

## HB542 INTRODUCED



1 HB542  
2 ZQ4YIWK-1  
3 By Representatives Shaver, Reynolds, Whitt  
4 RFD: Ways and Means General Fund  
5 First Read: 08-Apr-25



## SYNOPSIS:

Under existing law, only district attorneys are included as members of the District Attorneys' Plan and have certain retirement benefits available to them.

This bill would expand the definition of "member" to include full-time prosecutors employed by a district attorney's office and full-time attorneys employed by the Office of Prosecution Services.

This bill would further provide for the retirement allowances and benefits of district attorneys, full-time prosecutors employed by a district attorney's office, and full-time attorneys employed by the Office of Prosecution Services.

Also under existing law, district attorneys are not authorized to participate in both the supernumerary district attorney program and the Employees' Retirement System.

This bill would authorize district attorneys who independently qualify for the supernumerary district attorney program and the Employees' Retirement System based on separate years of service to participate in both programs.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.



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A BILL

TO BE ENTITLED

AN ACT

Relating to retirement benefits; to amend Sections 12-17-213, 12-17-227, 12-17-227.2, 12-17-227.3, 12-17-227.4, 12-17-227.5, 12-17-227.6, and 12-17-227.11, Code of Alabama 1975, to expand the definition of member; to further provide for the retirement allowances and benefits of certain members; to authorize qualifying district attorneys to participate in both the supernumerary district attorney program and the Employees' Retirement System; and to make nonsubstantive, technical revisions to update the existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 12-17-227, 12-17-227.2, 12-17-227.3, 12-17-227.4, 12-17-227.5, 12-17-227.6, and 12-17-227.11, Code of Alabama 1975, are amended to read as follows:

"§12-17-227

When used in this division, the following terms~~shall~~ have the following meanings, respectively, unless the context clearly indicates otherwise:

(1) ACCUMULATED CONTRIBUTIONS. The sum of all the amounts deducted from the compensation of a member credited to his or her individual account in the District Attorneys' Plan,



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57 together with regular interest thereon.

58 (2) ACTUARIAL EQUIVALENT. A benefit of equal value when  
59 computed upon the basis of the mortality tables adopted by the  
60 Board of Control and regular interest.

61 (3) ANNUITY. Payments for life derived from the  
62 accumulated contributions of a member. All annuities shall be  
63 payable in equal monthly installments.

64 (4) AVERAGE FINAL COMPENSATION. The average annual  
65 compensation of a district attorney with respect to which he  
66 or she had made contributions pursuant to Section 12-17-227.2  
67 during the five years in his or her last 10 years of  
68 membership service for which the average is highest or during  
69 his or her entire period of membership service if less than  
70 five years.

71 (5) BENEFICIARY. Any person in receipt of a pension, an  
72 annuity, a retirement allowance, or other benefit as provided  
73 by this division.

74 (6) BOARD OF CONTROL. The board provided for in Section  
75 36-27-23 to administer the retirement system.

76 (7) DISTRICT ATTORNEY. Except as otherwise provided in  
77 Section 12-17-227.11, any district attorney first elected or  
78 appointed to his or her position on or after November 8, 2016.

79 (8) EMPLOYER. The State of Alabama or any department,  
80 agency, or local governing body by which a district attorney  
81 is paid.

82 (9) FUND. The Judicial Retirement Fund provided for in  
83 Chapter 18 of this title.

84 (10) MEDICAL BOARD. The board of physicians provided



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for in Section 36-27-23.

(11) MEMBER. Any district attorney included in membership of the plan, and on or after October 1, 2025, also any full-time prosecutor employed by an Alabama district attorney's office, and any full-time attorney employed by the Office of Prosecution Services.

(12) MEMBERSHIP SERVICE. Service as a district attorney first elected or appointed on or after November 8, 2016, a full-time prosecutor employed by an Alabama district attorney's office on or after October 1, 2025, or a full-time attorney employed by the Office of Prosecution Services on or after October 1, 2025, on account of which contributions are made.

(13) PENSION. Payments for life derived from money provided by the employer. All pensions shall be payable in equal monthly installments.

(14) PLAN. The District Attorneys' Plan provided for in Section 12-17-227.1.

