HB581

200167-1

By Representatives Sells and McMillan

RFD: Ways and Means General Fund

First Read: 07-MAY-19
SYNOPSIS: This bill would establish an Employees’ Investment Retirement Plan (EIRP) for certain members of the Teachers' Retirement System and the Employees' Retirement System of the Retirement Systems of Alabama and would further provide options for Tier I and Tier II members to participate in EIRP.

A BILL TO BE ENTITLED

AN ACT

To establish an Employees' Investment Retirement Plan (EIRP) for certain members of the Teachers' Retirement System and the Employees' Retirement System of the Retirement Systems of Alabama; and to further provide options for Tier I and Tier II members to participate in EIRP.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) There exists as a part of the Teachers' Retirement System, an optional account known as the
Employees' Investment Retirement Plan (EIRP). The purpose of EIRP is to contractually allow, in lieu of immediate withdrawal from service and receipt of a retirement allowance, continued employment for a specific period of time, coupled with the deferral of receipt of a retirement allowance until the end of the period of participation, at which time the member shall withdraw from service.

(b) Participation in EIRP is an option available to any Tier I member of the retirement system who meets all of the following requirements:

(1) Has at least 25 years of creditable service exclusive of sick leave.

(2) Is at least 55 years of age.

(3) Is eligible for service retirement.

(c) Participation in EIRP is an option available to any Tier II member of the retirement system who meets all of the following requirements:

(1) Has at least 25 years of creditable service exclusive of sick leave.

(2) Is at least 62 years of age.

(3) Is eligible for service retirement.

(d) An election to participate in EIRP may be made in one year increments not to exceed five years, nor to be less than three years. A member may participate in EIRP only one time. Any voluntary termination by a member within the first three years in EIRP will result in a forfeiture of the portion of his or her EIRP account that constitutes the
retirement allowance. There will be no penalty forfeiture if the participation period is interrupted due to an involuntary dismissal, disability, involuntary transfer of his or her spouse, or death of the member.

(e) A member who chooses to participate in EIRP may elect an option allowance set out for members of the Teachers' Retirement System in subsection (h) of Section 16-25-14, Code of Alabama 1975, at the beginning of the participation period. Otherwise, he or she shall receive the maximum benefit. The election shall be irrevocable once the participation period begins except as otherwise provided in this act.

(f) For purposes of EIRP, sick leave may not be converted for purposes of establishing retirement eligibility, nor used in the calculation of the original retirement allowance except as provided in Section 16-25-151, Code of Alabama 1975.

(g) The election to participate in EIRP shall be made in accordance with procedures set forth in a uniform and nondiscriminatory election and application form adopted by the Board of Control. The election to participate in EIRP may be made at any time on or after the date the member becomes eligible to participate as set out in subsection (b). The application must be made at least 30 days, but not more than 90 days, before the effective date of participation in EIRP. A member must be eligible to participate, as provided above, at the time the application is made.
Upon the effective date of the commencement in EIRP, the member's service shall remain as it existed on that date for the duration of EIRP. Once a member enters EIRP, service credit purchases are prohibited. Both the employer and employee member contribution shall continue to be made. The employee member contribution shall not be refundable to the member at the completion of EIRP. Eighty percent of the monthly retirement allowance that would have been payable, had the person elected to withdraw from service and receive a retirement allowance, shall be paid into an EIRP account that reflects the credits attributed to the person in EIRP. However, the monies shall remain a part of the regular retirement fund until disbursed to the participating member in accordance with this section. Any monies paid into this account are subject to the exemptions set out in Section 16-25-23, Code of Alabama 1975.

A person who participates in this plan shall not be eligible to receive a retiree cost-of-living increase while participating in EIRP, and shall not be eligible for a retiree cost-of-living increase until participation in the plan ceases and he or she withdraws from service and has been receiving a retirement allowance for at least one full year.

EIRP shall not be subject to any fees, charges, or other similar expenses of any kind for any purpose.

Participation in EIRP shall not affect the rights of any education employee including, but not limited to, the Fair Dismissal Act, Section 36-26-100 et seq., Code of
Alabama 1975, the tenure law, Section 16-24-1, et seq., Code of Alabama 1975, or any other fringe benefit.

