

1 HB295  
2 182143-3  
3 By Representative Rowe  
4 RFD: Ways and Means General Fund  
5 First Read: 23-FEB-17

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: This bill would revise the membership of the  
9 Board of Control of the Employees' Retirement  
10 System of Alabama.

11  
12 A BILL  
13 TO BE ENTITLED  
14 AN ACT

15  
16 To amend Section 36-27-23, Code of Alabama 1975,  
17 relating to the Board of Control of the Employees' Retirement  
18 System of Alabama; to revise the membership of the Board of  
19 Control; and to make technical changes.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Section 36-27-23 of the Code of Alabama  
22 1975, is amended to read as follows:

23 "§36-27-23.

24 "(a) The general administration and responsibility  
25 for the proper operation of the retirement system and for  
26 making effective the provisions of this article are hereby

1 vested in a board of trustees which shall be known as the  
2 Board of Control.

3 "(b) The ~~board~~ Board of Control shall consist of ~~13~~  
4 the following trustees as follows:

5 "(1) The Governor, ex officio, who shall be ~~chairman~~  
6 chair.

7 "(2) The State Treasurer, ex officio.

8 "(3) The State Personnel Director, ex officio.

9 "(4) The Director of Finance, ex officio.

10 "(5)a. Before the effective date of the act amending  
11 this paragraph, three ~~Three~~ members of the retirement system,  
12 to be appointed by the Governor, no two of whom shall be from  
13 the same department of the state government nor from any  
14 department of which an ex officio trustee is the head. The  
15 state employees appointed pursuant to this ~~section~~ paragraph  
16 shall be Merit System employees with at least ~~ten~~ 10 years of  
17 creditable state service and shall not be a department head or  
18 an assistant department head. The terms of office of the three  
19 members appointed by the Governor pursuant to this paragraph  
20 shall begin immediately after they have qualified and taken  
21 the oath of office.

22 "b. Commencing on the effective date of the act  
23 adding this paragraph, one member of the retirement system, to  
24 be appointed by the Governor, who may not be an employee of  
25 any department for which an ex officio trustee is the head.  
26 The state employee appointed pursuant to this paragraph shall  
27 be a Merit System employee with at least 10 years of

1 creditable state service and shall not be a department head or  
2 an assistant department head. The term of office of the member  
3 appointed by the Governor pursuant to this paragraph shall  
4 begin immediately after he or she has qualified and taken the  
5 oath of office.

6 " (6) a. Before the effective date of the act amending  
7 this paragraph, two ~~Two~~ members of the State Employees'  
8 Retirement System who shall be vested in the system and  
9 elected by a majority vote of the participating full-time  
10 state employees who are members of the system, through the use  
11 of a statewide ballot conducted by the Secretary-Treasurer  
12 under rules promulgated by the Board of Control. For their  
13 original terms, one shall serve for a two-year term and one  
14 shall serve for a three-year term. Thereafter, their  
15 successors each shall serve for a four-year term. At the  
16 expiration of terms of office of the respective original  
17 trustees elected under this ~~subdivision~~ paragraph and every  
18 four years thereafter, their successors shall be elected in  
19 the same manner as provided by this ~~subdivision~~ paragraph.

20 "b. Commencing on the effective date of the act  
21 adding this paragraph, one member of the State Employees'  
22 Retirement System who shall be vested in the system and  
23 elected by a majority vote of the participating full-time  
24 state employees who are members of the system, through the use  
25 of a statewide ballot conducted by the Secretary-Treasurer  
26 under rules promulgated by the Board of Control. The member

1 elected pursuant to this paragraph, and successors to the  
2 office, shall serve for a four-year term.

