

1 HB255  
2 137151-8  
3 By Representatives Love, Hill and Barton  
4 RFD: Ways and Means General Fund  
5 First Read: 09-FEB-12

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ENROLLED, An Act,

To amend Sections 16-25-1 and 36-27-1, Code of Alabama 1975, relating to retirement benefits; to provide that earnable compensation may include a portion of overtime payments.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§16-25-1.

"For the purposes of this chapter the following terms, unless a different meaning is plainly required by the context, shall have the following respective meanings:

"(1) RETIREMENT SYSTEM. The Teachers' Retirement System of Alabama as defined in Section 16-25-2.

"(2) PUBLIC SCHOOL. Any day school conducted within the state under the authority and supervision of a duly elected or appointed county or city board of education and any educational institution supported by and under the control of the state or any private nondenominational school operated nonprofit for the education of children of school age residing within a district where no public school is available for the children.

1           "(3) TEACHER. Any teacher, principal,  
2           superintendent, supervisor, college professor, administrative  
3           officer, or clerk employed in any public school or public  
4           college within the state or employed in any private  
5           nondenominational school operated nonprofit for the education  
6           of children of school age residing within a district where no  
7           public school is available for the children or any similar  
8           employee or officer of the Department of Education or of the  
9           Alabama Education Association, or any attendance worker 50  
10           percent or more of whose salary is paid from public school  
11           funds or any employee receiving a regular stated compensation  
12           from the retirement system. In all cases of doubt, the Board  
13           of Control shall determine whether any person is a teacher as  
14           defined in this chapter.

15           "(4) SUPPORT PERSONNEL or EMPLOYEE. Any maid,  
16           custodian, adult bus driver, lunchroom, or cafeteria worker,  
17           secretary, clerk, clerical assistant, maintenance worker, or  
18           other non-certificated employee who works an average of 20  
19           hours weekly.

20           "(5) EMPLOYER. The State of Alabama, the county  
21           school board, the city school board, the State Board of  
22           Education, or any governing body of any private  
23           nondenominational school operated nonprofit for education of  
24           children of school age residing within a district where no

1 public school is available for the children or any other  
2 agency of and within the state by which a teacher is paid.

3 "(6) MEMBER. Any teacher included in the membership  
4 of the system as provided in Section 16-25-3.

5 "(7) BOARD OF CONTROL. The board provided for in  
6 Section 16-25-19 to administer the retirement system.

7 "(8) MEDICAL BOARD. The board of physicians provided  
8 for in Section 16-25-19.

9 "(9) TRUSTEES. The members of the Board of Control  
10 to administer the trust funds.

11 "(10) SERVICE. Service as a teacher.

12 "(11) PRIOR SERVICE. Service rendered prior to the  
13 date of establishment of the retirement system for which  
14 credit is allowable under Section 16-25-11.

15 "(12) MEMBERSHIP SERVICE. Service as a teacher  
16 rendered while a member of the retirement system and on  
17 account of which contributions are made.

18 "(13) CREDITABLE SERVICE. "Prior service" plus  
19 "membership service" rendered since last becoming a member.

20 "(14) BENEFICIARY. Any person in receipt of a  
21 pension, an annuity, a retirement allowance, or other benefit  
22 as provided by this chapter.

23 "(15) REGULAR INTEREST. Interest compounded annually  
24 at the rate determined by the Board of Control in accordance  
25 with subsection (b) of Section 16-25-20.

1           "(16) ACCUMULATED CONTRIBUTIONS. The sum of all the  
2 amounts deducted from the compensation of a member and  
3 credited to his or her individual account in the annuity  
4 savings fund together with regular interest thereon as  
5 provided in Section 16-25-21.

6           "(17) EARNABLE COMPENSATION. a. The full rate of the  
7 compensation that would be payable to a teacher if he or she  
8 worked the full normal working time. In cases where  
9 compensation includes maintenance, the Board of Control shall  
10 fix the value of that part of the compensation not paid in  
11 money. Earnable compensation shall not exceed the limitations  
12 imposed by Section 401(a) (17) of the Internal Revenue Code for  
13 public pension funds except that any employee who was a member  
14 of the Teachers' Retirement System before the first plan year  
15 beginning after December 31, 1995, shall not be subject to the  
16 earning limitations set forth in Section 401(a) (17).