(l) Participation in EIRP shall not affect the accrual of annual and sick leave by the participant.

(m) Participants in EIRP may receive salary cost-of-living adjustments and salary increases.

Section 2. (a) On withdrawing from service pursuant to Section 16-25-14, Code of Alabama 1975, from the Teachers' Retirement System, a member who participated in EIRP:

(1) Who fulfilled his or her contractual obligation pursuant to EIRP shall receive a lump-sum payment from his or her EIRP account equal to the payments made to that account on his or her behalf. In lieu of a lump-sum payment from the EIRP account, to the extent eligible under applicable tax laws, the member's total accrued benefit may be rolled over directly to the custodian of an eligible retirement plan. The member shall also begin receiving his or her monthly benefit that would have been payable had the person elected to withdraw from service and receive a retirement allowance at the commencement of his or her participation in EIRP. However, the monthly benefit shall be recalculated prospectively to reflect any accrued sick leave as credit for retirement purposes. Conversion of sick leave is limited to the applicable laws pertaining to conversion of sick leave into retirement credit. In no event can the number of days converted be greater than the number of days the participant had on the date he or she
entered EIRP. The member is not allowed to change the option allowance chosen at the beginning of EIRP participation.

(2) Who did not fulfill his or her obligation under EIRP due to involuntary termination, disability, or involuntary transfer of his or her spouse, shall receive a lump-sum payment from his or her EIRP account equal to the payments made to that account on his or her behalf. In lieu of a lump-sum payment from the EIRP account, to the extent eligible under applicable tax laws, the member's total accrued benefit may be rolled over directly to the custodian of an eligible retirement plan. The member shall also begin receiving his or her monthly benefit that would have been payable, had the person elected to withdraw from service and receive a retirement allowance at the commencement of his or her participation in EIRP. However, the monthly benefit shall be recalculated prospectively to reflect any accrued sick leave as credit for retirement purposes. Conversion of sick leave is limited to the applicable laws pertaining to conversion of sick leave into retirement credit. In no event can the number of days converted be greater than the number of days the participant had on the date he or she entered EIRP. The member is not allowed to change the option allowance chosen at the beginning of EIRP participation.

(3) Who did not fulfill his or her obligation under EIRP due to voluntary termination within the first three years of participation shall forfeit his or her EIRP account. However, following termination of employment, the member shall
begin receiving his or her monthly benefit that would have
been payable, had the person elected to withdraw from service
and receive a retirement allowance at the commencement of his
or her participation in EIRP. However, the monthly benefit
shall be recalculated prospectively to reflect any accrued
sick leave as credit for retirement purposes. Conversion of
sick leave is limited to the applicable laws pertaining to
conversion of sick leave into retirement credit. In no event
can the number of days converted be greater than the number of
days the participant had on the date he or she entered EIRP.
The member is not allowed to change the option allowance
chosen at the beginning of EIRP participation.

(b) If a participant dies during the period of
participation in EIRP, a lump-sum payment equal to the
payments made to the EIRP account on his or her behalf plus
interest shall be paid to his or her named beneficiary or, if
none, to his or her estate. Where there is a beneficiary that
would be entitled to an ongoing monthly benefit, if applicable
laws allow, the monthly benefit may be recalculated
prospectively to reflect accrued sick leave as credit for
retirement purposes. If applicable laws allow, the beneficiary
may elect to be paid for the deceased member's sick leave as
would any other member upon retirement. In no event can the
number of sick leave days used for either calculation be
greater than the number of days the participant had on entry
into EIRP. The member is not allowed to change the option
allowance chosen at the beginning of EIRP participation.
(c) At the end of the specified period for EIRP:

(1) Payments into the EIRP account made on behalf of the member shall cease.

(2) Payments from the EIRP account shall not be made to the member until he or she withdraws from service, nor shall the monthly retirement allowance being paid into the EIRP account during the period of participation be payable to the member until he or she withdraws from service pursuant to Section 16-25-14, Code of Alabama 1975.

