1 SB292

2 116547-3

3 By Senator Sanders

4 RFD: Finance and Taxation Education

5 First Read: 19-JAN-10

ACT No. 2010 - 221

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1 SB292

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4 ENROLLED, An Act,

5 To amend Sections 16-25-21 and 36-27-24, Code of
6 Alabama, 1975 to increase the maximum funding period for which
7 the accrued liability contribution is calculated for the
8 Teachers' Retirement System and the Employees' Retirement
9 System from 20 years to 30 years.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Sections 16-25-21 and 36-27-24, Code of
12 Alabama 1975 are hereby amended to read as follows:

13 "§16-25-21.

14 Effective October 1, 1997, all the assets of the
15 retirement system shall be credited according to the purpose
16 for which they are held among three funds, namely: The Annuity
17 Savings Fund, the Pension Accumulation Fund, and the Expense
18 Fund. The operation of the former Pension Reserve Fund and the
19 Annuity Reserve Fund shall be discontinued as of such date,
20 the balance of the former Pension Reserve Fund shall be
21 transferred to the Pension Accumulation Fund, and the balance
22 of the former Annuity Reserve Fund shall be transferred to the
23 Pension Accumulation Fund.

24 (1) The Annuity Savings Fund shall be a fund in
25 which shall be accumulated contributions from the compensation

of members to provide for their annuities. Contributions to and payments from the Annuity Savings Fund shall be made as follows:

a. Each employer shall cause to be deducted from the salary of each member on each and every payroll of such employer for each and every payroll period five percent of his earnable compensation. In determining the amount earnable by a member in a payroll period, the Board of Control may consider the rate of annual compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deductions from compensation for any period less than a full payroll period if a teacher was not a member on the first day of the payroll period, and to facilitate the making of deductions it may modify the deduction required of any member by such an amount as shall not exceed one tenth of one percent of the annual compensation upon the basis of which such deduction is to be made.

b. The deductions provided for herein shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deduction made and provided for herein and shall receipt for his full salary or compensation, and payment of salary or compensation less such deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the

service rendered by such person during the period covered by such payment, except as to the benefits provided under this chapter. The employer shall certify to the Board of Control on each and every payroll or in such other manner as the board may prescribe the amount to be deducted; and each of said amounts shall be deducted, and when deducted shall be paid into the Annuity Savings Fund and shall be credited, together with regular interest thereon, to the individual account of the member from whose compensation said deduction was made.

c. In addition to the contributions deducted from compensation as hereinbefore provided, subject to the approval of the Board of Control, any member may deposit in the Annuity Savings Fund by a single payment or by an increased rate of contribution an amount computed to be sufficient to purchase an additional annuity which, together with his prospective retirement allowance, will provide for him a total retirement allowance not to exceed one half of his average final compensation at age 60. Such additional amounts so deposited shall become a part of his accumulated contributions except in the case of retirement, when they shall be treated as excess contributions returnable to the member in cash or as an annuity of equivalent actuarial value and shall not be considered in computing his pension. The contributions and interest credits of a member withdrawn by him, or paid to his estate or to his designated beneficiary in event of his death,

1 shall be paid from the Annuity Savings Fund. Should a member
2 cease to be a member other than by retirement under the
3 provisions of this title, an amount equivalent to the
4 difference, if any, between his accumulated contributions and
5 the amount then paid shall be transferred to the Expense Fund.
6 Upon the retirement of a member or the death of an eligible
7 member where an allowance to the surviving spouse is payable,
8 his accumulated contributions shall be transferred from the
9 Annuity Savings Fund to the Pension Accumulation Fund.
10 d. Notwithstanding the preceding provisions, no
11 deductions shall be made from any member's salary on account
12 of which the employer's contribution is in default.
13 (2) The Pension Accumulation Fund shall be the fund
14 in which shall be accumulated all reserves, other than amounts
15 held in the Annuity Savings Fund for the payment of all
16 pensions and other benefits. Contributions to and payments
17 from the Pension Accumulation Fund shall be made as follows:
18 a. On account of each member there shall be paid
19 monthly by the employer an amount equal to a certain
20 percentage of the earnable compensation of each member to be
21 known as the "normal contribution" and an additional amount
22 equal to a percentage of his earnable compensation to be known
23 as the "accrued liability contribution," and these two amounts
24 shall be paid monthly into the Pension Accumulation Fund. The
25 Teachers' Retirement System shall recommend to the Legislature

