SB32

R6EWNYM-1

By Senator Barfoot

RFD: Finance and Taxation Education

First Read: 06-Feb-24

SYNOPSIS:

Under existing law, certain pension, annuity, or retirement allowance benefits under the Teachers' Retirement System and the Employees' Retirement System are subject to state or municipal tax, levy, sale, garnishment, attachment, or any other related process under certain circumstances.

This bill would revise the circumstances in which an individual's pension, annuity, or retirement allowance benefits under the Teachers' Retirement System and the Employees' Retirement System are subject to certain recovery actions.

A BILL

TO BE ENTITLED

AN ACT

Relating to retirement benefits; to amend Sections 16-25-23 and 36-27-28, Code of Alabama 1975, to revise the circumstances in which an individual's pension, annuity, or retirement allowance benefits under the Teachers' Retirement System and the Employees' Retirement System are subject to certain recovery actions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 16-25-23 and 36-27-28, Code of Alabama 1975, are amended to read as follows:

"§16-25-23

(a) Except as provided in subsection (b), the right of ~~a person~~an individual to a pension; an annuity, or a retirement allowance; to the return of contributions; the pension, annuity, or retirement allowance itself; any optional benefit or any other right accrued or accruing to any ~~person~~individual under ~~the provisions of~~ this chapter; and the monies in the various funds created by this chapter are ~~hereby~~ exempt from any state or municipal tax and exempt from levy and sale, garnishment, attachment, or any other process whatsoever, and shall be unassignable except as ~~in this chapter specifically~~ otherwise provided in this chapter.

(b)(1) Restitution, fines, court costs, fees, or any other financial obligations in a criminal case ordered by a circuit or district court judge in this state are not subject to the exemption set out in subsection (a), provided ~~all~~both of the following are satisfied:

a. The amount of the restitution ordered is in the amount of one thousand dollars ($1,000) or greater.

b. The ~~person~~individual subject to the order is a retiree or beneficiary who is currently receiving benefits from the Teachers' Retirement System.

~~c. The case has been assigned to the district attorney's restitution recovery division.~~

(2) If the requirements of subdivision (1) are met, and upon a motion filed by the district attorney, the circuit or

district court judge may order that the Teachers' Retirement System pay to the circuit clerk of the court no more than 25 percent of the retiree's or beneficiary's gross monthly benefit less any deductions for child support or health insurance for any dependents, to be applied to the balance of the restitution, fines, court costs, fees, or other financial obligations ordered in the criminal case.

(3) An order under subdivision (2) shall set out all of the following:

a. The individual's name, date of birth, and Social Security number.

b. The amount of restitution ordered is in the amount of one thousand dollars ($1,000) or greater.

c. The amounts of restitution, fines, court costs, fees, or any other financial obligations owed, detailed individually.

d. The relevant case numbers.

e. The county in which the case was brought.

f. The circuit clerk's name and mailing address.

g. That the restitution, fines, court costs, fees, or other financial obligations are payable as a result of a criminal disposition.

h. The amount or the percentage of funds to be paid.

(4) The district attorney shall notify the court whenever the restitution, fines, court costs, fees, or other financial obligations are paid in full. Thereafter, the court shall issue an order to stop the diversion of the individual's funds. Any payment received by the circuit clerk in an amount

over what was owed shall be paid back to the Teachers' Retirement System within 60 days with the specific identifying information as to the retiree or the beneficiary to whom it is owed."

"§36-27-28

(a) Except as provided in subsection (b), the right of ~~a person~~an individual to a pension, an annuity, a retirement allowance or to the return of contributions, the pension, annuity, or retirement allowance itself and any optional benefit or any other right accrued or accruing to any ~~person~~individual under ~~the provisions of~~ this article and the monies in the various funds created by this chapter are ~~hereby~~ exempt from any state or municipal tax and exempt from levy and sale, garnishment, attachment, or any other process whatsoever and shall be unassignable except as in this article specifically otherwise provided.

(b)(1) Restitution, fines, court costs, fees, or any other financial obligations in a criminal case ordered by a circuit or district court judge in this state are not subject to the exemption set out in subsection (a), provided ~~all~~both of the following are satisfied:

a. The amount of the restitution ordered is in the amount of one thousand dollars ($1,000) or greater.

b. The ~~person~~individual subject to the order is a retiree or beneficiary who is currently receiving benefits from the Employees' Retirement System.

~~c. The case has been assigned to the district attorney's restitution recovery division.~~

(2) If the requirements of subdivision (1) are met, and upon a motion filed by the district attorney, the circuit or district court judge may order that the Employees' Retirement System pay to the circuit clerk of the court no more than 25 percent of the retiree's or beneficiary's gross monthly benefit less any deductions for child support or health insurance for any dependents, to be applied to the balance of the restitution, fines, court costs, fees, or other financial obligations ordered in the criminal case.

(3) An order under subdivision (2) shall set out all of the following:

a. The individual's name, date of birth, and Social Security number.

b. The amount of restitution ordered is in the amount of one thousand dollars ($1,000) or greater.

c. The amounts of restitution, fines, court costs, fees, or any other financial obligations owed, detailed individually.

d. The relevant case numbers.

e. The county in which the case was brought.

f. The circuit clerk's name and mailing address.

g. That the restitution, fines, court costs, fees, or other financial obligations are payable as a result of a criminal disposition.

h. The amount or the percentage of funds to be paid.

(4) The district attorney ~~must~~shall notify the court whenever the restitution, fines, court costs, fees, or other financial obligations are paid in full. Thereafter, the court

shall issue an order to stop the diversion of the individual's funds. Any payment received by the circuit clerk in an amount over what was owed shall be paid back to the Employees' Retirement System within 60 days with the specific identifying information as to the retiree or the beneficiary to whom it is owed."

Section 2. This act shall become effective on October 1, 2024.