(15) REGULAR INTEREST. Interest compounded annually at the rate determined by the Board of Control.

(16) RETIREMENT. Withdrawal from active service with a retirement allowance or optional benefit in lieu thereof granted under this division.

(17) RETIREMENT ALLOWANCE. The sum of the annuity and the pension.

(18) RETIREMENT SYSTEM. The Employees' Retirement System of Alabama as defined in Section 36-27-2.

(19) SUPERNUMERARY DISTRICT ATTORNEY. A supernumerary



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district attorney who has elected to come under the provisions and requirements of Division 2 of this article."

"§12-17-227.2

(a) Every district attorney first elected or appointed to his or her position on or after November 8, 2016, and all full-time prosecuting attorneys employed by an Alabama district attorney's office on or after October 1, 2025, and all full-time attorneys employed by the Office of Prosecution Services on or after October 1, 2025, shall come under this division by operation of law. Each district attorney, full-time prosecuting attorney employed by an Alabama district attorney's office, and each full-time attorney employed by the Office of Prosecution Services shall contribute to the fund eight and one-half percent (8.5%) of his or her annual salary. The percentages shall be deducted by the employer from each ~~district attorney's~~ member's salary and paid into the fund in the State Treasury and credited to the individual account of the ~~district attorney~~ member from whose salary it was deducted.

(b) On account of each member there shall be paid monthly by the employer an amount equal to a certain percentage of the annual salary of each member to be the employer's contribution. The percentage rate of such contribution shall be fixed for each fiscal year on the basis of the liabilities as shown by the last annual actuarial valuation, and such percentage rate as established by such valuation shall take effect the following October 1 and continue in effect for the fiscal year. Such contribution



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shall be made by the ~~Office of the District Attorney who~~ office that employs the member."

"§12-17-227.3

(a) Any active and contributing member of the District Attorneys' Plan who, not more than one year prior to becoming a member of the plan was a member of the Employees' Retirement System of Alabama or the Teachers' Retirement System of Alabama, may elect to transfer his or her membership service and accumulated contributions in the Employees' Retirement System or the Teachers' Retirement System to the District Attorneys' Plan.

(b) Any active and contributing member desiring to transfer any membership service and accumulated contributions under subsection (a) shall notify the Board of Control of the Employees' Retirement System of his or her election to transfer membership service and shall authorize the transfer of the amount of his or her accumulated contributions to his or her credit in the Employees' Retirement System or Teachers' Retirement System to his or her account in the District Attorneys' Plan.

(c) The Board of Control transferring the membership service and contributions shall thereupon certify to the Board of Control of the Employees' Retirement System and to the fund the amount of contributions and service creditable to the member at the time of separation from the transferring retirement system. The member shall be credited in the fund with the membership service and accumulated contributions so certified.



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(d) (1) Anything in this division to the contrary notwithstanding, in the application of the foregoing provisions of this section to a member whose membership service includes a period of service as a district attorney and a period of service in another employment classification, the benefit rates applicable to a district attorney shall apply to all membership service as a district attorney, and the benefit rates applicable to the member's other employment classification shall apply to membership service in such other classification. In all other respects, the pension under this section shall be determined on the basis of the member's employment classification at the time of his or her withdrawal from service.

(2) If the full-time prosecuting attorney in a district attorney's office or full-time attorney employed by the Office of Prosecution Services' creditable service includes periods of service to different employment classifications, the benefit rates of each respective employment classification shall be applicable to the creditable service earned while in each respective employment classification. In all other respects, the pension under this section shall be determined on the basis of the member's employment classification at the time of his or her withdrawal from service."

"§12-17-227.4

(a) Any member who withdraws from service upon or after attainment of age 62 may retire upon written application to the Board of Control setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and





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filing thereof, he or she desires to be retired; provided, that any such member shall have completed 10 or more years of membership service in the District Attorneys' Plan.

(b) Any member who has attained age 62 and has previously withdrawn from service may retire upon written application to the Board of Control setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he or she desires to be retired; provided, that any such member shall have completed 10 or more years of membership service.