3           "(7) One member from the ranks of retired state  
4 employees and one member from the ranks of retired employees  
5 of a city, a county, or a public agency each of whom is an  
6 active beneficiary of the system shall be elected by a  
7 majority vote of the participating retired beneficiaries of  
8 the system. The retired state employee member shall serve for  
9 a four-year term beginning October 1, 1984, the member who is  
10 a retired employee of a city, a county, or a public agency  
11 shall serve for a three-year term, beginning October 1, 1984,  
12 provided after the expiration date of the initial terms  
13 provided in this subdivision each term shall be for a period  
14 of three years. The retired members shall be elected in a  
15 statewide ballot conducted by the Secretary-Treasurer under  
16 rules promulgated by the Board of Control. The Board of  
17 Directors of the Alabama Retired State Employees' Association  
18 shall submit no more than two nominations for each retired  
19 member position. The Board of Control shall determine the  
20 procedure for selecting additional candidates. The ballots  
21 shall be conducted prior to October 1, 1984, and each  
22 applicable year thereafter ~~in order~~ so that the trustees ~~can~~  
23 may take office by October 1, next following ~~such~~ the  
24 election.

25           "(8) a. Before the effective date of the act amending  
26 this paragraph, two ~~Two~~ members of the retirement system who  
27 shall be employed by an employer participating pursuant to

1 Section 36-27-6, who shall be elected by a majority vote of  
2 the full-time employees of employers participating pursuant to  
3 Section 36-27-6, and who are members of the system. For their  
4 original terms one shall serve a three-year term and one shall  
5 serve a four-year term. Thereafter, their successors each  
6 shall serve for a four-year term. The election shall be  
7 conducted by the Secretary-Treasurer through use of a  
8 statewide ballot in accordance with rules promulgated by the  
9 Board of Control, which shall include a nomination petition of  
10 not less than 50 eligible voters. The election provided herein  
11 shall be conducted prior to October 1, 1991, and each  
12 applicable year thereafter ~~in order~~ so that the trustees ~~can~~  
13 may take office October 1, next following ~~such~~ the election.

14 "b. Commencing on the effective date of the act  
15 adding this paragraph, two members of the retirement system  
16 who shall be employed by or retired from an employer  
17 participating pursuant to Section 36-27-6, who shall be  
18 appointed. One member appointed pursuant to this paragraph  
19 shall be appointed by the President Pro Tempore of the Senate  
20 and one member appointed pursuant to this paragraph shall be  
21 appointed by the Speaker of the House of Representatives. The  
22 Board of Control shall determine the procedure for the  
23 appointments provided by this paragraph.

24 "(9) One member of the State Employees' Retirement  
25 System who shall be vested in the system and elected by a  
26 majority vote of the participating full-time state employees  
27 who are members of the system, through the use of a statewide

1 ballot conducted by the Secretary-Treasurer under rules  
2 promulgated by the Board of Control. The state employee  
3 elected pursuant to this subdivision shall be a Merit System  
4 employee and shall not be a department head or an assistant  
5 department head. The member elected pursuant to this  
6 subdivision, and successors to the office, shall serve a  
7 four-year term.

8 "(10) One member of the retirement system who shall  
9 be vested in the system and employed by a municipality  
10 participating pursuant to Section 36-27-6, who shall be  
11 elected by a majority vote of the full-time employees of  
12 municipal employers participating pursuant to Section 36-27-6,  
13 and who are members of the system. The member elected pursuant  
14 to this subdivision, and successors to the office, shall serve  
15 a four-year term. The election shall be conducted by the  
16 Secretary-Treasurer through use of a statewide ballot in  
17 accordance with rules promulgated by the Board of Control. The  
18 election provided by this subdivision shall be conducted  
19 before October 1 of the applicable year so that the trustee  
20 may take office on October 1, next following the election.

21 "(11) One member of the retirement system who shall  
22 be vested in the system and employed by a county participating  
23 pursuant to Section 36-27-6, who shall be elected by a  
24 majority vote of the full-time employees of county employers  
25 participating pursuant to Section 36-27-6, and who are members  
26 of the system. The member elected pursuant to this  
27 subdivision, and successors to the office, shall serve a

1 four-year term. The election shall be conducted by the  
2 Secretary-Treasurer through use of a statewide ballot in  
3 accordance with rules promulgated by the Board of Control. The  
4 election provided by this subdivision shall be conducted  
5 before October 1, 2018, and before October 1 every four years  
6 thereafter, so that the trustee may take office on October 1,  
7 next following the election.

