

1 HB396  
2 128276-3  
3 By Representative Ford  
4 RFD: Ways and Means General Fund  
5 First Read: 31-MAR-11

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8 SYNOPSIS: This bill would allow participation in the  
9 Deferred Retirement Option Plan and would limit  
10 interest paid on the accounts.  
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12 A BILL  
13 TO BE ENTITLED  
14 AN ACT  
15

16 To amend Sections 16-25-150 and 36-27-170 of the  
17 Code of Alabama 1975, as amended by Act 2011-27 of the 2011  
18 Regular Session, relating to the Deferred Retirement Option  
19 Plan, to allow new participation in the plan and limit  
20 interest paid on accounts.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. Sections 16-25-150 and 36-27-170 of the  
23 Code of Alabama 1975, as amended by Act 2011-27 of the 2011  
24 Regular Session are amended to read as follows:

25 "§16-25-150.

26 "(a) As governed by this subsection, there exists as  
27 a part of this retirement system an optional account known as

1 the Deferred Retirement Option Plan, which may be cited as  
2 "DROP." The purpose of DROP is to allow, contractually, in  
3 lieu of immediate withdrawal from service and receipt of a  
4 retirement allowance, continued employment for a specific  
5 period of time, coupled with the deferral of receipt of a  
6 retirement allowance until the end of the period of  
7 participation, at which time the member shall withdraw from  
8 service.

9 "(b) Participation in DROP, as of July 2011, is an  
10 option available to any member of this retirement system who  
11 meets all of the following requirements:

12 "(1) Has at least ~~25~~ 30 years of creditable service  
13 exclusive of sick leave.

14 "(2) Is at least ~~55~~ 57 years of age.

15 "(3) Is eligible for service retirement and earns  
16 less than seventy-five thousand dollars (\$75,000) a year  
17 excluding any and all cost of living increases that resulted  
18 in a member receiving a salary in excess of seventy-five  
19 thousand dollars (\$75,000).

20 "(c) An election to participate in DROP may be made  
21 in one year increments not to exceed five years, nor to be  
22 less than three years. A member may participate in DROP only  
23 one time. Any voluntary termination within the first three  
24 years in DROP will result in a forfeiture of the portion of  
25 his or her DROP account that constitutes the retirement  
26 allowance. However, member contributions will not be  
27 forfeited, nor will any interest attributable to the

1 retirement allowance. There will be no penalty forfeiture if  
2 the participation period is interrupted due to an involuntary  
3 dismissal, disability, involuntary transfer of his or her  
4 spouse, or death of the participant.

5 "(d) A member who chooses to participate in DROP may  
6 elect an option allowance set out for members of the Teachers'  
7 Retirement System in subsection (h) of Section 16-25-14 at the  
8 beginning of the participation period. Otherwise, he or she  
9 shall receive the maximum benefit. Such election shall be  
10 irrevocable once the participation period begins except as  
11 otherwise provided in this chapter.

12 "(e) For purposes of DROP, sick leave may not be  
13 converted for purposes of establishing retirement eligibility,  
14 nor used in the calculation of the original retirement  
15 allowance except as provided in Section 16-25-151.

16 "(f) The election to participate in DROP shall be  
17 made in accordance with procedures set forth in a uniform and  
18 nondiscriminatory election and application form adopted by the  
19 Board of Control. The election to participate in DROP may be  
20 made at any time on or after the date the member becomes  
21 eligible to participate as set out in subsection (b). Such  
22 application must be made at least 30 days, but not more than  
23 90 days, before the effective date of participation in DROP,  
24 and shall be made no later than the effective date of this  
25 act. A member must be eligible to participate, as provided  
26 above at the time the application is made for new member  
27 participation after July 1, 2011. A member must retire at the

1 end of the participation period not to exceed five years or  
2 shall pay the active member cost of PEEHIP premiums at any  
3 time following the period of participation not to exceed five  
4 years, and any member obtaining the age of 65 shall no longer  
5 qualify to participate in the active member PEEHIP and shall  
6 only be allowed to participate in PEEHIP as allowed to any  
7 retired participant in PEEHIP.