17           "b. The term earnable compensation for retirement  
18 purposes shall include overtime payments that are made to an  
19 employee; however, earnable compensation shall not exceed 120  
20 percent of any employee's annual base compensation as  
21 certified by the employer.

22           "(18) AVERAGE FINAL COMPENSATION. The average annual  
23 compensation of a teacher, with respect to which he or she has  
24 made contributions pursuant to paragraph b of subdivision (1)  
25 of Section 16-25-21 during the three years in his or her last

1 10 years of creditable service for which the average is  
2 highest or during his or her entire period of creditable  
3 service if less than three years; except, that for any period  
4 prior to October 1, 1959, the compensation used in computing  
5 the average shall include compensation in excess of the  
6 maximum amount with respect to which members were required to  
7 contribute.

8 "(19) ANNUITY. Payments for life derived from the  
9 "accumulated contributions" of a member. All annuities shall  
10 be payable in equal monthly installments.

11 "(20) PENSION. Payments for life derived from money  
12 provided by the employer. All pensions shall be payable in  
13 equal monthly installments.

14 "(21) RETIREMENT ALLOWANCE. The sum of the "annuity"  
15 and the "pension."

16 "(22) RETIREMENT. Withdrawal from active service  
17 with a retirement allowance or optional benefit in lieu  
18 thereof granted under this chapter.

19 "(23) ANNUITY RESERVE. The present value of all  
20 payments to be made on account of any annuity or benefit in  
21 lieu of any annuity, computed upon the basis of the mortality  
22 tables as shall be adopted by the Board of Control, and  
23 regular interest.

24 "(24) PENSION RESERVE. The present value of all  
25 payments to be made on account of any pension or benefit in

1 lieu of any pension, computed upon the basis of the mortality  
 2 tables as shall be adopted by the Board of Control, and  
 3 regular interest.

4 "(25) ACTUARIAL EQUIVALENT. A benefit of equal  
 5 value, when computed upon the basis of the mortality tables as  
 6 shall be adopted by the Board of Control, and regular  
 7 interest.

8 "(26) NORMAL CONTRIBUTION. The contributions of the  
 9 state necessary to provide a pension equal to the annuity  
 10 which the member's contribution made prior to age 65 with  
 11 interest will provide at age of retirement not to exceed 65.

12 "§36-27-1.

13 "When used in this article, the following terms  
 14 shall have the following meanings, respectively, unless the  
 15 context clearly indicates otherwise:

16 "(1) RETIREMENT SYSTEM. The Employees' Retirement  
 17 System of Alabama as defined in Section 36-27-2.

18 "(2) EMPLOYEE. Any regular employee of the State of  
 19 Alabama whose salary is paid by state warrant by the state,  
 20 except a member of the Legislature of the state, a person who  
 21 is covered or eligible to be covered under the Teachers'  
 22 Retirement System of Alabama or any other retirement system to  
 23 which contributions are made by the state, an elective  
 24 official of the state government, and a temporary employee or  
 25 person engaged under retainer or special agreement. In all

1 cases of doubt the Board of Control shall determine who is an  
 2 employee within the meaning of this article. The term shall  
 3 include any regular employee of the Alabama state hospitals  
 4 and Partlow State School and Hospital and the Alabama State  
 5 Port Authority, however paid.

6 "(3) EMPLOYER. The State of Alabama or any  
 7 department, commission, institution, or any other agency of  
 8 and within the state by which an employee is paid, including  
 9 employers as provided in Section 36-27-6.

10 "(4) MEMBER. Any employee included in the membership  
 11 of the system as provided in Section 36-27-4.

12 "(5) BOARD OF CONTROL. The board provided for in  
 13 Section 36-27-23 to administer the retirement system.

14 "(6) MEDICAL BOARD. The board of physicians provided  
 15 for in Section 36-27-23.

16 "(7) SERVICE. Service as an employee paid for by an  
 17 employer.

18 "(8) PRIOR SERVICE. Service rendered prior to the  
 19 date of establishment of the retirement system for which  
 20 credit is allowable under Section 36-27-11.

