

1 HB396
2 156295-1
3 By Representative Treadaway (N & P)
4 RFD: Jefferson County Legislation
5 First Read: 04-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 amend Section 9 of
15 Article III of Act 929, 1951 Regular Session (Acts 1951, p.
16 1579), as amended and restated in Act 2006-339, 2006 Regular
17 Session (Acts 2006, p. 851), and further amended by Act
18 2011-585, 2011 Regular Session (Acts 2011, p. 1289); to
19 provide that the investment powers of the board may not be
20 less than 25 percent of investments in fixed income
21 securities.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Section 9 of Article III of Act 929, 1951
24 Regular Session (Acts 1951, p. 1579), as amended and restated
25 in Act 2006-339, 2006 Regular Session (Acts 2006, p. 851), and
26 further amended by Act 2011-585, 2011 Regular Session (Acts
27 2011, p. 1289), is amended to read as follows:

1 "Section 9.

2 "(a) In each instance in which any provision of this
3 Section 9 requires a determination of the value of a security,
4 or securities, in the fund, the fair market value of such
5 security or securities as determined by pricing sources
6 acceptable to the custodian, shall be deemed to be the value
7 thereof.

8 "(b) The fund shall include all assets of the fund
9 in any form, and the city director of finance shall be, ex
10 officio, the custodian of the fund. The custodian shall keep a
11 separate account of the fund and of all assets and liabilities
12 thereof and of all receipts and disbursements thereof and of
13 all prior service time and paid membership time of employee
14 members. The custodian shall keep all monies of the fund in a
15 separate bank account. The custodian shall keep in force and
16 effect a bond in a penal amount equal to the total amount of
17 monies and securities in such custodian's custody or
18 possession, but in no event in excess of fifty thousand
19 dollars (\$50,000), payable to the board and conditioned for
20 faithful performance of such custodian's duties and for
21 faithful accounting to the board for all monies, securities
22 and property coming into his/her control, custody or
23 possession as such custodian. Such bond shall be executed by a
24 surety company authorized to do business in the State of
25 Alabama, and the premium on such bond, and all necessary
26 expenses of the board, shall be paid out of the fund upon
27 order of the board. All bonds and securities acquired for the

1 fund shall be registered by the custodian, or his/her
2 designated representative, in the name of the system promptly
3 upon acquisition and shall remain so registered until sold or
4 otherwise disposed of by authority of the Board. The board
5 shall select a financial institution as sub-custodian of
6 securities, with authority to collect and remit to the
7 custodian dividends, principal and interest of securities
8 entrusted to its custody as the same may mature, and pay it
9 such reasonable fees or compensation for its services as the
10 Board may deem proper, and the board may, if it sees fit,
11 waive any bond otherwise required of such institution as
12 sub-custodian so long as the net worth of the sub-custodian
13 exceeds one and one-half times the total value of the
14 securities entrusted to its custody. Securities in the custody
15 of such sub-custodian shall not be counted as in the custody
16 of the custodian for the purpose of computing the amount of
17 the custodian's bond. The board is authorized to accept and
18 receive gifts, donations, or legacies for the fund, and to
19 administer same as may be directed by the board. No member or
20 employee of the board of managers shall, directly or
21 indirectly, for himself or herself or as an agent in any
22 manner use the fund, except to make current and necessary
23 payments authorized by the board, nor shall any member or
24 employee of the board of managers become an endorser or surety
25 or in any manner an obligor for moneys loaned to or borrowed
26 from the board. In the adjudication of claims against the
27 fund, the records of the city director of finance and

1 sub-custodian made and kept for the purpose of this act shall
2 be deemed prima facie, to speak the truth.

3 "(c) The board of managers shall have the sole and
4 absolute discretion, if the board deems it advisable to
5 invest, reinvest and have invested and reinvested all funds of
6 the system, real and personal, in the classes of bonds,
7 mortgages, common and preferred stocks, shares of investment
8 companies or mutual funds, real estate investment trusts,
9 international equity (American Depositary Receipts), corporate
10 fixed income, international fixed income, index funds, and
11 derivative securities, and investments recognized as
12 alternative investments or other investments as the board of
13 managers may approve, subject to the limitations herein
14 provided. No money or the fund shall be invested, paid out or
15 disbursed except pursuant to order or authorization of the
16 board given prior, at the time or subsequent to same. The
17 board shall be trustee, and have entire management and control
18 of the fund, and shall direct or subsequently approve
19 investment of monies of the fund not needed to meet
20 disbursements provided for in this Act, in the loans to
21 members hereinabove referred to, in bills, notes and bonds of
22 the United States Government, or general obligation bonds of
23 the State of Alabama, or in common or preferred stock of
24 corporations or in bonds registered with the Security and
25 Exchange Commission, mortgaged-back securities, or
26 asset-backed securities, or in securities issued by federal
27 agencies and government sponsored entities, or may invest in

1 Federal Saving and Loan Associations or in other corporations
2 having Federal Savings and Loan Association's guarantee or in
3 certificates of deposit or bonds issued by banks organized
4 under Federal laws or under laws of the State of Alabama and
5 insured by the federal government or in such other assets as
6 the board may prudently approve, with due regard to their
7 suitability and creditworthiness; provided however, that no
8 funds shall be invested in common or preferred stocks of
9 corporations unless such common or preferred stocks are listed
10 upon Exchanges registered with and subject to the jurisdiction
11 of the United States Securities and Exchange Commission or are
12 traded through NASDAQ Stock Market or are Rule 144A
13 securities, or are traded on an organized exchange, and that
14 the total investment in fixed income securities shall not be
15 less ~~than thirty-five percent (35%)~~ than 25 percent of the
16 fair market value of all the funds available in the system for
17 investment. Securities issued by any single non-guaranteed
18 agency or entity may not constitute more than ten percent
19 (10%) of the fixed income allocation of the fund at the time
20 of purchase. The fair market value of all of the funds
21 available in the system for investment is to be determined
22 periodically, but not less than annually. In exercising its
23 discretion to invest, reinvest, and have invested and
24 reinvested all funds of the system, the board shall act with
25 the care, skill, prudence and diligence under the
26 circumstances then prevailing that a prudent person acting in
27 a like capacity and familiar with such matters would use in

1 the conduct of an enterprise of a like character and with like
2 aims."

3 Section 2. The provisions of this act are severable.
4 If any part of this act is declared invalid or
5 unconstitutional, that declaration shall not affect the part
6 which remains.

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