

1 SB397  
2 156403-1  
3 By Senator Allen (N & P)  
4 RFD: Local Legislation No. 1  
5 First Read: 20-FEB-14

2  
3  
4  
5  
6  
7  
8  
9 A BILL  
10 TO BE ENTITLED  
11 AN ACT  
12

13 Relating to the City of Tuscaloosa in Tuscaloosa  
14 County; to amend Act 99-568 of the 1999 Regular Session (Acts  
15 1999, p. 1220), as amended, providing for a retirement system  
16 for police officers and firefighters; to amend Section 4.01  
17 relating to age and years of service at which plan members  
18 acquire a nonforfeitable right to receive a monthly pension  
19 benefit; Section 4.04 relating to continuing pension benefits  
20 for the surviving spouse and dependent children of deceased  
21 retirees; Section 6.03 relating to Member Contributions;  
22 Section 6.05 relating to City Contributions (non picked-up);  
23 and Section 7.14 relating to the Deferred Retirement Option  
24 Plan (DROP); to provide for certain benefits for persons  
25 becoming members of the plan after the effective date of this  
26 amendatory act and for their surviving spouses and dependent

1 children; to provide an increase in the percentage of  
2 contributions; and to increase the DROP period to five years.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 4.01 of Act 99-568 of the 1999  
5 Regular Session (Acts 1999, p. 1220) is amended to read as  
6 follows:

7 "4.01 Retirement.

8 "A member who terminates his or her employment as a  
9 police officer or firefighter after he or she has (i)  
10 completed 20 years of service (25 years of service or attained  
11 age 60 with 20 years of service prior to the effective date)  
12 or (ii) attained age 65, shall have a nonforfeitable right to  
13 receive a monthly benefit. His or her monthly benefit shall be  
14 equal to the greater of (a) and (b), subject to the minimum  
15 benefit provisions of (c) and (d), the special transition rule  
16 of (e), and the optional form of payment provision of (f), as  
17 follows:

18 "(a) Four and four-tenths percent (4.4%) of the  
19 amount of his or her "pension base" multiplied by service,  
20 adjusted by the following for members who retire on or after  
21 the effective date:

22 "(I) Reduced by six percent (6%) for every year of  
23 service (and proportionately for any fraction of a year,  
24 thereof) less than 25, except no reduction shall apply for any  
25 member whose membership began before the effective date of  
26 this act provided that he or she retires after attaining age  
27 60, and

1           "(II) Increased by six percent (6%) for every year  
2 of service (and proportionately for any fraction of a year,  
3 thereof) greater than 25, up to a maximum of 5 years.

4           "(b) One and one-half percent (1.5%) of his or her  
5 final average salary multiplied by his or her service, if  
6 payable no earlier than age 65. If the benefit commences prior  
7 to age 65, such benefit shall be the equivalent actuarial  
8 value of the benefit payable at age 65. The member shall have  
9 the right to make an election under 5.03 of the single life  
10 annuity form provided for in 5.02(b) to commence no later than  
11 his or her attainment of age 65. This provision shall not be  
12 subject to 4.05.

13           "(c) Subject to the requirements for benefit  
14 eligibility under 4.01, any persons under the coverage of the  
15 pension plan who have contributed to the fund for at least 15  
16 years shall receive a monthly benefit of at least eight  
17 hundred forty-eight dollars and twenty-eight cents (\$848.28).

18           "(d) Any individuals who are receiving benefits  
19 created by Act 187, S. 339, 1951 Regular Session (Acts 1951,  
20 p. 438), as amended, shall receive a benefit of at least three  
21 hundred dollars (\$300).