8 "(12) One member of the retirement system who shall  
9 be vested in the system and employed by a public agency or  
10 other entity, other than a municipality or county,  
11 participating pursuant to Section 36-27-6, who shall be  
12 elected by a majority vote of the full-time employees of  
13 public agency or other entity employers, other than  
14 municipalities or counties, participating pursuant to Section  
15 36-27-6, and who are members of the system. The member elected  
16 pursuant to this subdivision, and successors to the office,  
17 shall serve a four-year term. The election shall be conducted  
18 by the Secretary-Treasurer through use of a statewide ballot  
19 in accordance with rules promulgated by the Board of Control.  
20 The election provided by this subdivision shall be conducted  
21 before October 1, 2018, and before October 1 every four years  
22 thereafter, so that the trustee may take office on October 1,  
23 next following the election.

24 "(13) One member of the retirement system who shall  
25 be vested in the system and employed by an employer  
26 participating pursuant to Section 36-27-6, who shall be  
27 elected by a majority vote of the full-time employees of



1 employers participating pursuant to Section 36-27-6, and who  
2 are members of the system. The member elected pursuant to this  
3 subdivision, and successors to the office, shall serve a  
4 four-year term. The election shall be conducted by the  
5 Secretary-Treasurer through use of a statewide ballot in  
6 accordance with rules promulgated by the Board of Control. The  
7 election provided herein shall be conducted prior to October 1  
8 of the applicable year so that the trustee may take office on  
9 October 1, next following such election.

10 "(c) (1) Each elected member serving on the Board of  
11 Control on the effective date of the act adding this  
12 subdivision shall continue to serve until the expiration of  
13 his or her term of office. The Board of Control shall  
14 determine the procedure and timeframe for the election of  
15 members pursuant to this section.

16 "(2) To qualify as a candidate for election to the  
17 Board of Control, a person shall demonstrate, to a majority of  
18 the members of the Board of Control, a requisite level of  
19 expertise, education, or professional experience in finance,  
20 accounting, economics, business administration, or another  
21 field that is beneficial to the system, as determined by the  
22 board. The Board of Control shall establish procedures to  
23 administer this section. The procedures shall be a public  
24 record pursuant to Section 41-13-1 and shall be available to  
25 the public on the website of the retirement system.

26 "(3) Each elected or appointed member of the Board  
27 of Control who retires while serving on the Board of Control

1 may continue to serve until the expiration of his or her term  
2 of office.

3 "~~(e)~~ (d) If a vacancy occurs in the office of a  
4 trustee, the vacancy shall be filled for the unexpired term in  
5 the same manner as the office was previously filled, except  
6 that of the trustees elected under subdivision (7) of  
7 subsection (b). In that event the vacancy for the unexpired  
8 term shall be filled by an appointment by the Board of Control  
9 ~~of the Employees' Retirement System~~ from a list of three  
10 retired employees furnished ~~him~~ by the Board of Directors of  
11 the Alabama Retired State Employees' Association.

12 "~~(d)~~ (e) The trustees shall serve without  
13 compensation for their services as trustees, but they shall be  
14 reimbursed from the Expense Fund for all necessary expenses  
15 that they may incur through service on the Board of Control.

16 "~~(e)~~ (f) Each trustee shall, within 10 days after his  
17 or her appointment, take an oath of office that, so far as it  
18 devolves upon him or her, he or she shall ~~will~~ diligently and  
19 honestly administer the affairs of the Board of Control and  
20 that he or she will not knowingly violate or willingly permit  
21 to be violated any of the provisions of law applicable to the  
22 retirement system. ~~Such~~ The oath shall be subscribed to by the  
23 member making it, certified by the officer before whom it is  
24 taken, and immediately filed in the office of the Secretary of  
25 State.

26 "~~(f)~~ (g) Each trustee shall be entitled to one vote  
27 in the Board of Control. ~~Seven~~ Eight votes in favor of any

1 decision shall be necessary for a decision by the trustees at  
2 any meeting of ~~said board~~ the Board of Control.