(3) If the member does not withdraw from service after the period specified for participation in EIRP, he or she shall resume active contributing membership in the system for the purpose of earning creditable service. Under no circumstances will any time spent participating in EIRP be eligible to constitute service credit in any Alabama public supported retirement system.

(d)(1) Upon a future withdrawal from service, the member shall receive a lump-sum payment from his or her EIRP account equal to the payments made to that account on his or her behalf. In lieu of a lump-sum payment from the EIRP account, to the extent eligible under applicable tax laws, the member's total accrued benefit may be rolled over directly to the custodian of an eligible retirement plan.

(2) Upon withdrawal from service, the monthly retirement allowance that would have been payable, had the person elected to withdraw from service and receive a retirement allowance at the commencement of his or her
participation in EIRP, shall begin to be paid to the member. However, the monthly benefit shall be recalculated prospectively to reflect any accrued sick leave as credit for retirement purposes. Conversion of sick leave is limited to the applicable laws pertaining to conversion of sick leave into retirement credit. In no event can the number of days converted be greater than the number of days the participant had on the date he or she entered EIRP. The member is not allowed to change the option allowance chosen at the beginning of EIRP participation.

(3) Upon withdrawal from service, the member shall receive an additional retirement benefit based on his or her additional service rendered to the system since termination of participating in EIRP, using the normal method of computation of benefit for that period only. This additional service shall not be added to any service prior to his or her participation in EIRP. The member's average compensation for that time worked after the participation in EIRP shall be multiplied by the appropriate benefit factor multiplied by the amount of time worked after the participation in EIRP. Under no circumstances is this service to be combined with service prior to participation in EIRP.

(4) The option used for retirement purposes shall be that applicable to the original benefit.

(5) If the member dies or becomes disabled during the period of additional service, he or she shall be considered as having retired on the date of death or
commencement of disability. However, no death benefits pursuant to subsection (g) of Section 16-25-14, Code of Alabama 1975, or Section 36-27B-3, Code of Alabama 1975, will be applicable.

Section 3. (a) There exists as a part of the Employees' Retirement System, an optional account known as the Employees' Investment Retirement Plan (EIRP). The purpose of EIRP is to contractually allow, in lieu of immediate withdrawal from service and receipt of a retirement allowance, continued employment for a specific period of time, coupled with the deferral of receipt of a retirement allowance until the end of such period of participation, at which time the member shall withdraw from service.

(b) Participation in EIRP is an option available to any Tier I member of this retirement system who meets all of the following:

(1) Has at least 25 years of creditable service exclusive of sick leave.

(2) Is at least 55 years of age, or in the case of a state police member, is at least 52 years of age.

(3) Is eligible for service retirement.

(c) Participation in EIRP is an option available to any Tier II member of this retirement system who meets all of the following:

(1) Has at least 25 years of creditable service exclusive of sick leave.
(2) Is at least 62 years of age, or in the case of a firefighter, law enforcement officer, correction officer, or state police member, is at least 56 years of age.

(3) Is eligible for service retirement.

(d) An election to participate in EIRP may be made in one year increments not to exceed five years, nor to be less than three years. A member may participate in EIRP only one time. Any voluntary termination within the first three years in EIRP will result in a forfeiture of a portion of his or her EIRP account that constitutes the retirement allowance. There will be no forfeiture if the participation period is interrupted due to an involuntary dismissal, disability, involuntary transfer of his or her spouse, or death of the participant.

(e) A member who chooses to participate in EIRP may elect an option allowance set out for members of the Employees' Retirement System in subsection (d) of Section 36-27-16, Code of Alabama 1975, at the beginning of the participation period. Otherwise, he or she shall receive the maximum benefit. Such election shall be irrevocable once the participation period begins except as otherwise provided in this act.

(f) For purposes of EIRP, sick leave may not be converted for purposes of establishing retirement eligibility, nor used in the calculation of the original retirement allowance except as provided in Section 36-27-171, Code of Alabama 1975. A person electing to enter the EIRP program is
not eligible for a lump-sum payment for any annual or sick leave until withdrawal from service.