8           "(g) Upon the effective date of the commencement in  
9 DROP, the member's service shall remain as it existed on that  
10 date for the duration of DROP. Once a member enters DROP,  
11 service credit purchases are prohibited. Both the employer and  
12 employee member contribution shall continue to be made. The  
13 monthly retirement allowance that would have been payable, had  
14 the person elected to withdraw from service and receive a  
15 retirement allowance, shall be paid into a DROP account that  
16 reflects the credits attributed to the person in DROP.  
17 However, the monies shall remain a part of the regular  
18 retirement fund until disbursed to the participating member in  
19 accordance with this section. Any monies paid into this  
20 account are subject to the exemptions set out in Section  
21 16-25-23.

22           "(h) (1) The DROP account shall earn interest at the  
23 same rate that interest is posted to active member accounts as  
24 defined in subdivision (15) of Section 16-25-1, but the  
25 interest shall not exceed the yield for two-year United States  
26 Treasury notes for new participants after June 30, 2011. A  
27 person who participates in this plan shall not be eligible to

1 receive a retiree cost-of-living increase while participating  
2 in DROP, and shall not be eligible for a retiree  
3 cost-of-living increase until participation in the plan ceases  
4 and he or she withdraws from service and has been receiving a  
5 retirement allowance for at least one full year.

6 "(2) Notwithstanding any other provision of this  
7 chapter, for any member who has fulfilled his or her  
8 obligation under DROP and does not withdraw from service and  
9 any member who begins participation in DROP on or before April  
10 1, 2011, and fulfills his or her obligation under DROP and  
11 does not withdraw from service, the amount of interest payable  
12 on benefit deposits after the effective date of this act shall  
13 be the lesser of (1) the investment performance of the  
14 immediately preceding fiscal year but no less than \$0, or (2)  
15 as provided in subdivision (1) of subsection (d) of Section  
16 16-25-151.

17 "(i) DROP shall not be subject to any fees, charges,  
18 or other similar expenses of any kind for any purpose.

19 "(j) Participation in DROP shall not affect the  
20 rights of any education employee including, but not limited  
21 to, the Fair Dismissal Act, Section 36-26-100 et seq., the  
22 tenure law, Section 16-24-1, et seq., or any other fringe  
23 benefit.

24 "(k) Participation in DROP shall not affect the  
25 accrual of annual and sick leave by the participant.

26 "(l) Participants in DROP may receive salary  
27 cost-of-living adjustments and salary increases.

1           "§36-27-170.

2           "(a) As governed by this subsection, there exists as  
3 a part of this retirement system, an optional account known as  
4 the Deferred Retirement Option Plan, which may be cited as  
5 "DROP." The purpose of DROP is to allow, contractually, in  
6 lieu of immediate withdrawal from service and receipt of a  
7 retirement allowance, continued employment for a specific  
8 period of time, coupled with the deferral of receipt of a  
9 retirement allowance until the end of such period of  
10 participation, at which time the member shall withdraw from  
11 service.

12           "(b) Participation in DROP , as of July 2011, is an  
13 option available to any member of this retirement system who  
14 meets all of the following:

15           "(1) Has at least ~~25~~ 30 years of creditable service  
16 exclusive of sick leave.

17           "(2) Is at least ~~55~~ 57 years of age, or in the case  
18 of a state police member, is at least 52 years of age.

19           "(3) Is eligible for service retirement and earns  
20 less than seventy-five thousand dollars (\$75,000) a year  
21 excluding any and all cost of living increases that resulted  
22 in a member receiving a salary in excess of seventy-five  
23 thousand dollars (\$75,000).

24           "(c) An election to participate in DROP may be made  
25 in one year increments not to exceed five years, nor to be  
26 less than three years. A member may participate in DROP only  
27 one time. Any voluntary termination within the first three

1 years in DROP will result in a forfeiture of a portion of his  
2 or her DROP account that constitutes the retirement allowance.  
3 However, member contributions will not be forfeited nor will  
4 any interest attributable to the retirement allowance. There  
5 will be no forfeiture if the participation period is  
6 interrupted due to an involuntary dismissal, disability,  
7 involuntary transfer of his or her spouse, or death of the  
8 participant.