22           "(e) Notwithstanding the above provisions of 4.01,  
23 if a member retires before having completed 5 years of service  
24 following the effective date of this act, such member shall be  
25 given the opportunity to elect for his or her benefit to be  
26 determined between Options I and II as follows:

1           "(I) The benefit otherwise determined under the  
2 provisions of 4.01 except that the service used in the  
3 calculation of adjustments in 4.01(a) (I) and 4.01(a) (II)  
4 ("adjusted service") shall reflect the member's actual service  
5 limited to 30 years, decreased by the excess (including  
6 fractions thereof) of 5 years over the service that the member  
7 completed following the effective date of this act. Provided,  
8 however, that (i) if the member completed at least 25 years of  
9 service, the adjusted service would not be less than 25 years;  
10 and (ii) if the member's adjusted service is less than 20  
11 years, the member would not be eligible to receive a benefit  
12 based on 4.01(a) under this option.

13           "(II) The benefit otherwise determined under the  
14 provisions of 4.01, except that no benefit shall be paid from  
15 the plan until the sum of foregone benefits would equal the  
16 amount of 4% of the member's pension base multiplied by the  
17 excess, if any, (including fractions thereof) of (i) the  
18 service over 25 years or under 25 years as applicable, up to a  
19 limit of 5 years, completed by the member at retirement; over  
20 (ii) the service that the member completed following the  
21 effective date of this act.

22           "(f) The benefit otherwise provided in 4.01 shall be  
23 subject to the member's election of an optional form of  
24 payment under 5.02.

25           "The term "pension base" means the member's average  
26 monthly salary for the 12-month period immediately preceding  
27 retirement, unless he or she has been demoted in the five

1 years immediately preceding his or her retirement, in which  
2 case his or her "pension base" shall be the average monthly  
3 salary for the 60-month period immediately preceding  
4 retirement, if greater.

5 "The term "final average salary" as used in 4.01(b)  
6 above means the member's average monthly salary for the  
7 36-month period immediately preceding retirement.

8 "(g) Notwithstanding the foregoing, any firefighter  
9 or police officer hired after the effective date of the act  
10 adding this subsection who becomes a member of the plan after  
11 that effective date shall be entitled to begin drawing monthly  
12 pension benefits only based on one of the following: (1) The  
13 member shall be eligible to draw monthly pension benefits  
14 after completing 25 years of service, regardless of age. (2)  
15 If the member has completed 20 years of service, but less than  
16 25, the member shall be eligible to draw monthly pension  
17 benefits only upon attaining age 52."

18 Section 2. Section 4.04 of Article 4 of Section 5 of  
19 Act 99-568, 1999 Regular Session, as last amended by Act  
20 2003-321, 2003 Regular Session (Acts 2003, p. 782), is further  
21 amended to read as follows:

22 4.04 Death.

23 "The provisions of 4.04 herein shall be applied  
24 subject to the member's election of any optional form of  
25 payment under 5.02 if the member dies on or after his or her  
26 annuity starting date.

1           "(a) For the purposes of this section, children of  
2 any police officer or firefighter who are under the age of 18  
3 years or under the age of 23 years and full-time students at a  
4 postsecondary educational institution, and the surviving  
5 spouse of any police officer or firefighter shall be  
6 conclusively presumed to be dependent upon such firefighter or  
7 police officer.

8           "(b) If any firefighter or police officer shall: (i)  
9 while in the performance of his or her duty, be killed, or die  
10 as a result of any injury received in the line of his or her  
11 duty, or shall die from any cause whatsoever as the result of  
12 his or her service in such department and while in such  
13 service; or (ii) after having served in such department for  
14 more than 10 years, the last five years of which were  
15 consecutive, die from any cause while in service or on the  
16 retired or disabled list, and shall leave a surviving spouse  
17 surviving him or her, the board shall direct the payment to  
18 such surviving spouse monthly during his or her natural life,  
19 and while unmarried, a sum equal to forty-two and forty-one  
20 hundredths percent (42.41%) of such member's pension base at  
21 the time of his or her death. However, at no time shall such  
22 surviving spouse be entitled to receive more than one monthly  
23 benefit due to the death of more than one member. In the event  
24 that a spouse is receiving a benefit due to the death of a  
25 member, and such spouse marries another member and otherwise  
26 would be entitled to a benefit due to the death of that  
27 member, the surviving spouse shall be entitled to only one