(g) The election to participate in EIRP shall be made in accordance with procedures set forth in a uniform and nondiscriminatory election and application form adopted by the Board of Control. The election to participate in EIRP may be made at any time on or after the date the member becomes eligible to participate as set out in subsection (b). Such application must be made at least 30 days, but not more than 90 days, before the effective date of participation in EIRP. A member must be eligible to participate, as provided above, at the time the application is made.

(h) Upon the effective date of the commencement in EIRP, the member's service shall remain as it existed on that date for the duration of EIRP. Once a member enters EIRP, service credit purchases are prohibited. Both the employer and employee member contribution shall continue to be made. The employee member contribution shall not be refundable to the member at the completion of EIRP. Eighty percent of the monthly retirement allowance that would have been payable, had the person elected to withdraw from service and receive a retirement allowance, shall be paid into a EIRP account that reflects the credits attributed to the person in EIRP. However, the monies shall remain a part of the regular retirement fund until disbursed to the participating member in accordance with this section. Any monies paid into this
account are subject to the exemptions set out in Section 36-27-28, Code of Alabama 1975.

(i) A person who participates in this plan shall not be eligible to receive a retiree cost-of-living increase while participating in EIRP, and shall not be eligible for a retiree cost-of-living increase until participation in the plan ceases and he or she withdraws from service and has been receiving a retirement allowance for at least one full year.

(j) EIRP shall not be subject to any fees, charges, or other similar expenses of any kind for any purpose.

(k) Participation in EIRP shall not affect the rights of any state employee under the state personnel system, including, but not limited to, his or her rights to longevity pay.

(l) Participation in EIRP shall not affect the accrual of annual and sick leave by the participant.

(m) Participants in EIRP may receive salary cost-of-living adjustments and salary increases.

Section 4. (a) On withdrawing from service pursuant to Section 36-27-16, Code of Alabama 1975, from the Employees' Retirement System, a member who participated in EIRP:

(1) Who fulfilled his or her contractual obligation pursuant to EIRP shall receive a lump-sum payment from his or her EIRP account equal to the payments made to that account on his or her behalf. In lieu of a lump-sum payment from the EIRP account, to the extent eligible under applicable tax laws, the member's total accrued benefit may be rolled over directly to
the custodian of an eligible retirement plan. The member shall also begin receiving his or her monthly benefit that would have been payable had the person elected to withdraw from service and receive a retirement allowance at the commencement of his or her participation in EIRP. However, if applicable laws allow, the monthly benefit may be recalculated prospectively to reflect accrued sick leave as credit for retirement purposes. If applicable laws allow, the participant may elect to be paid for his or her sick leave as would any other member upon retirement. In no event can the number of sick leave days used for either calculation be greater than the number of days the participant had on entry into EIRP. The member is not allowed to change the option allowance chosen at the beginning of EIRP participation.

(2) Who did not fulfill his or her obligation under EIRP due to involuntary termination, disability, or involuntary transfer of his or her spouse, shall receive a lump-sum payment from his or her EIRP account equal to the payments made to that account on his or her behalf. In lieu of a lump-sum payment from the EIRP account to the extent eligible under applicable tax laws, the member's total accrued benefit may be rolled over directly to the custodian of an eligible retirement plan. The member shall also begin receiving his or her monthly benefit that would have been payable, had the person elected to withdraw from service and receive a retirement allowance at the commencement of his or her participation in EIRP. However, if applicable laws allow,
the monthly benefit may be recalculated prospectively to
reflect accrued sick leave as credit for retirement purposes.
If applicable laws allow, the participant may elect to be paid
for his or her sick leave as would any other member upon
retirement. In no event can the number of sick leave days used
for either calculation be greater than the number of days the
participant had on entry into EIRP. The member is not allowed
to change the option allowance chosen at the beginning of EIRP
participation.