on or before the first legislative day of each regular session of the Legislature the rate for the following fiscal year. The Legislature shall set the rate in the annual appropriation bill.

b. On the basis of regular interest and of such mortality and other tables as shall be adopted by the Board of Control, the actuary engaged by the board to make such valuation required by this title shall, immediately after making such valuation, determine the uniform and constant percentage of the earnable compensation of the average new entrant which, if contributed on the basis of his compensation throughout his entire period of active service, would be sufficient to provide for the payment of any pension payable on his account. The rate per centum so determined shall be known as the "normal contribution" rate. The normal contribution rate shall be determined by the actuary after each valuation.

c.1. The accrued liability contribution rate shall be computed by the actuary on the basis of each valuation as the per centum rate of the total annual compensation of all members which is sufficient to liquidate the unfunded accrued liability over a period to be determined by the Board of Control which shall be not less than 10 nor more than 30 years.

2. The unfunded accrued liability shall be computed by the actuary as the total liabilities of the system which are not dischargeable by the assets of the Annuity Savings Fund and the Pension Accumulation Fund and the present value of the aforesaid normal contributions. For purposes of computing the unfunded accrued liability the assets shall be determined as follows:

On June 30, 1997, the assets shall be determined by using the market value of such assets. For subsequent years the value of the assets shall be determined by the system's actuary using a five year smoothed market value.

d. The total amount payable in each year to the Pension Accumulation Fund shall be not less than the sum of the per centum rates known as the normal contribution rate and the accrued liability contribution rate of the total compensation earnable by all members during the year.

e. All interest and dividends earned on the funds of the retirement system shall be credited to the Pension Accumulation Fund. The amounts needed to allow regular interest on the reserves in the Annuity Savings Fund shall be transferred in accordance with the provisions of this chapter from the Pension Accumulation Fund. The Board of Control, in its discretion, may transfer to and from the Pension Accumulation Fund the amount of any surplus or deficit which may develop in the Annuity Savings Fund or the Expense Fund.

1 f. Upon the death of a member on account of whom no
2 survivor allowance is payable under subdivisions (2) and (3)
3 of subsection (g) of Section 16-25-14, the death benefit as
4 provided in subdivision (3) of subsection (g) of such section
5 equal to the accumulated contributions not to exceed $5,000
6 shall be payable from the Pension Accumulation Fund.
7 (3) The Expense Fund shall be the fund from which
8 the expenses of the administration of the retirement system
9 shall be paid, exclusive of amounts payable as retirement
10 allowances and as other benefits provided herein. Any amounts
11 credited to the accounts of members withdrawing before
12 retirement and not returnable under the provisions of
13 subsection (g) of Section 16-25-14 shall be credited to the
14 Expense Fund. Any additional contributions required to meet
15 the expenses of the retirement system shall be made as
16 provided in paragraphs c., d. and e. of subdivision (4) of
17 this section.
18 (4) a. On or before October 1 of each year, each
19 local board of education, the State Board of Education, the
20 governing boards of the University of Alabama, Auburn
21 University and the University of Montevallo and the Executive
22 Committee of the Alabama Education Association shall file with
23 the Board of Control of the retirement system a certified
24 statement containing the following information concerning the
25 members of the retirement system employed by such boards for