1 monthly benefit which shall be the monthly benefit that is  
2 greater. Furthermore, if such member leaves surviving him or  
3 her a child or children under 18 years of age or under the age  
4 of 23 years and a full-time student at a postsecondary  
5 educational institution, the board shall direct the payment  
6 monthly from the fund to their surviving parent, whether  
7 married or unmarried, for the child's use and benefit, an  
8 amount equal to twenty-five and forty-five hundredths percent  
9 (25.45%) of the member's pension base at the time of his or  
10 her death for each child eligible to receive benefits as  
11 defined above, not to exceed in the aggregate an amount equal  
12 to seventy-six and thirty-five hundredths percent (76.35%) of  
13 such pension base, so long as such child or children live with  
14 their surviving parent, or under their control. If such child  
15 or children have no surviving parent, or such surviving parent  
16 dies during the time such child or children are entitled to  
17 such benefit, such sum may be paid by the board to the person  
18 having control and custody of such child or children or to  
19 such other person as the board may direct, to be expended by  
20 such person for the benefit of the child or children as may be  
21 prescribed by said board. Should such deceased firefighter or  
22 police officer leave no surviving spouse or child entitled to  
23 benefits as set out, but one widowed parent entirely dependent  
24 upon him or her for support, the board shall pay to him or her  
25 monthly during his or her natural life a sum equal to  
26 forty-two and forty-one hundredths percent (42.41%) of the  
27 member's pension base at the time of his or her death. The



1 percentages set forth in this section may be adjusted by any  
2 resolution of the board pursuant to 4.05. The maximum monthly  
3 benefit payable for a surviving spouse with no dependent  
4 children shall be eight hundred thirteen dollars (\$813); for a  
5 surviving spouse with one dependent child, one thousand one  
6 hundred four dollars (\$1,104); and for a surviving spouse with  
7 two or more dependent children, one thousand three hundred  
8 ninety-four dollars (\$1,394). The above maximum benefits shall  
9 be adjusted in the same manner as 4.01(a)(I) for service less  
10 than 25 years in the case of a member who dies after his or  
11 her annuity starting date. The percentages and maximum  
12 limitations set forth in this section may be adjusted by  
13 resolution of the board pursuant to 4.05. Notwithstanding the  
14 foregoing, if any firefighter or police officer hired after  
15 the effective date of the act adding this language becomes a  
16 member of the plan after that time and subsequently dies after  
17 having completed 20 years of service, but before having  
18 attained the age of 52, so that, pursuant to Section 4.01 he  
19 or she has not yet started drawing pension benefits hereunder,  
20 and leaves a surviving spouse, the surviving spouse benefits  
21 provided in this subsection shall become immediately payable  
22 to the surviving spouse the same as if the deceased member  
23 were already on the retired list and drawing his or her  
24 pension benefits; likewise, if the firefighter or police  
25 officer who thus became a member of the plan after the  
26 effective date of the act adding this language, dies after  
27 having completed 20 years of service, but before having

1 attained the age of 52, and leaves surviving him or her a  
2 dependent child or children as defined in subsection (a)  
3 above, the dependent child or children benefits provided for  
4 in this subsection shall become immediately payable for the  
5 benefit of the child or children, the same as if the deceased  
6 member were already on the retired list and drawing his or her  
7 pension benefits.

8 "(c) When the surviving spouse or child or children  
9 or widowed parent, or either of them shall be entitled to a  
10 pension as provided in this act, such surviving spouse or  
11 child or children or widowed parent, shall make or cause to be  
12 made an application to the board through the secretary of such  
13 board, on a form to be provided by the board, which shall  
14 show, in the case of the surviving spouse, proof of marriage  
15 of the deceased to the claimant, by marriage certificate or  
16 other competent evidence; and proof of the widowhood of the  
17 parent of such deceased member, and his or her dependency for  
18 support upon him or her shall be shown by affidavits of such  
19 widowed parent or disinterested persons; and the birth and  
20 ages of such children shall be shown by affidavits of the  
21 surviving parent of such children or of disinterested persons,  
22 or by any other competent evidence. All applications and  
23 proofs shall be kept and retained in the custody of the board.