(3) Who did not fulfill his or her obligation under
EIRP due to voluntary termination within the first three years
of participation shall forfeit his or her EIRP account.
However, following termination of employment, the member shall
begin receiving his or her monthly benefit that would have
been payable, had the person elected to withdraw from service
and receive a retirement allowance at the commencement of his
or her participation in EIRP. However, if applicable laws
allow, the monthly benefit may be recalculated prospectively
to reflect accrued sick leave as credit for retirement
purposes. If applicable laws allow, the participant may elect
to be paid for his or her sick leave as would any other member
upon retirement. In no event can the number of sick leave days
used for either calculation be greater than the number of days
the participant had on entry into EIRP. The member is not
allowed to change the option allowance chosen at the beginning
of EIRP participation.
(b) If a participant dies during the period of participation in EIRP, a lump-sum payment equal to the payments made to the EIRP account on his or her behalf plus interest shall be paid to his or her named beneficiary or, if none, to his or her estate. However, death benefits payable pursuant to subsection (c) of Section 36-27-16, Code of Alabama 1975, or Section 36-27B-3, Code of Alabama 1975, shall not be applicable. Where there is a beneficiary who would be entitled to an ongoing monthly benefit, if applicable laws allow, the monthly benefit may be recalculated prospectively to reflect accrued sick leave as credit for retirement purposes. If applicable laws allow, the beneficiary may elect to be paid for the deceased member's sick leave as would any other member upon retirement. In no event can the number of sick leave days used for either calculation be greater than the number of days the participant had on entry into EIRP. The member is not allowed to change the option allowance chosen at the beginning of EIRP participation.

(c) At the end of the specified period for EIRP:

(1) Payments into the EIRP account made on behalf of the member shall cease.

(2) Payments from the EIRP account shall not be made to the member until he or she withdraws from service, nor shall the monthly retirement allowance being paid into the EIRP account during the period of participation be payable to the member until he or she withdraws from service pursuant to Section 36-27-16, Code of Alabama 1975. However, if applicable
laws allow, the monthly benefit may be recalculated prospectively to reflect accrued sick leave as credit for retirement purposes. If applicable laws allow, the participant may elect to be paid for his or her sick leave as would any other member upon retirement. In no event can the number of sick leave days used for either calculation be greater than the number of days the participant had on entry into EIRP. The member is not allowed to change the option allowance chosen at the beginning of EIRP participation.

(3) If the member does not withdraw from service after the period specified for participation in EIRP, he or she shall resume active contributing membership in the system for the purpose of earning creditable service. Under no circumstances will any time spent participating in EIRP be eligible to constitute service credit in any Alabama public supported retirement system.

(d)(1) Upon a future withdrawal from service, the member shall receive a lump-sum payment from his or her EIRP account equal to the payments made to that account on his or her behalf. In lieu of a lump-sum payment from the EIRP account, to the extent eligible under applicable tax laws, the member's total accrued benefit may be rolled over directly to the custodian of an eligible retirement plan.

(2) Upon withdrawal from service, the monthly retirement allowance that would have been payable, had the person elected to withdraw from service and receive a retirement allowance at the commencement of his or her
participation in EIRP, shall begin to be paid to the member. However, if applicable laws allow, the monthly benefit may be recalculated prospectively to reflect accrued sick leave as credit for retirement purposes. If applicable laws allow, the participant may elect to be paid for his or her sick leave as would any other member upon retirement. In no event can the number of sick leave days used for either calculation be greater than the number of days the participant had on entry into EIRP. The member is not allowed to change the option allowance chosen at the beginning of EIRP participation.

(3) Upon withdrawal from service, the member shall receive an additional retirement benefit based on his or her additional service rendered to the system since termination of participating in EIRP, using the normal method of computation of benefit for that period only. This additional service shall not be added to any service prior to his or her participation in EIRP. The member's average compensation for that time worked after the participation in EIRP shall be multiplied by the appropriate benefit factor multiplied by the amount of time worked after the participation in EIRP. Under no circumstances is this service to be combined with service prior to participation in EIRP.

(4) The option used for retirement purposes shall be that applicable to the original benefit.

(5) If the member dies or becomes disabled during the period of additional service, he or she shall be considered as having retired on the date of death or
commencement of disability. However, no death benefits pursuant to subsection (c) of Section 36-27-16, Code of Alabama 1975, or Section 36-27B-3, Code of Alabama 1975, will be applicable.

Section 5. This act shall become effective January 1, 2020, following its passage and approval by the Governor, or its otherwise becoming law.