1 the scholastic year beginning on July first preceding said
2 date: Name, address, monthly salary, annual salary and such
3 other information as the Board of Control may require. On or
4 before July 31 of each year, each local board of education;
5 the State Board of Education; the governing boards of the
6 University of Alabama, Auburn University, and the University
7 of Montevallo and the Executive Committee of the Alabama
8 Education Association shall file with the Board of Control of
9 the retirement system a certified statement containing the
10 following information concerning members of the retirement
11 system employed by such boards during the scholastic year
12 ending on June 30 preceding said date: name, address, monthly
13 salary actually paid, total annual salary actually paid and
14 such other information as the Board of Control may require.
15 b. The collection of members' contributions shall be
16 as follows: Each local board of education, the State Board of
17 Education, the governing boards of the University of Alabama,
18 Auburn University and the University of Montevallo and the
19 Executive Committee of the Alabama Education Association shall
20 cause to be deducted on each and every payroll period
21 subsequent to the date of the establishment of the retirement
22 system the contributions payable by each member as provided in
23 this chapter. Each employer shall transmit monthly, or at such
24 time as the Board of Control shall designate, the total amount
25 so deducted to the Secretary-Treasurer of the Board of Control

1 accompanied by an itemized statement of the contributions of
2 each individual member of the retirement system. The
3 Secretary-Treasurer of the Board of Control after making a
4 record of all such receipts shall transmit the same to the
5 State Treasurer to be held for use according to the provisions
6 of this chapter. Notwithstanding anything in this section, the
7 Board of Control may modify the form of reports required of
8 employers and may modify the method of collecting the
9 contributions of members so that employers may retain the
10 amounts so deducted and have a corresponding amount deducted
11 from funds otherwise payable to them.
12 c. The employer's contributions shall be made from
13 the same funds used to pay salaries based on the employer cost
14 rate determined under paragraph a. of subdivision (2).
15 d. Where member contributions are made from salaries
16 paid from federal funds, the employer shall pay from federal
17 funds to the Teachers' Retirement System the amount calculated
18 as a percentage of the salaries of those teachers to be
19 contributed by the employer in accordance with subdivisions
20 (2) and (3) of this section. Such amounts shall be paid at the
21 same time as the member contributions are made to the
22 retirement system. The provisions of this paragraph shall not
23 apply to funds received under the provisions of the Hatch Act
24 of 1887, as amended in 1955, and the McIntyre-Stennis Act
25 (Cooperative Forestry Research Act of 1962) of the Congress of

1 the United States, for the support of agriculturally related
2 research.
3 e. Where member contributions are made from salaries
4 paid by the Alabama Education Association, the Alabama
5 Education Association shall pay the employer costs calculated
6 as a percentage of the salaries of those employees to be
7 contributed as employer in accordance with subdivisions (2)
8 and (3) of this section. Such amounts shall be paid monthly
9 and at the same time as the member contributions are made to
10 the Teachers' Retirement System.
11 f. To the extent that employer cost is collected for
12 any increase in benefits payable to retired employees of local
13 boards of education and state institutions of higher education
14 who are retired under the Employees' Retirement System, there
15 shall be a transfer of funds from these funds to the
16 Employees' Retirement System for each year such benefits are
17 payable.
18 g. Employer cost provided for in this article
19 together with member contributions required under this article
20 shall be paid to the Teachers' Retirement System on the first
21 day of the month following the month in which the related
22 member salary is earned. Delinquent accounts shall accrue
23 interest at the actuarial assumed investment rate beginning 30
24 days after the original due date. The member contributions for
25 each member shall be reported to the Teachers' Retirement

