HB253

H7CV836-1

By Representative Brown

RFD: Ports, Waterways & Intermodal Transit

First Read: 27-Feb-24

SYNOPSIS:

Under existing law, certain officers and employees of the Alabama State Port Authority are subject to the state Merit System.

This bill would explicitly provide that the port authority is a body corporate with the ability to employ non-merit system employees.

A BILL

TO BE ENTITLED

AN ACT

Relating to the Alabama State Port Authority; to amend Sections 33-1-2, 33-1-3, 33-1-5, 33-1-5.1, and 33-1-5.2, Code of Alabama 1975; to provide that the port authority is a body corporate with the ability to employ non-merit system employees.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 33-1-2, 33-1-3, 33-1-5, 33-1-5.1, and 33-1-5.2, Code of Alabama 1975, are amended to read as follows:

"§33-1-2

(a) There shall be a state agency known as the Alabama State Port Authority, hereinafter sometimes referred to as the

port authority. Notwithstanding any other provision of law, whenever any act, section of this code, or any other provision of law refers to the Alabama State Docks Department, it shall be deemed a reference to the Alabama State Port Authority.

(b) The port authority shall promote, supervise, control, manage, and direct the state docks and all other state lands included within the jurisdiction of this chapter and shall maintain and operate all the improvements and facilities authorized by this chapter. The port authority is a body corporate and shall be constituted as provided in this chapter~~, and it shall maintain and operate all the improvements and facilities authorized by this chapter~~."

"§33-1-3

The chief executive officer of the port authority shall be known as the Director of the Alabama State Port Authority. The director may not have any financial interest in any harbor facilities or property that the port authority or its predecessors have acquired or may acquire or manage, and may not have any financial or personal interest in any business or enterprise of any sort which interferes or is inconsistent with his or her duties as director. The duties of the director shall be as follows:

(1) Exercise the chief executive authority of the port authority, and exercise, consistent with this chapter and other applicable law, all the powers, authority, and duties vested by this chapter or other applicable law in the port authority.

(2) Appoint, with the advice and consent of the board

of directors of the port authority, no more than 11 individuals as executive level employees. These individuals shall be non-merit system employees and may replace current Merit System executive level employees who retire or otherwise leave the employment of the port authority. The director shall fix the salaries of these non-merit system executive level employees giving due consideration to the salaries of comparable positions in other states and in private industries. These non-merit system executive level employees, though not participants in the classified service of the state under the Merit System Act, shall be entitled to the other benefits, including, but not limited to, retirement, sick and annual leave, and insurance benefits afforded other state employees, except that the board of directors of the port authority may provide and fund an alternate benefit package for them. Regardless of whether the port authority funds an alternate benefit package, the port authority shall pay to the State Employees' Insurance Fund the monthly employer contribution as defined by Section 36-29-1 for each of its non-merit system executive level employees.

(3) Employ, with the advice and consent of the board of directors of the port authority, all individuals necessary to the efficient operation of the Alabama State Port Authority, including a secretary-treasurer and other employees as Merit System or non-merit system employees, fix their compensation and other conditions of employment and tenure in office, and be responsible for the efficient discharge of their duties. Any non-merit system employees employed under this section,

though not participants in the classified service of the state under the state Merit System, shall be entitled to the other benefits, including, but not limited to, retirement, sick and annual leave, and insurance benefits afforded other state employees, except that the board of directors of the port authority may provide and fund an alternate benefit package for them. Regardless of whether the port authority funds an alternate benefit package for them, the port authority shall pay to the State Employees' Insurance Fund the monthly employer contribution as defined by Section 36-29-1 for each of its full-time non-merit system employees."

"§33-1-5

(a) All employees and officers of the Alabama State Port Authority, except the director, ~~executive level~~ non-merit system employees hired or employed pursuant to Section 33-1-3, and those exempt under Section 36-26-10, shall be subject to the provisions of the state Merit System law with respect to the method of selection, classification, and compensation of state employees. Sections 33-1-5.1 and 33-1-5.2 shall apply to the director and the non-merit system ~~executive level~~ employees hired or employed pursuant to Section 33-1-3, including their spouses and dependents~~; however, nothing in Act 2000-598 shall be construed to alter or modify Sections 33-1-5.1 and 33-1-5.2~~.

~~(b) Persons employed by the Alabama State Docks Department on August 1, 2000, shall continue to have precisely the same rights and benefits as they now have under the Merit System and under the State Employees' Retirement System and~~

~~all other benefits that they had on August 1, 2000.~~

~~(c)~~ (b) The Alabama State Port Authority may employ port police officers at the Port of Mobile~~, who shall be employed pursuant to the state Merit System~~. Port police officers employed pursuant to this subsection are constituted peace officers of the State of Alabama with full police power and jurisdiction to enforce the laws of the state and the rules and regulations which may be ~~promulgated~~ adopted by the port authority on property owned by or otherwise within the jurisdiction of the Alabama State Port Authority and the approaches thereto. Port police officers shall meet the minimum standards for law enforcement officers provided by law.

~~(d)~~ (c) Notwithstanding any other provision of law to the contrary, the board of directors of the port authority ~~shall have the authority to~~ may adopt and implement an employee compensation plan applicable to the director, the non-merit system ~~executive level~~ employees hired or employed pursuant to Section 33-1-3, and those employees employed pursuant to the state Merit System that provides for compensation to the employees solely out of funds of the Alabama State Port Authority in addition to any other compensation payable to any employees under existing law as an incentive for achieving goals specified by the plan. The employee compensation plan may compensate Merit System employees in excess of, and in addition to, the normal compensation received by the Merit System employee. The compensation plan shall complement the existing pay plan

applicable to Merit System employees.