9 "(d) A member who chooses to participate in DROP may  
10 elect an option allowance set out for members of the  
11 Employees' Retirement System in subsection (d) of Section  
12 36-27-16 at the beginning of the participation period.  
13 Otherwise, he or she shall receive the maximum benefit. Such  
14 election shall be irrevocable once the participation period  
15 begins except as otherwise provided in this chapter.

16 "(e) For purposes of DROP, sick leave may not be  
17 converted for purposes of establishing retirement eligibility,  
18 nor used in the calculation of the original retirement  
19 allowance except as provided in Section 36-27-171. A person  
20 electing to enter the DROP program is not eligible for a  
21 lump-sum payment for any annual or sick leave until withdrawal  
22 from service.

23 "(f) The election to participate in DROP shall be  
24 made in accordance with procedures set forth in a uniform and  
25 nondiscriminatory election and application form adopted by the  
26 Board of Control. The election to participate in DROP may be  
27 made at any time on or after the date the member becomes



1 eligible to participate as set out in subsection (b). Such  
2 application must be made at least 30 days, but not more than  
3 90 days, before the effective date of participation in DROP,  
4 and shall be made no later than the effective date of this  
5 act. A member must be eligible to participate, as provided  
6 above, at the time the application is made for new member  
7 participation after July 1, 2011. A member must retire at the  
8 end of the participation period not to exceed five years or  
9 shall pay the active member cost of SEIB premiums at any time  
10 following the participation period not to exceed five years,  
11 and any member obtaining the age of 65 shall no longer qualify  
12 to participate in the active member SEIB and shall only be  
13 allowed to participate in SEIB as allowed to any retired  
14 participant in SEIB.

15 "(g) Upon the effective date of the commencement in  
16 DROP, the member's service shall remain as it existed on that  
17 date for the duration of DROP. Once a member enters DROP,  
18 service credit purchases are prohibited. Both the employer and  
19 employee member contribution shall continue to be made. The  
20 monthly retirement allowance that would have been payable, had  
21 the person elected to withdraw from service and receive a  
22 retirement allowance, shall be paid into a DROP account that  
23 reflects the credits attributed to the person in DROP.  
24 However, the monies shall remain a part of the regular  
25 retirement fund until disbursed to the participating member in  
26 accordance with this section. Any monies paid into this

1 account are subject to the exemptions set out in Section 36-27-28.

2 "(h) (1) The DROP account shall earn interest at the  
3 same rate that interest is posted to active member accounts as  
4 defined in subdivision (12) of Section 36-27-1, but the  
5 interest shall not exceed the yield for two-year United States  
6 Treasury notes for new participants after June 30, 2011. A  
7 person who participates in this plan shall not be eligible to  
8 receive a retiree cost-of-living increase while participating  
9 in DROP, and shall not be eligible for a retiree  
10 cost-of-living increase until participation in the plan ceases  
11 and he or she withdraws from service and has been receiving a  
12 retirement allowance for at least one full year.

13 "(2) Notwithstanding any other provision of this  
14 chapter, for any member who has fulfilled his or her  
15 obligation under DROP and does not withdraw from service and  
16 any member who begins participation in DROP on or before April  
17 1, 2011, and fulfills his or her obligation under DROP and  
18 does not withdraw from service, the amount of interest payable  
19 on benefit deposits after the effective date of this act shall  
20 be the lesser of (1) the investment performance of the  
21 immediately preceding fiscal year but no less than \$0, or (2)  
22 as provided in subdivision (1) of subsection (d) of Section  
23 36-27-171.

24 "(i) DROP shall not be subject to any fees, charges,  
25 or other similar expenses of any kind for any purpose.

26 "(j) Participation in DROP shall not affect the  
27 rights of any state employee under the state personnel system,

1 including, but not limited to, his or her rights to longevity  
2 pay.

3 "(k) Participation in DROP shall not affect the  
4 accrual of annual and sick leave by the participant.

5 "(l) Participants in DROP may receive salary  
6 cost-of-living adjustments and salary increases."

7 Section 2. This act shall become effective on the  
8 first day of the third month following its passage and  
9 approval by the Governor, or its otherwise becoming law.