21 "(9) MEMBERSHIP SERVICE. Service as an employee  
 22 rendered while a member of the retirement system and on  
 23 account of which contributions are made.

24 "(10) CREDITABLE SERVICE. "Prior service" plus  
 25 "membership service" rendered since last becoming a member.



1           "(11) BENEFICIARY. Any person in receipt of a  
2 pension, an annuity, a retirement allowance or other benefit  
3 as provided by this article.

4           "(12) REGULAR INTEREST. Interest compounded annually  
5 at the rate determined by the Board of Control in accordance  
6 with subsection (f) of Section 36-27-25.

7           "(13) ACCUMULATED CONTRIBUTIONS. The sum of all the  
8 amounts deducted from the compensation of a member credited to  
9 his or her individual account in the Annuity Savings Fund,  
10 together with regular interest thereon, as provided in Section  
11 36-27-24.

12           "(14) EARNABLE COMPENSATION. a. The full rate of  
13 compensation that would be payable to an employee if he or she  
14 worked the full normal work-time. In cases where compensation  
15 includes maintenance, the Board of Control shall fix the value  
16 of that part of the compensation not paid in money. Earnable  
17 compensation shall not exceed the limitations imposed by  
18 Section 401(a) (17) of the Internal Revenue Code for public  
19 pension funds, except that any employee who was a member of  
20 the Employees' Retirement System before the first plan year  
21 beginning after December 31, 1995, shall not be subject to the  
22 earning limitations set forth in Section 401(a) (17).

23           "b. The term earnable compensation for retirement  
24 purposes shall not include subsistence payments that are made  
25 to an employee and shall include overtime payments that are

1 made to an employee; however, earnable compensation shall not  
2 exceed ~~125%~~ 120 percent of any employees' annual base  
3 compensation as certified by the employer.

4 "(15) AVERAGE FINAL COMPENSATION. The average annual  
5 compensation of an employee, with respect to which he or she  
6 had made contributions pursuant to subsection (b) of Section  
7 36-27-24 during the three years, in his or her last 10 years  
8 of creditable service for which the average is highest or  
9 during his or her entire period of creditable service if less  
10 than three years; except, that for any period prior to  
11 November 1, 1959, the compensation used in computing the  
12 average shall include compensation in excess of the maximum  
13 amount with respect to which members were required to  
14 contribute.

15 "(16) ANNUITY. Payments for life derived from the  
16 "accumulated contributions" of a member. All annuities shall  
17 be payable in equal monthly installments.

18 "(17) PENSION. Payments for life derived from money  
19 provided by the employer. All pensions shall be payable in  
20 equal monthly installments.

21 "(18) RETIREMENT ALLOWANCE. The sum of the "annuity"  
22 and the "pension."

23 "(19) RETIREMENT. Withdrawal from active service  
24 with a retirement allowance or optional benefit in lieu  
25 thereof granted under this article.

1           "(20) ANNUITY RESERVE. The present value of all  
2 payments to be made on account of any annuity or benefit in  
3 lieu of any annuity computed upon the basis of the mortality  
4 tables adopted by the Board of Control and regular interest.

5           "(21) PENSION RESERVE. The present value of all  
6 payments to be made on account of any pension or benefit in  
7 lieu of any pension computed upon the basis of the mortality  
8 tables adopted by the Board of Control and regular interest.

9           "(22) ACTUARIAL EQUIVALENT. A benefit of equal value  
10 when computed upon the basis of the mortality tables adopted  
11 by the Board of Control and regular interest.

12           "(23) STATE POLICEMAN. An employee in the classified  
13 service under the Merit System Act approved by the State  
14 Personnel Board to perform the duties of highway patrolman or  
15 a beverage control agent or a crime investigator. The term  
16 shall not include a member employed as a policeman under  
17 Section 36-27-6."

18           Section 2. This act shall be effective immediately  
19 upon its passage and approval by the Governor, or its  
20 otherwise becoming law.

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 28-FEB-12, as amended.

Greg Pappas  
Clerk

Senate	02-MAY-12	Amended and Passed
House	02-MAY-12	Concurred in Senate Amendment