(c) (1) Upon retirement from service, the member who is a district attorney shall receive a service retirement allowance which shall consist of an annuity, which shall be the actuarial equivalent of the member's accumulated contributions at the time of retirement, and a pension, which when added to the member's annuity shall be equal to ~~three percent (3%)~~ four percent (4%) of the member's average final compensation multiplied by the member's number of years of membership service. Notwithstanding the foregoing, the service retirement allowance shall not exceed eighty percent (80%) of the member's average final compensation.

(2) Upon retirement from service, the member who is a full-time prosecuting attorney employed by a district attorney's office or a full-time attorney employed by the Office of Prosecution Services shall receive a service retirement allowance which shall consist of an annuity, which shall be the actuarial equivalent of the member's accumulated contributions at the time of retirement, and a pension, which



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when added to the member's annuity shall be equal to three percent (3%) of the member's average final compensation multiplied by the member's number of years of membership service. Notwithstanding the foregoing, the service retirement allowance shall not exceed eighty percent (80%) of the member's average final compensation."

"§12-17-227.5

(a) Upon application of an active and contributing member, any such member who has 10 or more years of membership service who becomes disabled may be retired on a disability retirement allowance by the Board of Control not less than 30 days nor more than 90 days next following the date of filing of such application; provided that the medical board, after a medical examination of such member, shall certify that such individual is totally and permanently mentally or physically incapacitated from regular and substantial gainful employment and that such member should be retired.

(b) (1) Upon retirement for disability, ~~the~~ a member who is a district attorney shall receive a service retirement allowance if he or she has attained age 62; otherwise, he or she shall receive a disability retirement allowance which shall consist of an annuity, which shall be the actuarial equivalent of the member's accumulated contributions at the time of retirement, and a pension, which when added to the member's annuity shall be equal to ~~three percent (3%)~~ four percent (4%) of the member's average final compensation multiplied by the member's number of years of membership service. Notwithstanding the foregoing, the disability



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retirement allowance shall not exceed eighty percent (80%) of the member's average final compensation.

(2) Upon retirement for disability, the member who is a full-time prosecuting attorney in a district attorney's office or a full-time attorney employed by the Office of Prosecution Services shall receive a service retirement allowance if he or she has attained age 62; otherwise, he or she shall receive a disability retirement allowance which shall consist of an annuity, which shall be the actuarial equivalent of the member's accumulated contributions at the time of retirement, and a pension, which when added to the member's annuity shall be equal to three percent (3%) of the member's average final compensation multiplied by the member's number of years of membership service. Notwithstanding the foregoing, the disability retirement allowance shall not exceed eighty percent (80%) of the member's average final compensation.

(c) Once each year during the first five years following the retirement of a member on a disability retirement allowance and once every three-year period thereafter, the Board of Control may require any disability beneficiary who has not yet attained age 62 to undergo a medical examination, such examination to be made at the place of residence of such beneficiary or other place mutually agreed upon by a physician or physicians of or designated by the medical board. Should any disability beneficiary who has not yet attained age 62 refuse to submit to such medical examination, his or her retirement allowance may be discontinued until his or her withdrawal of such refusal, and



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should his or her refusal continue for one year, all his or her rights in and to his or her pension may be revoked by the Board of Control. Should the medical board report and certify to the Board of Control that a disability beneficiary has the capacity to engage in regular and substantial gainful employment, the Board of Control shall discontinue the beneficiary's retirement allowance until the beneficiary is otherwise eligible for service retirement."

"§12-17-227.6

(a) Should a member cease to be a district attorney, a full-time prosecuting attorney employed by a district attorney's office, or full-time attorney employed by the Office of Prosecution Services, except by death or by retirement under ~~the provisions of~~ this division, the contributions standing to the credit of his or her individual account in the fund shall be paid to him or her upon demand and, in addition to the payment, there shall be paid five-tenths of the interest accumulations standing to the credit of his or her individual account if he or she shall have not less than three but less than 16 years of membership service, six-tenths of the interest accumulations if he or she shall have not less than 16 but less than 21 years of membership service, seven-tenths of the interest accumulations if he or she shall have not less than 21 but less than 26 years of membership service, and eight-tenths of the interest accumulations if he or she shall have not less than 26 years of membership service.