1 System in a format prescribed by the Teachers' Retirement
2 System.
3 "§36-27-24.
4 "Funds for assets of retirement system - Creation;
5 composition; contributions to and disbursements from funds
6 generally; appropriations.
7 (a) Effective October 1, 1997, all the assets of the
8 retirement system shall be credited according to the purpose
9 for which they are held among three funds, namely, the
10 Annuity Savings Fund, the Pension Accumulation Fund, and the
11 Expense Fund. The operation of the former Pension Reserve Fund
12 and the Annuity Reserve Fund shall be discontinued as of such
13 date and the balance of the former Pension Reserve Fund shall
14 be transferred to the Pension Accumulation Fund, and the
15 balance of the former Annuity Reserve Fund shall be
16 transferred to the Pension Accumulation Fund.
17 (b) Annuity Savings Fund. The Annuity Savings Fund
18 shall be a fund in which shall be accumulated contributions
19 from the compensation of members to provide for their
20 annuities.
21 Contributions to and payments from the Annuity
22 Savings Fund shall be made as follows: Effective October 1,
23 1971, each employer shall cause to be deducted from the salary
24 of each member on each and every payroll of such employer for
25 each and every payroll period five percent of his earnable

1 compensation; except, that in the case of a state policeman,
2 the rate of 10 percent of earnable compensation shall apply,
3 and in computing all retirement benefits it shall be assumed
4 that a seven percent rate of contribution had applied with
5 respect to service as a state policeman prior to July 1, 1957.
6 In determining the amount earnable by a member in a payroll
7 period, the Board of Control may consider the rate of annual
8 compensation payable to such member on the first day of the
9 payroll period as continuing through such payroll period, and
10 it may omit deductions from compensation for any period less
11 than a full payroll period if an employee was not a member on
12 the first day of the payroll period, and, to facilitate the
13 making of deductions, it may modify the deductions required of
14 any member by such an amount as shall not exceed one tenth of
15 one percent of the annual compensation upon the basis of which
16 such deductions are made.
17 The deductions provided for in this subsection shall
18 be made notwithstanding that the minimum compensation provided
19 for by law for any member shall be reduced thereby. Every
20 member shall be deemed to consent and agree to the deduction
21 made and provided for in this subsection and shall receipt for
22 his full salary or compensation and payment of salary or
23 compensation less such deductions shall be a full and complete
24 discharge and acquittance of all claims and demands whatsoever
25 for the services rendered by such person during the period

1 covered by such payment, except as to the benefits provided
2 under this article. The employer shall certify to the Board of
3 Control in each and every payroll or in such other manner as
4 the board may prescribe the amounts to be deducted, and each
5 of said amounts shall be deducted and, when deducted, shall be
6 paid into the Annuity Savings Fund and shall be credited,
7 together with regular interest thereon, to the individual
8 account of the member from whose compensation said deduction
9 was made.
10 In addition to the contributions deducted from
11 compensation as provided in this subsection, subject to the
12 approval of the Board of Control, any member may deposit in
13 the Annuity Savings Fund by a single payment or by an
14 increased rate of contribution an amount computed to be
15 sufficient to purchase an additional annuity which, together
16 with his prospective retirement allowance, will provide for
17 him a total retirement allowance not to exceed one half of his
18 average final compensation at age 60. Such additional amounts
19 so deposited shall become a part of his accumulated
20 contributions, except in the case of retirement, when they
21 shall be treated as excess contributions returnable to the
22 member in cash or as an annuity of equivalent actuarial value
23 and shall not be considered in computing his pension.
24 The contributions and interest credits of a member
25 withdrawn by him or paid to his estate or to his designated

1 beneficiary in event of his death shall be paid from the
2 Annuity Savings Fund. Should a member cease to be a member
3 other than by retirement under the provisions of this article,
4 an amount equivalent to the difference, if any, between his
5 accumulated contributions and the amount then paid shall be
6 transferred to the Expense Fund. Upon the retirement of a
7 member or the death of an eligible member where an allowance
8 to a surviving spouse or other designated beneficiary is
9 payable, his accumulated contributions shall be transferred
10 from the Annuity Savings Fund to the Pension Accumulation
11 Fund.
12 Notwithstanding the preceding provisions, no
13 deductions shall be made from any member's salary on account
14 of which the employer's contributions are in default.
15 The State Personnel Board, with the approval of the
16 Governor, may provide that the state shall pick up member
17 contributions to the Employees' Retirement System of Alabama
18 as required by this subsection on behalf of all state
19 employees who participate in the Employees' Retirement System
20 by a corresponding reduction in the salary of the member, such
21 pick-up to be mandatory for all such employees, and the
22 contributions so picked up shall be treated as employer
23 contributions in determining tax treatment under the Internal
24 Revenue Code. These contributions shall be paid from the same
25 source of funds which is used in paying earnings to the

