

1 SB79  
2 208776-6  
3 By Senator Gudger  
4 RFD: Governmental Affairs  
5 First Read: 02-FEB-21  
6 PFD: 01/27/2021

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4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

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11 To amend Section 36-27-23 of the Code of Alabama  
12 1975, to include additional representatives to the State  
13 Employees' Retirement System Board of Control; to add  
14 diversity language; and to authorize a trustee who retires  
15 from active service after appointment or election to continue  
16 to serve until the expiration of the trustee's term.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Section 36-27-23, Code of Alabama 1975,  
19 is amended to read as follows:

20 "§36-27-23.

21 "(a) The general administration and responsibility  
22 for the proper operation of the retirement system and for  
23 making effective the provisions of this article are hereby  
24 vested in a board of trustees which shall be known as the  
25 Board of Control.

26 "(b) The board shall consist of ~~13~~ 15 trustees as  
27 follows:

1           "(1) The Governor, ex officio, or his or her  
2 designee, who shall be an active participant in the retirement  
3 system, and who shall be chairman.

4           "(2) The State Treasurer, ex officio, or his or her  
5 designee, who shall be an active participant in the retirement  
6 system.

7           "(3) The State Personnel Director, ex officio, or  
8 his or her designee, who shall be an active participant in the  
9 retirement system.

10           "(4) The Director of Finance, ex officio, or his or  
11 her designee, who shall be an active participant in the  
12 system.

13           "(5) Three members of the retirement system, to be  
14 appointed by the Governor, no two of whom shall be from the  
15 same department of the state government nor from any  
16 department of which an ex officio trustee is the head. The  
17 state employees appointed pursuant to this section shall be  
18 Merit System employees with at least ten years of creditable  
19 state service and shall not be a department head or an  
20 assistant department head. The terms of office of the three  
21 members appointed by the Governor shall begin immediately  
22 after they have qualified and taken the oath of office. For  
23 appointments made after February 1, 2020, the Governor shall  
24 coordinate his or her appointments to assure that Board of  
25 Control membership is inclusive and reflects the racial,  
26 gender, and economic diversity of the state.

1           "(6) Two members of the State Employees' Retirement  
2 System who shall be vested in the system and elected by a  
3 majority vote of the participating full-time state employees  
4 who are members of the system, through the use of a statewide  
5 ballot conducted by the Secretary-Treasurer under rules  
6 promulgated by the Board of Control. For their original terms,  
7 one shall serve for a two-year term and one shall serve for a  
8 three-year term. Thereafter, their successors each shall serve  
9 for a four-year term.

10           "At the expiration of terms of office of the  
11 respective original trustees elected under this subdivision  
12 and every four years thereafter, their successors shall be  
13 elected in the same manner as provided by this subdivision.

14           "(7) One member from the ranks of retired state  
15 employees and one member from the ranks of retired employees  
16 of a city, a county, or a public agency each of whom is an  
17 active beneficiary of the system shall be elected by a  
18 majority vote of the participating retired beneficiaries of  
19 the system. The retired state employee member shall serve for  
20 a four-year term beginning October 1, 1984, the member who is  
21 a retired employee of a city, a county or a public agency  
22 shall serve for a three-year term, beginning October 1, 1984,  
23 provided after the expiration date of the initial terms  
24 provided in this subdivision each term shall be for a period  
25 of three years. The retired state employee elected to serve  
26 the term beginning on October 1, 2024, and each retired state  
27 employee elected to serve thereafter, shall serve a term of

1 four years. The retired employee of a city, county, or public  
2 agency elected to serve the term beginning on October 1, 2023,  
3 and each retired employee of a city, county, or public agency  
4 elected thereafter, shall serve a term of four years.

5 "The retired members shall be elected in a statewide  
6 ballot conducted by the Secretary-Treasurer under rules  
7 promulgated by the Board of Control. The Board of Directors of  
8 the Alabama Retired State Employees' Association shall submit  
9 no more than two nominations for each retired member position.  
10 The Board of Control shall determine the procedure for  
11 selecting additional candidates. The ballots shall be  
12 conducted prior to October 1, 1984, and each applicable year  
13 thereafter in order that the trustees can take office by  
14 October 1, next following such election.