(b) In case of the death of a member eligible for



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service retirement pursuant to Section 12-17-227.4, an allowance shall be paid to the surviving spouse, if designated as the sole beneficiary, in an amount that would have been payable if the member had retired immediately prior to his or her death and had elected Option 2, as set forth in subsection (d), or to such other person who the member shall have designated, in an amount that would have been payable if the member had retired immediately prior to his or her death and had elected Option 3, as set forth in subsection (d). Alternatively, if the surviving spouse or other designee desires, he or she may choose to receive, in lieu of the allowance provided under Option 2 or Option 3, the accumulated contributions of the member plus an amount equal to the accumulated contributions of the member not to exceed five thousand dollars (\$5,000) or the accumulated contributions of the member plus the benefit provided by Section 36-27B-3 if a benefit is payable under that section.

(c) Upon the death of a member on account of whom no survivor allowance is payable under subsection (b), the accumulated contributions of the member plus an amount equal to the accumulated contributions not to exceed five thousand dollars (\$5,000) or the accumulated contributions of the member plus the benefit provided by Section 36-27B-3 if a benefit is payable under that section shall be paid to his or her estate or to such person as he or she shall have nominated by written designation duly executed and filed with the Board of Control.

(d) Optional allowances. With the provision that the



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election of an option shall be effective on the effective date of retirement, any member may elect prior to retirement to receive, in lieu of his or her retirement allowance payable throughout life, the actuarial equivalent, at that time, of his or her retirement allowance in a reduced retirement allowance payable throughout life with the provisions that:

(1) OPTION 1. If he or she dies before he or she has received in annuity payments the present value of his or her annuity as it was at the time of his or her retirement, the balance shall be paid to his or her legal representatives or to such person as he or she shall nominate by written designation duly acknowledged and filed with the Board of Control;

(2) OPTION 2. Upon his or her death, his or her reduced retirement allowance shall be continued throughout the life of and paid to such person as he or she shall nominate by written designation duly acknowledged and filed with the Board of Control at the time of his or her retirement;

(3) OPTION 3. Upon his or her death, one half of his or her reduced allowance shall be continued throughout the life of and paid to such person as he or she shall nominate by written designation duly acknowledged and filed with the Board of Control at the time of his or her retirement; or

(4) OPTION 4. Some other benefit or benefits shall be paid either to the member or to such person or persons as he or she shall nominate; provided, that those other benefits, together with the reduced retirement allowance, shall be certified by the actuary to be of equivalent actuarial value



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to his or her retirement allowance and shall be approved by the Board of Control.

(e) Notwithstanding any other provisions of this section to the contrary, when a designated beneficiary for a member predeceases the member who is receiving a monthly benefit allowance provided under Option 2, 3, or 4, the member may designate a replacement beneficiary for the deceased beneficiary to become effective two years after the date of designation of the replacement beneficiary and an actuarial adjustment in the monthly benefit allowance of the member to cover any cost associated with designating a replacement beneficiary shall be reflected thereafter in the monthly benefit allowance received by the member, commencing with the first benefit allowance check received by the member following the date of designation of the replacement beneficiary.

(f) Notwithstanding any provision of this section to the contrary, if a retired member who is receiving a monthly benefit allowance provided under Option 2, 3, or 4 divorces his or her designated beneficiary, the member may designate a replacement beneficiary for the beneficiary to become effective two years after the date of designation of the replacement beneficiary and an actuarial adjustment in the monthly benefit allowance of the member to cover any cost associated with designating a replacement beneficiary shall be reflected thereafter in the monthly benefit allowance received by the member, commencing with the first benefit allowance check received by the member following the date of designation of the replacement beneficiary."



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393           "§12-17-227.11

394           (a) A person serving as district attorney,  
395       supernumerary district attorney, or who has made an election  
396       to assume the office of supernumerary district attorney or is  
397       otherwise entitled to participate in the supernumerary  
398       district attorney program established under Division 2 of this  
399       article shall, subject to subsection (c), continue to serve or  
400       participate in the supernumerary district attorney program,  
401       which shall include the assumption of the office of the  
402       supernumerary district attorney after November 8, 2016,  
403       according to the terms and conditions of Division 2 of this  
404       article, notwithstanding the fact that the person may be  
405       re-elected after November 8, 2016, to the office he or she is  
406       holding on November 8, 2016.

407           (b) (1) No person may participate in both the  
408       supernumerary district attorney program and the Employees'  
409       Retirement System based on the same service.