1 employee. If employee contributions are so picked up they
2 shall be treated for all other purposes of state law in the
3 same manner and to the same extent as employee contributions
4 made prior to the date picked up.
5 (c) Pension Accumulation Fund. The Pension
6 Accumulation Fund shall be the fund in which shall be
7 accumulated all reserves other than the amounts held in the
8 Annuity Savings Fund for the payment of all pensions, all
9 allowances granted to surviving spouses or other designated
10 beneficiaries and other benefits payable from contributions
11 made by the employer and from which shall be paid all
12 pensions, all allowances granted to surviving spouses or other
13 designated beneficiaries and other benefits on account of
14 members with prior service credit.
15 Contributions to and payments from the Pension
16 Accumulation Fund shall be made as follows: On account of each
17 member there shall be paid monthly by the employer an amount
18 equal to a certain percentage of the earnable compensation of
19 each member to be known as the "normal contribution" and an
20 additional amount equal to a percentage of his earnable
21 compensation to be known as the "accrued liability
22 contribution," and these two amounts shall be paid monthly
23 into the Pension Accumulation Fund; provided, that in the case
24 of a state policeman, such percentage rates of contributions
25 shall be calculated separately. The percentage rate of such

1 contributions shall be fixed for each fiscal year on the basis
2 of the liabilities of the retirement system as shown by the
3 last annual actuarial valuation, and such percentage rate as
4 established by such valuation shall take effect the following
5 October 1 and continue in effect for the fiscal year.
6 On the basis of regular interest and of such
7 mortality and other tables as shall be adopted by the Board of
8 Control, the actuary engaged by the board to make such
9 valuation required by this article during the period over
10 which the accrued liability contribution is payable shall,
11 immediately after making such valuation, determine the uniform
12 and constant percentage of the earnable compensation of the
13 average new entrant which, if contributed on the basis of his
14 compensation throughout his entire period of active service,
15 would be sufficient to provide for the payment of any pension
16 payable on his account. The percentage rate so determined
17 shall be known as the "normal contribution" rate. The normal
18 rate of contributions shall be determined by the actuary after
19 each valuation.
20 The accrued liability contribution rate shall be
21 computed by the actuary on the basis of each valuation as the
22 percentage rate of the total annual compensation of all
23 members which is sufficient to liquidate the accrued liability
24 over a period to be determined by the Board of Control which
25 shall be not less than 10 nor more than 30 years.

1 The unfunded accrued liability shall be computed by
2 the actuary as the total liabilities of the system which are
3 not dischargeable by the assets of the Annuity Savings Fund
4 and the Pension Accumulation Fund and the present value of the
5 aforesaid normal contributions.
6 For purposes of computing the unfunded accrued
7 liability the assets shall be determined as follows:
8 On September 30, 1997, the assets shall be
9 determined by using the market value of such assets. For
10 subsequent years the value of the assets shall be determined
11 by the system's actuary using a five year smoothed market
12 value.
13 The total amount payable in each year to the Pension
14 Accumulation Fund shall be not less than the sum of the
15 percentage rates known as the normal contribution rate and the
16 accrued liability contribution rate of the total compensation
17 earnable by all members during the preceding year.
18 All interest and dividends earned on the funds of
19 the retirement system shall be credited to the Pension
20 Accumulation Fund. The amounts needed to allow a regular
21 interest on the reserves in the Annuity Savings Fund shall be
22 transferred in accordance with this article from the Pension
23 Accumulation Fund. The Board of Control, in its discretion,
24 may transfer to and from the Pension Accumulation Fund the

amounts of any surplus or deficit which may develop in the Annuity Savings Fund, or the Expense Fund.