15 "(8) a. Two Four members of the retirement system who  
16 ~~shall be~~ are employed by or retired from an employer  
17 participating pursuant to Section 36-27-6, ~~who~~ shall be  
18 elected by a majority vote of the members of the retirement  
19 system who are, as provided in this section, the full-time  
20 employees of those employers ~~participating pursuant to Section~~  
21 ~~36-27-6, and who are members of the system. For their original~~  
22 ~~terms one shall serve a three-year term and one shall serve a~~  
23 ~~four-year term. Thereafter, their~~ The members of the  
24 retirement system who are elected and their successors each  
25 shall serve for a four-year term, except as provided to  
26 achieve staggered terms. The four members of the retirement  
27 system elected pursuant to this subdivision shall include:

1           "1. Effective with the election following the  
2           conclusion of the term of office held by the trustee in office  
3           on the effective date of this act and elected to a term ending  
4           September 30, 2022, as provided by this subdivision, one  
5           member of the retirement system who is a full-time employee of  
6           a participating municipality or city shall be elected by a  
7           majority vote of the full-time employees of the participating  
8           municipalities or cities.

9           "2. One member of the retirement system who is a  
10           full-time employee of a participating county shall be elected  
11           by a majority vote of the full-time employees of the  
12           participating counties. The original term of office shall  
13           begin immediately after the individual has been elected and  
14           taken the oath of office and, in order to achieve staggered  
15           terms, the original term shall expire on September 30, 2026.

16           "3. One member of the retirement system who is a  
17           full-time employee or retiree of an entity participating  
18           pursuant to Section 36-27-6, shall be elected by a majority  
19           vote of the full-time employees and retirees of the  
20           participating entities. The original term of office shall  
21           begin immediately after the individual has been elected and  
22           taken the oath of office and, in order to achieve staggered  
23           terms, the original term shall expire on September 30, 2025.

24           "4. Effective with the election following the  
25           conclusion of the term of office held by the trustee in office  
26           on the effective date of this act and elected to a term ending  
27           September 30, 2023 as provided by this subdivision, one member

1 of the retirement system who is a full-time employee of an  
2 entity participating pursuant to Section 36-27-6, other than a  
3 municipality, city, or county, shall be elected by a majority  
4 vote of the full-time employees of those participating  
5 entities.

6 "b. ~~The election~~ elections shall be conducted by the  
7 Secretary-Treasurer through use of a statewide ballot in  
8 accordance with rules ~~promulgated~~ adopted by the Board of  
9 Control, which shall include a nomination petition of not less  
10 than 50 eligible voters. The election provided ~~herein in~~  
11 subparagraph 2. shall be conducted prior to October 1, ~~1991~~  
12 2022., and each The election provided in subparagraph 3. shall  
13 be considered prior to October 1, 2021. Each applicable year  
14 thereafter, all elections shall be conducted in the manner set  
15 forth in this subdivision in order that the trustees can take  
16 office October 1, next following such election.

17 "(c) If a vacancy occurs in the office of a trustee,  
18 the vacancy shall be filled for the unexpired term in the same  
19 manner as the office was previously filled, except that of the  
20 trustees elected under subdivision (7) of subsection (b). In  
21 that event the vacancy for the unexpired term shall be filled  
22 by an appointment by the Board of Control of the Employees'  
23 Retirement System from a list of three retired employees  
24 furnished him by the Board of Directors of the Alabama Retired  
25 State Employees' Association.

26 "(d) The trustees shall serve without compensation  
27 for their services as trustees, but they shall be reimbursed

1 from the Expense Fund for all necessary expenses that they may  
2 incur through service on the Board of Control.

3 "(e) Each trustee shall, within 10 days after his  
4 appointment, take an oath of office that, so far as it  
5 devolves upon him, he will diligently and honestly administer  
6 the affairs of the Board of Control and that he will not  
7 knowingly violate or willingly permit to be violated any of  
8 the provisions of law applicable to the retirement system.  
9 Such oath shall be subscribed to by the member making it,  
10 certified by the officer before whom it is taken and  
11 immediately filed in the office of the Secretary of State.