3 "~~(g)~~ (h) Subject to the limitations of this article,  
4 the Board of Control ~~shall~~, from time to time, shall establish  
5 rules and regulations for the administration of the funds  
6 created by this article and for the transaction of its  
7 business.

8 "~~(h)~~ (i) The Board of Control, by a majority vote of  
9 all trustees, shall elect a Secretary-Treasurer who shall  
10 serve as the chief executive officer of the retirement system.  
11 The Board of Control shall engage such actuarial and other  
12 special services as shall be required to transact the business  
13 of the retirement system. The compensation of all persons  
14 engaged by the ~~board~~ Board of Control, with the exception of  
15 clerical employees who shall be employed under ~~the provisions~~  
16 ~~of~~ the Merit System Act, and all other expenses of the ~~board~~  
17 Board of Control necessary for the operation of the retirement  
18 system shall be paid at such rates and in such amounts as the  
19 ~~board~~ Board of Control shall approve.

20 "~~(i)~~ (j) The Board of Control shall keep in  
21 convenient form such data as shall be necessary for actuarial  
22 valuation of the various funds of the retirement system and  
23 for checking the experience of the system.

24 "~~(j)~~ (k) The Board of Control shall keep a record of  
25 all its proceedings which shall be open to public inspection.  
26 ~~It~~ The Board of Control shall publish annually a report  
27 showing the fiscal transactions of the retirement system for

1 the preceding year, the amount of the accumulated cash and  
2 securities of the system, and the last balance sheet showing  
3 the financial condition of the system by means of an actuarial  
4 valuation of the assets and liabilities of the retirement  
5 system.

6 "~~(k)~~ (l) The Attorney General ~~of the state~~ shall be  
7 the legal adviser of the Board of Control.

8 "~~(l)~~ (m) The Board of Control shall designate a  
9 medical board to be composed of three physicians not eligible  
10 to participate in the retirement system. If required, other  
11 physicians may be employed to report on special cases. The  
12 medical board shall arrange for and pass upon all medical  
13 examinations required under ~~the provisions of~~ this chapter and  
14 shall investigate all essential statements and certificates by  
15 or on behalf of a member in connection with an application for  
16 disability retirement and shall report in writing to the Board  
17 of Control its conclusions and recommendations upon all  
18 matters referred to it.

19 "~~(m)~~ (n) The Board of Control shall designate an  
20 actuary who shall be the technical adviser of the Board of  
21 Control on matters regarding the operation of the funds  
22 created by ~~the provisions of~~ this article and shall perform  
23 ~~such~~ other duties as are required in connection therewith.

24 "~~(n)~~ (o) Immediately after the establishment of the  
25 retirement system the actuary shall make ~~such~~ an investigation  
26 of the mortality, service, and compensation experience of the  
27 members of the system as he or she shall recommend and the

1 Board of Control shall authorize, and, on the basis of ~~such~~  
2 the investigation, he or she shall recommend for adoption by  
3 the Board of Control such tables and such rates as are  
4 required in subsection ~~(o)~~ of this section (p). The Board of  
5 Control shall adopt tables and certify rates and, as soon as  
6 practicable thereafter, the actuary shall make a valuation  
7 based on ~~such~~ the tables and rates of the assets and  
8 liabilities of the funds created by this article.

9 "~~(o)~~ (p) In 1948, and at least once in each five-year  
10 period thereafter, the actuary shall make an actuarial  
11 investigation into mortality, service, and compensation  
12 experience of the members and beneficiaries of the retirement  
13 system and shall make a valuation of the assets and  
14 liabilities of the funds of the system and, taking into  
15 account the results of ~~such~~ the investigation and valuation,  
16 the Board of Control shall adopt for the retirement system  
17 such mortality, service, and other tables as shall be deemed  
18 necessary and certify the rates of contribution payable by the  
19 state under ~~the provisions of~~ this article.

20 "~~(p)~~ (q) On the basis of ~~such~~ the tables as the Board  
21 of Control shall adopt, the actuary shall make an annual  
22 valuation of the assets and liabilities of the funds of the  
23 system created by this article."

24 Section 2. This act shall become effective  
25 immediately following its passage and approval by the  
26 Governor, or its otherwise becoming law.