410           (2) A person who independently qualifies for the  
411       supernumerary district attorney program and the Employees'  
412       Retirement System based on separate years of service may  
413       participate in both programs.

414           (c) A district attorney who was elected prior to  
415       November 8, 2016, and who is serving in the capacity of  
416       district attorney on and after November 8, 2016, and had prior  
417       service credit in the Employees' Retirement System, Teachers'  
418       Retirement System, or Judicial Retirement Fund prior to being  
419       elected district attorney shall have 30 days from November 8,  
420       2016, to elect to participate in the District Attorneys' Plan





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established by this division. This election shall be irrevocable.

(d) An assistant or deputy district attorney who obtains service credit in that position as a Tier~~1~~ I plan member and is elected or appointed district attorney or placed into the District Attorneys' Plan on or after November 8, 2016, may withdraw from service after completion of not less than 25 years of ~~credible~~ creditable service and may retire without a reduction in retirement allowance upon written application to the Board of Control setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he or she desires to be retired."

Section 2. Section 12-17-213, Code of Alabama 1975, is amended to read as follows:

"§12-17-213

(a) Any person now serving or having formerly served as a district attorney of a judicial circuit of Alabama, who has served for not less than 18 years, when he or she has reached the age of 60 years, may elect to become a supernumerary district attorney by filing a written declaration to that effect with the Governor, and time served as judge of a court of record, a county court, county solicitor or any other countywide elected official, a full-time deputy or assistant district attorney, or as a duly licensed attorney employed full time by the State of Alabama, whether commissioned or appointed, or as an elected constitutional officer or other state official, shall be counted as time served ~~towards~~ toward



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449 accumulating the above required 18 years; provided, that such  
450 district attorney shall have served not less than 10 years as  
451 district attorney of a judicial circuit.

452 (b) Any district attorney of a judicial circuit who has  
453 served 18 years as circuit district attorney may elect to  
454 become a supernumerary district attorney by filing a written  
455 declaration to that effect with the Governor, and only two and  
456 one-half years served as judge of a court of record, a county  
457 court, county solicitor, a full-time deputy or assistant  
458 district attorney, or as a duly licensed attorney employed  
459 full time by the State of Alabama, whether commissioned or  
460 appointed, or as an elected constitutional officer or other  
461 state official, may be counted as time served ~~towards~~ toward  
462 accumulating the above required 18 years.

463 (c) On October 1, 2021, any person who was elected or  
464 appointed as a district attorney prior to November 8, 2016,  
465 and held office as a district attorney through or after  
466 January 1, 2019, may elect to become a supernumerary district  
467 attorney by filing a written declaration to that effect with  
468 the Governor. Prior time served as a judge of a court of  
469 record, a full-time deputy or assistant district attorney, a  
470 duly licensed attorney employed full time by the State of  
471 Alabama, or a district attorney, shall be counted as time  
472 served ~~towards~~ toward accumulating the 18 years required in  
473 this section.

474 (d) ~~Any~~ Notwithstanding Section 36-27-16, any district  
475 attorney who, ~~on or after October 1, 2021,~~ qualifies under  
476 Division 2, commencing with Section 12-17-210, ~~of~~ Article 6 of



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this chapter, to receive a salary pursuant to Section 12-17-215 and also qualifies to receive a pension under any of the Retirement Systems of Alabama, ~~shall elect,~~ at the time of separation from state service, ~~to~~ may receive ~~either~~ a salary under Section 12-17-215 ~~or~~ and a pension, ~~but not both,~~ by filing a written declaration with the Governor and the applicable retirement system, provided that applicable time and credit are based on separate years of service. This subsection shall not prohibit survivor benefits that may be available under any of the Retirement Systems of Alabama.

(e) A supernumerary district attorney who is receiving a salary pursuant to Section 12-17-215 may also be employed by, or perform duties in any capacity, including as an independent contractor for, any employer participating in the Employees' Retirement System; provided, however, the supernumerary district attorney's compensation from the employer in a calendar year may not exceed the salary limitation described and calculated pursuant to ~~subsection (a) of Section 36-27-8.2~~ 36-27-8.2(a)."

Section 3. This act shall become effective on October 1, 2025.