12 "(f) Each trustee shall be entitled to one vote in  
13 the Board of Control. Seven votes in favor of any decision  
14 shall be necessary for a decision by the trustees at any  
15 meeting of said board.

16 "(g) Subject to the limitations of this article, the  
17 Board of Control shall, from time to time, establish rules and  
18 regulations for the administration of the funds created by  
19 this article and for the transaction of its business.

20 "(h) The Board of Control, by a majority vote of all  
21 trustees, shall elect a Secretary-Treasurer who shall serve as  
22 the chief executive officer of the retirement system. The  
23 Board of Control shall engage such actuarial and other special  
24 services as shall be required to transact the business of the  
25 retirement system. The compensation of all persons engaged by  
26 the board, with the exception of clerical employees who shall  
27 be employed under the provisions of the Merit System Act, and



1 all other expenses of the board necessary for the operation of  
2 the retirement system shall be paid at such rates and in such  
3 amounts as the board shall approve.

4 "(i) The Board of Control shall keep in convenient  
5 form such data as shall be necessary for actuarial valuation  
6 of the various funds of the retirement system and for checking  
7 the experience of the system.

8 "(j) The Board of Control shall keep a record of all  
9 its proceedings which shall be open to public inspection. It  
10 shall publish annually a report showing the fiscal  
11 transactions of the retirement system for the preceding year,  
12 the amount of the accumulated cash and securities of the  
13 system and the last balance sheet showing the financial  
14 condition of the system by means of an actuarial valuation of  
15 the assets and liabilities of the retirement system.

16 "(k) The Attorney General of the state shall be the  
17 legal adviser of the Board of Control.

18 "(l) The Board of Control shall designate a medical  
19 board to be composed of three physicians not eligible to  
20 participate in the retirement system. If required, other  
21 physicians may be employed to report on special cases. The  
22 medical board shall arrange for and pass upon all medical  
23 examinations required under the provisions of this chapter and  
24 shall investigate all essential statements and certificates by  
25 or on behalf of a member in connection with an application for  
26 disability retirement and shall report in writing to the Board

1 of Control its conclusions and recommendations upon all  
2 matters referred to it.

3 "(m) The Board of Control shall designate an actuary  
4 who shall be the technical adviser of the Board of Control on  
5 matters regarding the operation of the funds created by the  
6 provisions of this article and shall perform such other duties  
7 as are required in connection therewith.

8 "(n) Immediately after the establishment of the  
9 retirement system the actuary shall make such investigation of  
10 the mortality, service and compensation experience of the  
11 members of the system as he shall recommend and the Board of  
12 Control shall authorize, and, on the basis of such  
13 investigation, he shall recommend for adoption by the Board of  
14 Control such tables and such rates as are required in  
15 subsection (o) of this section. The Board of Control shall  
16 adopt tables and certify rates and, as soon as practicable  
17 thereafter, the actuary shall make a valuation based on such  
18 tables and rates of the assets and liabilities of the funds  
19 created by this article.

20 "(o) In 1948, and at least once in each five-year  
21 period thereafter, the actuary shall make an actuarial  
22 investigation into mortality, service, and compensation  
23 experience of the members and beneficiaries of the retirement  
24 system and shall make a valuation of the assets and  
25 liabilities of the funds of the system and, taking into  
26 account the results of such investigation and valuation, the  
27 Board of Control shall adopt for the retirement system such

1 mortality, service, and other tables as shall be deemed  
2 necessary and certify the rates of contribution payable by the  
3 state under the provisions of this article.

4 "(p) On the basis of such tables as the Board of  
5 Control shall adopt, the actuary shall make an annual  
6 valuation of the assets and liabilities of the funds of the  
7 system created by this article."

8 Section 2. This act shall become effective  
9 immediately following its passage and approval by the  
10 Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate  
committee on Governmental Affairs..... 02-FEB-21

Read for the second time and placed on the calen-  
dar 1 amendment..... 03-FEB-21

Read for the third time and passed as amended .... 11-MAR-21

Yeas 29  
Nays 0

Patrick Harris,  
Secretary.