Upon the death of a member on account of whom no survivor allowance is payable under subdivisions (2) and (3) of subsection (c) of Section 36-27-16, the death benefit as provided in subdivision (4) of subsection (c) of Section 36-27-16 equal to the accumulated contributions, not to exceed $5,000.00, shall be payable from the Pension Accumulation Fund.

(d) Expense Fund. The Expense Fund shall be the fund from which the expenses of the administration of the retirement system shall be paid, exclusive of amounts payable as retirement allowances and as other benefits provided in this chapter. In addition thereto and on account of each member of the retirement system, there shall be paid monthly by the employer an amount equal to a certain percentage of the earnable compensation of each member for the administrative expenses of the retirement system. The percentage rate of such contribution shall be fixed by the Board of Control on the basis of the cost exclusive of that provided by interest not returnable. Any amounts credited to the accounts of the members withdrawing before retirement and not returnable under the provisions of subsection (c) of Section 36-27-16 shall be credited to the Expense Fund.

1 (e) Employer's contributions. For each biennium
2 beginning October 1, 1965, each employer shall pay to the
3 retirement system the rates provided in this section and
4 thereafter, at least 30 days preceding October 1 of each
5 fiscal year, the Board of Control shall certify to the chief
6 fiscal officer of each employer the percentage rates of
7 earnable compensation of the members required to be paid to
8 the retirement system in accordance with subsections (c) and
9 (d) of this section.
10 The employer's contribution on account of the
11 membership of employees whose salaries are paid in whole or in
12 part from funds derived from federal grants shall be paid from
13 funds derived from said federal grants in accordance with
14 statutes governing the administration of said grants and in
15 proportion to salaries paid therefrom. At such time and in
16 such manner as may be required, the Board of Control shall
17 certify to each department of state receiving a federal grant
18 the amount due and payable from said grant as the employer's
19 contribution to the retirement system on account of the
20 membership of said department whose salaries are paid in whole
21 or in part from funds derived from such federal grants. The
22 fiscal agent of the department shall authorize the State
23 Comptroller to draw a warrant or warrants in payment of the
24 amount certified as due and payable from federal grants.

1 (f) Appropriations. There is hereby appropriated
2 annually from the fund from which salaries of the employees of
3 each employer are paid the amounts sufficient to carry out the
4 provisions of this section. In the case of those departments
5 supported wholly by transfers from other state funds, there is
6 hereby appropriated from the supporting funds such additional
7 amounts as may be necessary to pay the employer contribution
8 of each department so supported in the same proportion as the
9 other state funds contribute to the support and maintenance of
10 such department.
11 (g) Employer cost provided for in this article
12 together with member contributions required under this article
13 shall be paid to the Employees' Retirement System on the first
14 day of the month following the month in which the related
15 member salary is earned. Delinquent accounts shall accrue
16 interest at the actuarial assumed investment rate beginning 30
17 days after the original due date. The member contributions for
18 each member shall be reported to the Employees' Retirement
19 System in a format prescribed by the Employees' Retirement
20 System."
21 Section 2. This act shall become effective
22 immediately following its passage and approval by the
23 Governor, or upon its otherwise becoming law.

President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB292
Senate 16-FEB-10
I hereby certify that the within Act originated in and passed the Senate.

McDowell Lee
Secretary

House of Representatives
Passed: 11-MAR-10

By: Senator Sanders

APPROVED March 22, 2010
TIME 9:40 a.m.
Bob Riley
GOVERNOR

Alabama Secretary Of State

Act Num....: 2010-221
Bill Num...: S-292

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