(d) Nothing in this section shall be construed to change, alter, diminish, or amend the state Merit System laws or regulations which shall continue to apply to all Merit System employees employed by the port authority."

"§33-1-5.1

(a) The Alabama State Port Authority may establish and fund retirement plans for ~~various~~ employees of the Alabama State Port Authority including, but not limited to, those employees who are employed by the port authority under ~~Section~~ Sections 33-1-3 and 36-26-19, those employees who are "exempt" under Section 36-26-19, those employees who are employed by the port authority under Section 33-1-16 as locomotive engineers, locomotive firemen, switchmen, ~~and~~ switch engine foremen, and hostlers engaged in the operation of the terminal railroads provided for by ~~said~~ that section, and those employees of the port authority who are not otherwise covered under the State Employees' Retirement System and pay the costs of the establishment and funding of the retirement plans from the revenues of the port authority.

(b) The retirement plans and benefits shall be in amounts as defined in individual labor contracts and deemed appropriate and desirable by the port authority for the benefit of those employees of the port authority who are not otherwise covered under the State Employees' Retirement System and who have been declared eligible for disability or retirement benefits by the U.S. Social Security Administration or under the U.S. Railroad Retirement Act.

(c) The port authority may establish and fund the retirement plans solely out of the revenues of the port authority and may execute contracts to establish the retirement funds and provide the benefits under the plan provided by this section. The general administration and responsibility for the proper operation of the retirement plans and for making effective ~~the provisions of~~ this section are vested in the port authority, and the port authority may establish committees as deemed necessary and appropriate. The port authority may designate, appoint, and discharge administrators and trustees under the plans and engage actuarial and other services as required to transact the business of the retirement plans. ~~All of the~~ The benefits to be provided under this section may be included in one or more contracts issued by the same or different administrators, trustees, and companies and may cover groups of employees under separate contracts as deemed necessary and appropriate by the port authority. The port authority shall establish the plans and shall ~~award such~~ execute a contract or contracts on a basis as determined by the benefits afforded, the costs to be incurred and paid for solely out of the revenues of the port authority as the port authority deems necessary and appropriate.

(d) The contract or contracts shall provide for retirement benefits for the retired employees of the port authority not covered by the ~~retirement plan of the State of Alabama and~~ State Employees' Retirement System as defined by the rules and regulations of the port authority, on terms

deemed appropriate by the port authority. The port authority shall adopt rules and regulations prescribing the conditions under which retiring employees may participate in or withdraw from the plans.

(e) The port authority may adopt ~~and promulgate~~ rules and regulations for the administration of the retirement plans.

(f) The benefits provided for ~~hereunder~~ in this section shall not exceed the retirement benefits provided for other employees of the state under established state retirement plans.

~~(g) The port authority may develop a retirement incentive program for all employees of the port authority who are eligible to retire from state service and who retire prior to September 30, 1997. The port authority shall promulgate any administrative regulations necessary to carry out the program in a fair and equitable manner. The costs of any retirement incentive program shall be paid out of the revenues of the port authority. Retirement incentive monies paid to an employee shall not exceed a sum in excess of one thousand dollars ($1,000) per year of creditable state service of the employee, which shall be paid in addition to any other benefits or entitlements. An employee choosing to participate in this program will not be eligible to participate in any other early retirement incentive program offered by the State of Alabama in 1997.~~

~~(h) The port authority shall prepare a cost-benefit analysis for the program and annually on the first legislative~~

~~day of each regular session of the Legislature submit a report to the members of the Alabama Legislature and the Governor on the financial benefits of the retirement incentive program.~~"

"§33-1-5.2

(a) The Alabama State Port Authority ~~is hereby authorized to~~ may provide and establish a plan of life and health insurance for the salaried officers and employees of the Alabama ~~state docks~~ State Port Authority who work full time for the ~~Alabama state docks~~ port authority and receive their compensation on a bi-weekly basis and also a plan of health insurance for the spouses and dependent children of ~~such~~ officers and employees and to pay the costs and premiums of ~~such~~ life and health insurance from the revenues of the Alabama State Port Authority.

(b) ~~Such~~ The health insurance plan may provide for group hospitalization, surgical, medical, and dental insurance against the financial costs of hospitalization, surgical, medical, and dental treatment and care, and may also include, among other things, prescribed drugs, medicines, prosthetic appliances, hospital in-patient and out-patient service benefits, including major medical benefits, or ~~such~~ other coverage or benefits as may be deemed appropriate and desirable by the port authority. The life insurance plan shall be a group plan with the face amount of ~~such~~ the life insurance coverage on ~~such~~ salaried officers and employees limited to ~~such~~ amounts as may be deemed appropriate and desirable by the port authority.

(c) The port authority ~~is hereby authorized to~~ may

execute a contract or contracts to provide the benefits under the life and health insurance coverage provided by this section. ~~Such~~ The contract or contracts may be executed with one or more agents or corporations licensed to transact life and health insurance business in this state. ~~All of the~~ The benefits to be provided under this section may be included in one or more similar contracts issued by the same or different companies. Before entering into any contract, ~~hereby authorized said~~ the port authority shall invite competitive bids from qualified insurers who wish to offer plans for the life and health insurance coverage provided by this section.

(d) The benefits provided for ~~herein~~ in this section shall not exceed the benefits provided to employees of the Alabama State Port Authority subject to collective bargaining agreements.

(e) Regardless of whether the port authority provides, establishes, and funds an alternate health insurance plan under this section, the port authority shall pay to the State Employees' Insurance Fund the monthly employer contribution as defined by Section 36-29-1 for each of its full-time employees, whether Merit, non-merit, or exempt."

Section 2. This act shall become effective on January 1, 2025.