shall consist of the  
3 president of the governing body of the city, who shall be  
4 chair of the board, and four associate members, designated  
5 respectively as Member No. 1, Member No. 2, Member No. 3, and  
6 Member No. 4.

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

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

1 the System and meet the qualifications of Member No. 4. Member  
2 No. 2 and Member No. 3 may hold their positions until  
3 elections for their respective Board Member positions are due  
4 for election in April, 2016. Members of the board shall be  
5 elected by secret ballot to serve a term of four years  
6 commencing on the date the result of the election is declared.  
7 Any member of the board may be removed by impeachment for  
8 corruption or malfeasance or misfeasance in office or for  
9 habitual neglect of duty. Any member of the board may serve  
10 beyond his or her term until a successor is appointed or  
11 elected. The governing body of the city shall have the  
12 authority to prescribe and to change rules and regulations  
13 concerning the election of the participant-member of the board  
14 provided that the rules and regulations as prescribed or  
15 changed are not inconsistent with this act.

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

23 "The personnel director, of the Personnel Board of  
24 Jefferson County, Alabama, shall be the secretary of the board  
25 and shall be present at every meeting of the board, and keep a  
26 record of all proceedings of the board and all orders and  
27 decisions of the board. In the event the personnel director is

1 temporarily unable to fulfill his/her obligations, the board  
2 may appoint a temporary replacement to take and record the  
3 minutes of the meeting. Neither the secretary nor any member  
4 of the board shall receive any salary or compensation. Any  
5 three members of the board, when assembled either in regular  
6 or special meeting, shall constitute a quorum for the  
7 transaction of any and all business of the board, and the  
8 affirmative vote of three members present shall be necessary  
9 and sufficient to pass any motion or resolution. The board  
10 shall meet in the office of the chair, or such other place as  
11 the board may designate.

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

23 "(b) (1) No money of the fund shall be invested, paid  
24 out, or disbursed except pursuant to order or authorization of  
25 the board. The board shall be the trustee, have entire  
26 management and control of the fund, and shall direct  
27 investment of monies of the fund not needed to meet

1 disbursements provided for in this act and in the loans to  
2 members hereinafter referred to and shall be invested in the  
3 classes of bonds, mortgages, common and preferred stocks,  
4 shares of investment companies or mutual funds, real estate  
5 investment trusts, international equity, corporate fixed  
6 income, international fixed income, index funds, interest of  
7 private investment, private investment funds, or treasury  
8 bonds, notes, and bills of the United States, and agencies of  
9 the United States as the board may approve, derivative  
10 securities and investment recognized as alternative  
11 investments (excluding direct investments in real estate)  
12 subject to the limitations herein. The board may invest in  
13 fixed income securities and bonds of corporations organized  
14 under federal laws or under laws of any state of the United  
15 States or in bonds registered with the Security and Exchange  
16 Commission, mortgaged-backed securities or asset backed  
17 securities, or in securities issued by federal agencies and  
18 government sponsored entities, or may invest in Federal  
19 Savings and Loan Associations or in other corporations having  
20 Federal Savings and Loan Association's guarantee or in  
21 certificates of deposit or bonds issued by banks organized  
22 under federal laws or under the laws of the State of Alabama  
23 and insured by the federal government. No funds may be  
24 invested in fixed income securities or common or preferred  
25 stocks and stocks of private corporations or other forms of  
26 equity or fixed investment unless such common or preferred  
27 stocks or other forms of equity or fixed investments are

1 registered with the Securities and Exchange Commission or are  
2 traded through NASDAQ Stock Market or are Rule 144A securities  
3 or are traded on an organized exchange, ~~and the aggregate~~  
4 ~~value of the funds invested in such common or preferred stock~~  
5 ~~of corporations or other forms of equity securities last~~  
6 ~~referred to above shall not exceed 60 percent of the value of~~  
7 ~~all funds available in the system. The aggregate value of the~~  
8 ~~funds invested in common or preferred stocks, mutual funds or~~  
9 ~~other forms of equity securities, shall not exceed 60 percent~~  
10 ~~of total investments of the fund. The total investment in~~  
11 fixed income securities shall not be less than ~~forty~~  
12 twenty-five percent ~~(40%)~~ (25%) of the fair market value of  
13 all the funds available in the system for investment.

14 Securities issued by any single non-guaranteed agency or  
15 entity may not constitute more than ten percent (10%) of the  
16 fixed income allocation of the fund at the time of purchase.  
17 The fair market value of all funds available in the system for  
18 investment is to be determined periodically, but not less than  
19 annually. In exercising its discretion to invest, reinvest,  
20 and have invested and reinvested all funds of the system, the  
21 board shall act with the care, skill, prudence and diligence  
22 under the circumstances then prevailing that a prudent person  
23 acting in a like capacity and familiar with such matters would  
24 use in the conduct of an enterprise of a like character and  
25 with like aims.

26 "(2) From the fund of the system created by this  
27 act, the Board of Managers shall pay to the fund of the



1 General Retirement and Relief System of the City of Birmingham  
2 amounts hereinafter specified. When any firefighter or police  
3 officer retires on length of service, as hereinafter provided  
4 for in Section 8, the Board of Managers shall pay from the  
5 fund of this system the amount specified during each month  
6 between the due date on which the participant retires and the  
7 date on which the participant would have been entitled to  
8 receive a retirement allowance from the General Retirement and  
9 Relief System for 30 years service had the participant not  
10 retired, but had continued to serve without interruption as a  
11 participant of the General Retirement and Relief System until  
12 entitled to receive from said last named system a retirement  
13 system pension based upon 30 years service. The amount which  
14 the Board of Managers shall pay to the fund of the General  
15 Retirement and Relief System, during the period specified,  
16 shall be the sum of the amount which the city would have  
17 deducted from the salary of the participant and would have  
18 paid into the fund of the General Retirement and Relief System  
19 had the participant continued to be employed by the city  
20 during the period specified had the participant retired under  
21 Section 8 of this act plus the amount which the city during  
22 the same period would have paid from the funds of the city  
23 into the General Retirement and Relief System to match the  
24 deductions had the participant continued to work until  
25 entitled to retire on a pension based upon 30 years' service."

26 Section 2. The provisions of this act are severable.  
27 If any part of this act is declared invalid or

1       unconstitutional, that declaration shall not affect the part  
2       which remains.

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