

1 SB494
2 131725-1
3 By Senator Whatley
4 RFD: Finance and Taxation Education
5 First Read: 24-MAY-11

2
3
4
5
6
7
8 SYNOPSIS: Currently, a member of the Teachers'
9 Retirement System or the Employees' Retirement
10 System participating in the Deferred Retirement
11 Option Plan (DROP) who voluntarily leaves service
12 within the first three years in DROP will forfeit
13 the portion of his or her DROP account that
14 constitutes the retirement allowance.

15 This bill would allow members in DROP to
16 voluntarily leave service without forfeiting the
17 portion of his or her DROP account that constitutes
18 the retirement allowance.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT
23

24 To amend Sections 16-25-150 and 36-27-170 of the
25 Code of Alabama 1975, as amended by Act 2011-27, relating to
26 the Deferred Retirement Option Plan (DROP), to allow members
27 in the plan to voluntarily leave service without forfeiting

1 the portion of his or her DROP amount that constitutes the
2 retirement allowance.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 16-25-150 and 36-27-170 of the
5 Code of Alabama 1975, are amended to read as follows;

6 "§16-25-150.

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

17 "(b) Participation in DROP is an option available to
18 any member of this retirement system who meets all of the
19 following requirements:

20 "(1) Has at least 25 years of creditable service
21 exclusive of sick leave.

22 "(2) Is at least 55 years of age.

23 "(3) Is eligible for service retirement.

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~~ Prior to the effective date of this act, any

1 voluntary termination within the first three years in DROP
2 will result in a forfeiture of the portion of his or her DROP
3 account that constitutes the retirement allowance. However,
4 member contributions will not be forfeited, nor will any
5 interest attributable to the retirement allowance. There will
6 be no penalty forfeiture if the participation period is
7 interrupted due to an involuntary dismissal, disability,
8 involuntary transfer of his or her spouse, or death of the
9 participant. After the effective date of this act, any
10 voluntary termination within the first three years in DROP
11 will not result in a forfeiture of the portion of his or her
12 DROP account that constitutes the retirement allowance. In
13 addition, member contributions will not be forfeited, nor will
14 any interest attributable to the retirement allowance.

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

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

26 "(f) The election to participate in DROP shall be
27 made in accordance with procedures set forth in a uniform and

1 nondiscriminatory election and application form adopted by the
2 Board of Control. The election to participate in DROP may be
3 made at any time on or after the date the member becomes
4 eligible to participate as set out in subsection (b). Such
5 application must be made at least 30 days, but not more than
6 90 days, before the effective date of participation in DROP,
7 and shall be made no later than ~~the effective date of this act~~
8 March 24, 2011. A member must be eligible to participate, as
9 provided above at the time the application is made.

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

24 "(h) (1) The DROP account shall earn interest at the
25 same rate that interest is posted to active member accounts as
26 defined in subdivision (15) of Section 16-25-1. A person who
27 participates in this plan shall not be eligible to receive a

1 retiree cost-of-living increase while participating in DROP,
2 and shall not be eligible for a retiree cost-of-living
3 increase until participation in the plan ceases and he or she
4 withdraws from service and has been receiving a retirement
5 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~~ March
13 24, 2011 shall be the lesser of (1) the investment performance
14 of the immediately preceding fiscal year but no less than \$0,
15 or (2) as provided in subdivision (1) of subsection (d) of
16 Section 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 is an option available to
13 any member of this retirement system who meets all of the
14 following:

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

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

19 "(3) Is eligible for service retirement.

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 Prior to the effective date of this act, any
24 voluntary termination within the first three years in DROP
25 will result in a forfeiture of a portion of his or her DROP
26 account that constitutes the retirement allowance. However,
27 member contributions will not be forfeited nor will any

1 interest attributable to the retirement allowance. There will
2 be no forfeiture if the participation period is interrupted
3 due to an involuntary dismissal, disability, involuntary
4 transfer of his or her spouse, or death of the participant.
5 After the effective date of this act, any voluntary
6 termination within the first three years in DROP will not
7 result in a forfeiture of the portion of his or her DROP
8 account that constitutes the retirement allowance. In
9 addition, member contributions will not be forfeited, nor will
10 any interest attributable to the retirement allowance.

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

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

25 "(f) The election to participate in DROP shall be
26 made in accordance with procedures set forth in a uniform and
27 nondiscriminatory election and application form adopted by the

1 Board of Control. The election to participate in DROP may be
2 made at any time on or after the date the member becomes
3 eligible to participate as set out in subsection (b). Such
4 application must be made at least 30 days, but not more than
5 90 days, before the effective date of participation in DROP,
6 and shall be made no later than ~~the effective date of this act~~
7 March 24, 2011. A member must be eligible to participate, as
8 provided above, at the time the application is made.

9 "(g) Upon the effective date of the commencement in
10 DROP, the member's service shall remain as it existed on that
11 date for the duration of DROP. Once a member enters DROP,
12 service credit purchases are prohibited. Both the employer and
13 employee member contribution shall continue to be made. The
14 monthly retirement allowance that would have been payable, had
15 the person elected to withdraw from service and receive a
16 retirement allowance, shall be paid into a DROP account that
17 reflects the credits attributed to the person in DROP.
18 However, the monies shall remain a part of the regular
19 retirement fund until disbursed to the participating member in
20 accordance with this section. Any monies paid into this
21 account are subject to the exemptions set out in Section
22 36-27-28.

23 "(h) (1) The DROP account shall earn interest at the
24 same rate that interest is posted to active member accounts as
25 defined in subdivision (12) of Section 36-27-1. A person who
26 participates in this plan shall not be eligible to receive a
27 retiree cost-of-living increase while participating in DROP,

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

5 "(2) Notwithstanding any other provision of this
6 chapter, for any member who has fulfilled his or her
7 obligation under DROP and does not withdraw from service and
8 any member who begins participation in DROP on or before April
9 1, 2011, and fulfills his or her obligation under DROP and
10 does not withdraw from service, the amount of interest payable
11 on benefit deposits after ~~the effective date of this act~~ March
12 24, 2011 shall be the lesser of (1) the investment performance
13 of the immediately preceding fiscal year but no less than \$0,
14 or (2) as provided in subdivision (1) of subsection (d) of
15 Section 36-27-171.

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

18 "(j) Participation in DROP shall not affect the
19 rights of any state employee under the state personnel system,
20 including, but not limited to, his or her rights to longevity
21 pay.

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

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

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 that 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.