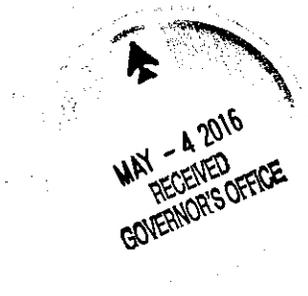


1 SB366
2 174415-2
3 By Senator Albritton
4 RFD: Finance and Taxation Education
5 First Read: 17-MAR-16



1 SB366

2
3
4 ENROLLED, An Act,

5 To amend Sections 16-25-23 and 36-27-28, Code of
6 Alabama 1975, to provide that certain pension, annuity, or
7 retirement allowance benefits under the Teachers' Retirement
8 System and the Employees' Retirement System are subject to
9 certain recovery action.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

13 "§16-25-23.

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

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

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

8 "b. The person subject to the order is a retiree or
9 beneficiary who is currently receiving benefits from the
10 Teachers' Retirement System.

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

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

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

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

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

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

6 "d. The relevant case numbers.

7 "e. The county in which the case was brought.

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

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

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

14 "(4) The district attorney shall notify the court
15 whenever the restitution, fines, court costs, fees, or other
16 financial obligations are paid in full. Thereafter, the court
17 shall issue an order to stop the diversion of the individual's
18 funds. Any payment received by the circuit clerk in an amount
19 over what was owed shall be paid back to the Teachers'
20 Retirement System within 60 days with the specific identifying
21 information as to the retiree or the beneficiary to whom it is
22 owed.

23 "\$36-27-28.

24 "(a) ~~The~~ Except as provided in subsection (b), the
25 right of a person to a pension, an annuity, a retirement

1 allowance or to the return of contributions, the pension,
2 annuity or retirement allowance itself and any optional
3 benefit or any other right accrued or accruing to any person
4 under the provisions of this article and the moneys in the
5 various funds created by this chapter are hereby exempt from
6 any state or municipal tax and exempt from levy and sale,
7 garnishment, attachment or any other process whatsoever and
8 shall be unassignable except as in this article specifically
9 otherwise provided.

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

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

17 "b. The person subject to the order is a retiree or
18 beneficiary who is currently receiving benefits from the
19 Employees' Retirement System.

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

22 "(2) If the requirements of subdivision (1) are met,
23 and upon motion filed by the district attorney, the circuit or
24 district court judge may order that the Employees' Retirement
25 System pay to the circuit clerk of the court no more than 25

1 percent of the retiree's or beneficiary's gross monthly
2 benefit less any deductions for child support or health
3 insurance for any dependents, to be applied to the balance of
4 the restitution, fines, court costs, fees, or other financial
5 obligations ordered in the criminal case.

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

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

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

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

15 "d. The relevant case numbers.

16 "e. The county in which the case was brought.

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

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

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

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

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

7 Section 2. The provisions of this act are severable.
8 If any part of this act is declared invalid or
9 unconstitutional, that declaration shall not affect the part
10 which remains.

11 Section 3. This act shall become effective on the
12 first day of the third month following its passage and
13 approval by the Governor, or its otherwise becoming law.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

Kay Ivey

President and Presiding Officer of the Senate

[Signature]

Speaker of the House of Representatives

SB366

Senate 26-APR-16

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris
Secretary

House of Representatives
Passed: 04-MAY-16

By: Senator Albritton

APPROVED 5-12-16

TIME 8:30 AM

[Signature: Robert Bentley]
GOVERNOR

Alabama Secretary Of State
Act Num.....: 2016-398
Bill Num....: 5-366

Recv'd 05/12/16 11:07amSLF

SOR

SPONSORS

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

SENATE ACTION

DATE: 3-17 2016
RD 1 RFD FATE

I hereby certify that the notice & proof is attached to the Bill, SB _____ as required in the General Acts of Alabama, 1975 Act No. 919.
PATRICK HARRIS,
Secretary

This Bill was referred to the Standing Committee of the Senate on FATE
and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amd(s) _____ w/sub _____ w/eng sub _____
years 11 nays 0 abstain 0
this 10th day of April 2016
Patrick Harris, Chairperson

DATE: 4-7 2016
RF FAV RD 2 CAL

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, SB _____
years _____ nays _____ abstain _____
PATRICK HARRIS,
Secretary

DATE: 4-26-16 RD 3 at length
PASSED PASSED AS AMENDED
years 29 nays 0 abstain 0
And was ordered sent forthwith to the House.
PATRICK HARRIS,
Secretary

HOUSE ACTION

DATE: 4-26 2016
RD 1 RFD WILKINCE

REPORT OF STANDING COMMITTEE
This bill having been referred by the House to its standing committee on Judy
was acted upon by such Committee in session, and returned therefrom to the House with the recommendation that it be Passed,
w/amd(s) _____ w/sub _____
this 28th day of April 2016
Michael Woodard, Chairperson

DATE: 4-28 2016
RF RD 2 CAL

DATE: 4-27 2016
RE-REFERRED RE-COMMITTED
COMMITTEE JUDY

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, SB _____
YEAS _____ NAYS _____
JEFF WOODARD,
Clerk