24 "(d) Notwithstanding the above provisions of 4.04,  
25 but subject to the member's election of any optional form of  
26 payment under 5.02 on or after the member's annuity starting  
27 date, the benefit payable to a surviving spouse shall not be

1 less than 50% of the benefit that would have been payable to  
2 the member under 4.01(b) in a 50% joint and survivor annuity  
3 form (on an equivalent actuarial value basis) on the member's  
4 annuity starting date or the member's date of death, if the  
5 member died before his or her annuity starting date."

6 Section 3. Section 6.03 of Act 99-568 of the 1999  
7 Regular Session (Acts 1999, p. 1220), as amended by Act  
8 2001-900 and Act 2012-450, respectively, is amended to read as  
9 follows:

10 "6.03 Member Contributions.

11 "(a) Prior to the effective date of Act 99-568, from  
12 the salary of each firefighter and police officer there shall  
13 be deducted and paid into the fund an amount equal to seven  
14 percent (7%) of the amount of such salary.

15 "(b) Beginning with the effective date of the last  
16 act amending this subsection, or as soon thereafter as  
17 practical, from the salary of each firefighter and police  
18 officer the city shall agree to assume and pay "picked up"  
19 member contributions to the fund in lieu of direct  
20 contributions by the member in an amount equal to ~~eleven and~~  
21 ~~twenty-five hundredths percent (11.25%)~~ eleven and fifty  
22 hundredths percent (11.50%) of the amount of such salary  
23 (excluding bonuses and other extra pay and benefits) with such  
24 contributions being paid into the fund on behalf of the  
25 member.

26 "Member contributions picked up by the city shall be  
27 payable from the same source of funds used to pay compensation

1 to a member. A deduction shall be made from a member's salary  
2 equal to the amount of contributions picked up by the city.  
3 This deduction shall not reduce the member's salary, pension  
4 base, or final average salary. No member shall have the option  
5 of choosing to receive the contributed amounts directly  
6 instead of having them paid by the city directly to the fund.  
7 All such contributions by the city shall be deemed and  
8 considered as part of the member's accumulated contributions  
9 and subject to all provisions of this plan pertaining to  
10 accumulated contributions of members, but treated as city  
11 contributions in determining tax treatment under the Code. The  
12 intent of this language is to comply with Section 414(h)(2) of  
13 the Internal Revenue Code of 1986, as amended.

14 "(c) Notwithstanding the provisions of 6.03(a) and  
15 6.03(b), whenever a member of the fire or police department of  
16 the city is ineligible for membership in the fund by reason of  
17 the provisions of this act, neither such ineligible member nor  
18 his or her salary nor other compensation shall be subject to  
19 any assessment for the benefit of this fund."

20 Section 4. Section 6.05 of Act 99-568 of the 1999  
21 Regular Session (Acts 1999, p. 1220), as last amended by Act  
22 2012-450, is amended to read as follows:

23 "6.05 City Contributions (non picked-up).

24 "The governing body of the city shall cause to be  
25 paid into the fund out of the treasury of the city an amount  
26 equal to ~~thirteen and twenty-five hundredths percent (13.25%)~~  
27 thirteen and fifty hundredths percent (13.50%) of the salary

1 (excluding bonuses) of each member of the fire and police  
2 department who is eligible for membership in this fund, such  
3 payment to be made to the fund as and when such salary becomes  
4 payable, and deduction therefrom is made as provided in this  
5 section."

6 Section 5. Section 7.14 of Act 99-568 of the 1999  
7 Regular Session (Acts 1999, p. 1220), as amended by Act  
8 2001-900 and Act 2012-450, respectively, is amended to read as  
9 follows:

10 "7.14 Deferred Retirement Option Plan ("DROP").

11 "(a) A member shall become eligible for the "DROP"  
12 upon completing 25 years of service. A member eligible for the  
13 DROP can prospectively elect a "DROP period" of ~~1 year, 2~~  
14 ~~years, or 3~~ not more than five years in accordance with the  
15 rules established by the board under 7.05. The member must  
16 also make any election of options under 5.03 at the same time  
17 as electing the DROP. A member electing the DROP cannot elect  
18 the "Back DROP" under 7.15. Any death benefit payable under  
19 the plan other than the distribution of the "DROP account"  
20 shall be determined as if the member had retired on the date  
21 that the DROP was elected. Any active member who is  
22 participating in the DROP on the effective date of the act  
23 adding this language may choose to increase his or her DROP  
24 period to not more than five years from his or her original  
25 effective DROP date.

26 "(b) Any member electing the DROP shall have his or  
27 her retirement benefit determined under the provisions of 4.01

1 and 4.05 in effect as of the date of such election as if the  
2 member had retired on such date, except that the adjustment  
3 made under 4.01(a)(II) and the corresponding adjustment under  
4 4.05 shall not apply. Subsequent to the member's actual  
5 retirement, his or her benefit shall be treated in the same  
6 manner as the benefit for a retired member. All member  
7 contributions under 6.03 and city contributions under 6.05  
8 shall continue during the DROP period.

9 "(c) Any member who elects the DROP shall have the  
10 lesser of (i) his or her benefit as determined under 7.14(b),  
11 and (ii) the amount in effect under 4.05 at his or her  
12 retirement without the adjustment of 4.01(a)(II), but subject  
13 to an optional form of payment elected under 5.02, deposited  
14 monthly into a "DROP account" (instead of paid directly) in  
15 the member's name under the plan's fund during the DROP  
16 period. The DROP account shall be credited with interest at an  
17 annual percentage rate (APR) equal to one-third of the  
18 actuarial return of investment in effect during each plan year  
19 as provided by the actuarial study, not to exceed four  
20 percent, compounded on a monthly basis.

21 "(d) Any member who elects the DROP and retires no  
22 later than the end of the DROP period chosen under 7.14(a)  
23 shall elect a distribution form of his or her DROP account  
24 payable at retirement from the following options:

25 "(I) Lump sum distribution of the balance of his or  
26 her DROP account at retirement.

1           "(II) Distribution of the balance of his or her DROP  
2 account at retirement payable monthly over a period of 3  
3 years, 5 years, or 10 years as selected by the member. The  
4 residual balance of his or her DROP account will continue to  
5 be credited with interest under the method prescribed in  
6 7.14(c) during the period of distribution.

7           "(e) Any member who elects the DROP and does not  
8 retire from active service by the end of the DROP period  
9 chosen under 7.14(a) shall (i) forfeit the balance of his or  
10 her DROP account at the end of the DROP period and not have  
11 any additional benefits deposited into the DROP account, and  
12 (ii) have his or her benefit determined at actual retirement  
13 without regard to service or salary earned during the DROP  
14 period.

15           "(f) If a member who elects the DROP dies during the  
16 DROP period chosen under 7.14(a), the member's beneficiary  
17 shall receive the balance of the member's DROP account subject  
18 to a distribution election made by the beneficiary under  
19 7.14(d).

20           "(g) If a member who elects the DROP dies during the  
21 DROP period of distribution under 7.14(d), any undistributed  
22 balance of his or her DROP account shall be paid to the  
23 member's beneficiary in accordance with the member's election  
24 under 7.14(d).

25           "(h) Any DROP election made by a member under  
26 7.14(a) will be irrevocable unless the member subsequently  
27 becomes permanently disabled under 4.02(c). In such case, the

1 member would be given a one-time election between (i) the  
2 disability benefit provided under 4.02 as if the DROP election  
3 had never been made, and (ii) the benefit provided under the  
4 DROP."

5 Section 6. This act shall become effective on the  
6 first day of the third month following its passage and  
7 approval by the Governor, or its otherwise becoming law.